

No. 45014-3-II

Court of Appeals
DIVISION II
STATE OF WASHINGTON

L&P DEVELOPMENT, L.L.C., a Washington limited liability company; PACIFIC RESOURCE DEVELOPMENT, INC., a Washington corporation; PARKER FAMILY L.L.C., a Washington limited liability company; RTB, INC.; RICHARD T. BRUNAUGH and AMANDA BRUNAUGH, husband and wife, and the marital community composed thereof; LYLE E. FOX and VICKY J. FOX, husband and wife, and the marital community composed thereof; PAUL E. GREEN and ANNETTE GREEN, husband and wife, and the marital community composed thereof; DONALD C. LINKEM and ELIZABETH A. LINKEM, husband and wife, and the marital community composed thereof; DAVID A. PARKER and VELMA L. PARKER, husband and wife, and the marital community composed thereof; PAUL E. WILSON and KELLY I. WILSON, husband and wife, and the marital community composed thereof,

APPELLANTS,

v.

UNION BANK, N.A., as successor in interest to the FDIC as Receiver of Frontier Bank,

RESPONDENT

APPELLANTS' OPENING BRIEF

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III. INTRODUCTION

L&P DEVELOPMENT, L.L.C., Pacific Resource Development, Inc., Parker Family L.L.C., RTB, Inc., Richard T. Brunaugh and Amanda Brunaugh, Lyle E. Fox and Vicky J. Fox, Paul E. Green and Annette Green, Donald C. Linkem and Elizabeth A. Linkem, David A. Parker and Velma L. Parker, Paul E. Wilson and Kelly I. Wilson (hereinafter “Appellants”) submit this brief. This case raises the exact same issue as at least six other cases pending before the Court of Appeals in this state: Can a bank which non-judicially forecloses on a deed of trust that secures both a debt and guarantees of that debt later obtain a deficiency judgment on the guarantees?¹ Pursuant to RCW 61.24.100(10), the answer to that

¹ The following appeals raise issues substantially identical to the issues raised in this case:

County	Case Name	Cause No.	Trial court held non-judicial DOT foreclosure barred suit on guarantee?	Court of Appeals Cause No.	Oral Argument
Pierce	First Citizens v. Allison	10-2-13379-3	N	43619-1-II	9/12/2013
Snohomish	Wash. Fed. v. Harvey	12-2-02123-4	Y	69791-9-I	Not set yet
Skagit	Wash. Fed. v. Gentry	12-2-00608-6	Y	70004-9-I	Not set yet
King	Union Bank v. Vanderveer	12-2-14844-9	Y	70327-7-I	Not set yet
Pierce	Union Bank v. Brinkman	12-2-06973-1	N	44839-4-II	Not set yet
King	Union Bank v. F.R. McAbee, Inc. et al	12-2-2590-2	Y	70497-4-I	Not set yet

questions is “no.” Therefore, the Court should reverse the judgment of the trial court and award the Appellants their attorney fees.

IV. ASSIGNMENT OF ERROR

Appellants challenge the trial court’s order granting of summary judgment. CP 1107-1111, (Appendix D). The trial court incorrectly held that Union Bank (hereinafter the “Bank”), which non-judicially foreclosed on a deed of trust that secured performance of the Appellants’ guarantees, can hold the Appellants liable for a deficiency judgment.

V. ISSUES PRESENTED ON APPEAL

A. Does the deed of trust secure the Appellants’ guarantees?

Answer- Yes, the deed of trust secures performance of all “Related Documents,” a term the Bank specifically defined to include the Appellants’ guarantees.

B. Having non-judicially foreclosed on a deed of trust that secured the Appellants’ guarantees, does RCW 61.24.100(10) permit the Bank to obtain a deficiency judgment?

Answer- No, the Bank cannot obtain a deficiency judgment. RCW 61.24.100(10) does not permit the taking of a deficiency judgment after the non-judicial foreclosure of a deed of trust that secured performance of the guarantees.

C. Did the Bank, by inserting boilerplate language into its loan documents, cause Appellants to waive the prohibition against deficiency judgments provided by RCW 61.24.100?

Answer- No, the Bank cannot, by inserting boilerplate language into its loan documents, cause a guarantor to waive the statutory prohibition against deficiency judgments under RCW 61.24.100(10).

VI. STATEMENT OF THE CASE

The Bank² loaned LFN, LLC a sum of money. CP 4. LFN, LLC executed a deed of trust. CP 21-29 (Appendix A).

The Deed of Trust explicitly states that it secures not only payment of the debt, but also performance of any and all obligations under the “Related Documents”:

THIS DEED OF TRUST, 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 ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS AND THIS DEED OF TRUST.

(Emphasis added).

CP 22. The Deed of Trust further states:

Grantor shall pay to lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantors obligations under the Note, this Deed of, and the Related Documents.

Id. The Deed of Trust defines “guarantor” and “guarantee” as follows:

Guarantor. The word “guarantor” means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

Guarantee. The word “guarantee” means the guarantee from Guarantor to Lender, including without limitation a guarantee of all or party of the Note.

CP 27-28.

The Deed of Trust defines the term “Related Documents:”

² Frontier Bank acted as the original lender. The FDIC subsequently closed Frontier Bank and sold its assets to Union Bank.

Related Documents. The words ‘Related Documents’ means all promissory notes, credit agreements, loan agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness; provided that environmental indemnity agreements are not ‘Related Documents’ and are not secured by the Deed of Trust.

CP 28. (emphasis added).

The Appellants each executed a substantially identical guarantee of LFN, LLC’s debt. CP 31-33 (Appendix C); 35-93. Each guarantee guarantees payment of the Note and the Related Documents. CP 31. Each guarantee contains the same definition of “Related Documents” as in the Deed of Trust (except the exclusion of environmental indemnity agreements is deleted.). CP 33. The guarantee purports to have the guarantors waive defenses arising by reason of any anti-deficiency law:

Guarantor also waives any and all rights or defenses based on suretyship or the impairment of collateral including, but not limited to defenses arising by reason of. . . any. . . anti-deficiency law.

CP 32.

At the Bank’s instigation, the trustee non-judicially foreclosed on the Deed of Trust and sold the property subject to the deed of trust at a trustee’s sale. CP 95-98, (Appendix C). The Bank then filed a complaint seeking a judgment for the deficiency. CP 1-98.

The parties filed cross motions for summary judgment. The trial court granted the Bank’s motion for summary judgment, and denied the

Appellants' motion for summary judgment. CP 1107-1111 (Appendix D).

The Appellants timely appealed. CP 1181-1203.

VII. ARGUMENT

A. Standard of Review.

There are no disputed facts. The parties dispute how to construe the language of written documents, and how to apply statutes to those documents. The trial court resolved the dispute on summary judgment. The standard of review is therefore *de novo*.³

B. The Pros and Cons of Non-Judicial Foreclosures: Speed Without Deficiencies.

Loans are often secured by deeds of trust, which grant a creditor an interest in real property to secure the performance of some obligation.⁴ Upon default, the creditor may sue to enforce the obligation or foreclose on the property to secure performance. Foreclosure may occur in two ways—judicially or non-judicially. To foreclose judicially, a creditor must sue and pursue the time-consuming process of litigation.

In 1965, the Washington Legislature enacted the Washington Deed of Trust Act, codified at RCW 61.24 *et seq.*, to provide parties the option of non-judicial foreclosure. The Deed of Trust Act provided significant benefits to lenders. It simplified the foreclosure process. It permitted foreclosure without judicial oversight. It allowed creditors to obtain clear title to property much more quickly.

³ *Hisle v. Todd Pac. Shipyards Corp.*, 151 Wn.2d 853, 860, 93 P.3d 108 (2004).

⁴ *Rustad Heating & Plumbing Co. v. Waldt*, 91 Wn.2d 372, 376, 588 P.2d 1153 (1979).

However, the Deed of Trust Act's simplification of the foreclosure process also came with a benefit for debtors and drawback for creditors. In a judicial foreclosure, when the sale of the secured property generates funds insufficient to pay a debt in full, the creditor may sue for the remainder of the debt (known as the "deficiency"). But, as a general rule and as discussed below, creditors foreclosing non-judicially may *not* sue for a deficiency.⁵ This trade-off is the "*quid pro quo*" between borrowers and lenders that is the hallmark of The Washington Deed of Trust Act.⁶

C. The 1998 Amendments to the Deed of Trust Act Allowed Some Suits for Deficiency, but still prohibit deficiencies secured by a non-judicially foreclosed on deed of trust.

In 1998, the Legislature amended the Deed of Trust Act to provide some exceptions to the general rule that deficiency actions are not allowed in non-judicial foreclosures.

In its current form, the Act starts with the basic rule that deficiency actions after non-judicial foreclosure are forbidden: "Except to the extent permitted in this section for deeds of trust securing commercial loans, *a deficiency judgment shall not be obtained on the obligations secured by a deed of trust against any borrower, grantor, or guarantor after a trustee's sale under that deed of trust.*"⁷ The statute goes on to provide that for commercial loans, guarantors *may* in limited instances be subject to deficiency judgments:⁸

⁵ RCW 61.24.100(1).

⁶ *Thompson v. Smith*, 58 Wn. App. 361, 365-66, 793 P.2d 449 (1990).

⁷ RCW 61.24.100(1) (emphasis added).

⁸ RCW 61.24.100(3) (emphasis added).

This chapter does not preclude any one or more of the following after a trustee's sale under a deed of trust securing a commercial loan executed after June 11, 1998:

(c) Subject to this section, an action for a deficiency judgment against a guarantor if the guarantor is timely given the notices under RCW 61.24.042.

The statute goes on to provide that a guarantor may grant *its own* deed of trust to secure its guarantee, but that a deficiency actions on that guarantor-granted deed of trust are limited to any decrease in the fair value of the property caused by waste or the wrongful retention of rents, insurance proceeds or condemnation awards.⁹

Finally, and most critically for this case, the statute says that a creditor may sue a guarantor for deficiency *if the guarantee was not secured by the deed of trust that was the subject of the non-judicial foreclosure*.¹⁰

A trustee's sale under a deed of trust securing a commercial loan does not preclude an action to collect or enforce any obligation of a borrower or guarantor if that obligation, or the substantial equivalent of that obligation, was not secured by the deed of trust.

Any ambiguity in the operation of the Washington Deed of Trust Act "must be construed in favor of borrowers because of the relative ease with which lenders can forfeit borrowers interests and the lack of judicial oversight in conducting non-judicial foreclosure sales." *Schroeder v. Excelsior Mgmt. Grp., LLC*, 177 Wn.2d 94, 105 at ¶ 13, 297 P.3d 677 (2013).

⁹ RCW 61.24.100(6), which references RCW 61.24.100(3)(a)(i).

¹⁰ RCW 61.24.100(10).

D. If a non-judicially foreclosed deed of trust secured Appellants' guarantees, the Bank may not look to Appellants for any Deficiency.

The main question presented by this case is *whether a guarantor may be sued for deficiency after the non-judicial foreclosure of a deed of trust that secured its guarantee*. The answer to that question is “no.” If a creditor takes advantage of the efficiency provided by Washington’s Deed of Trust Act to non-judicially foreclose upon a deed of trust that secures a guarantee, RCW 61.24.100(10) precludes that lender from maintaining a deficiency action against the guarantor.¹¹

RCW 61.24.100(10) states that a lender may bring a deficiency action a guarantor “if,” meaning “on condition that,”¹² the guarantee is not secured by a deed of trust. The rule *expressio unius est exclusio alterius*, which means “to express or include one thing implies the exclusion of the other,” supports this interpretation of the statute.¹³ Because the Legislature conditioned a lender’s ability to bring a deficiency action against a guarantor on the guarantee *not* being secured by the judicially foreclosed-upon deed of trust, the Legislature intended to exclude a lender

¹¹ Cf. *Udall v. T.D. Escrow Servs. Inc.*, 159 Wn.2d 903, 916 n. 8, 154 P.3d 882 (2007) (“Washington law provides that no deficiency judgment may be obtained when a trustee’s deed is foreclosed.”).

¹² Courts will give the words in a statute their plain meaning. *HomeStreet, Inc. v. State, Dep’t of Revenue*, 166 Wash. 2d 444, 451, 210 P.3d 297 (2009). To determine the plain meaning of a word, courts may look to the dictionary. *Id.* Dictionaries define “if” to mean “on condition that.” *If Definition*, Dictionary.com, <http://dictionary.reference.com/browse/if> (last visited September 5, 2013) (“I’ll go if you do.”).

¹³ *State v. Ortega*, 171 Wn.2d 116, 124 ¶ 12, 297 P.3d 57 (2013) (quoting Black’s Law Dictionary 661 (9th ed. 2009))

from being able to bring a deficiency action against a guarantor after judicially foreclosing upon the deed of trust that secured the guarantee.¹⁴

In this case, the deed of trust secured Appellants' guarantees. The Bank non-judicially foreclosed. Therefore, the Bank cannot look to guarantors for any deficiency.

E. The Deed of Trust Secured Appellants' Guarantees.

1. Standard of Review.

Interpretation of a contract is ordinarily a question of law.¹⁵ To determine the meaning of a contract, courts look to the reasonable meaning of the words used.¹⁶ In addition to the reasonable meaning of the words used, courts also look to the context within which the agreement was made.¹⁷ The contract is viewed as a whole including the circumstances surrounding its formation, the reasonableness of parties' interpretations of its language, and the subsequent acts and conduct of the parties.¹⁸ Courts will not read ambiguity into a contract where it can be reasonably avoided.¹⁹ Where ambiguities exist, courts construe them against the drafter.²⁰

¹⁴ In *Ortega*, a unanimous Supreme Court cited this doctrine as supporting its conclusion that "the express authority to rely on the request of another officer in making an arrest for a traffic infraction indicated that such authority does not extend to other nonfelony offenses. See *Staats v. Brown*, 139 Wn.2d 757, 768 n. 3, 991 P.2d 615 (2000) (finding that the exceptions to the presence requirement under RCW 10.31.100 are exclusive)."

¹⁵ *Tanner Elec. Coop. v. Puget Sound Power & Light Co.*, 128 Wn.2d 656, 674, 911 P.2d 1301.

¹⁶ *Hearst Commc'ns, Inc. v. Seattle Times*, 154 Wn.2d 493, 503-4, 115 P.3d 262 (2005).

¹⁷ *Chatterton v. Business Valuation Research, Inc.*, 90 Wn. App. 150, 155, 951 P.2d 353 (1998).

¹⁸ *Tjart v. Smith Barney, Inc.*, 107 Wn. App. 885, 895, 28 P.3d 823 (2011).

¹⁹ *McGary v. Westlake Investors*, 99 Wn.2d 280, 285, 661 P.2d 971 (1983).

²⁰ *Rouse v. Glascom Builders, Inc.*, 101 Wn.2d 127, 135, 135, 677 P.2d 125 (1984).

2. A Textual Analysis of the Contracts at Issue.

A plain reading of the deed of trust confirms it secures Appellants' guarantees. The deed expressly secures the "PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE . . . RELATED DOCUMENTS . . ." ²¹ The deed defines "guarantor" as "any guarantor, surety, or accommodation party of any or all of the indebtedness." ²² The deed defines "guarantee" to mean "the guarantee from guarantor to Lender, including without limitation a guarantee of all or part of the note." ²³ And the deed expressly includes "guarantees" in the definition of "Related Documents" whose obligations are secured by the deed of trust. ²⁴

The Bank drafted the contracts and could have excluded guarantees the definition of Related Documents just as it excluded "environmental indemnity agreements" from the definition and from being secured by the deed of trust. It did not. The Bank specifically chose to include guarantees in its definition of "Related Documents" secured by the deed of trust. ²⁵

Further, the fact that the deed of trust secured the guarantees did not, in of itself, preclude the Bank from recovering any deficiency from Appellants. The Bank had a number of avenues that it

²¹ CP 22.

²² CP 27-28.

²³ CP 28

²⁴ *Id.*

²⁵ Even if the Deed's provisions were ambiguous (and they are not), they are construed against the Bank as the drafter of the contract. *Rouse*, 101 Wn.2d at 135.

could have pursued against Appellants in addition to pursuing its rights against the debtor. First, as each guarantee makes clear, the Bank could have simply demanded payment from Appellants of the debtor's obligations and then sued Appellants if the debtor failed to pay.²⁶ Second, the Bank could have initiated in-court foreclosure proceedings of the deed of trust. Judicial foreclosure provisions have none of the deficiency prohibitions contained in RCW 61.24.100.²⁷ Third, the Bank could have initiated a receivership proceeding to take control of the development and sell it to satisfy in whole or in part the payment obligations of the debtors and guarantors.²⁸

The Bank did none of these things. Instead, it chose to take the expeditious route of non-judicial foreclosure of the deed of trust as allowed by Washington's Deed of Trust Act. But because that deed of trust secured the guarantees, the Bank gave up the right to maintain a deficiency action against Appellants.

The Bank's bringing of this action against the guarantors, after it non-judicially foreclosed on the Deed of Trust which secured performance of the guarantors' guarantees, violates RCW 61.24.100. This Court should reverse the trial court's decision to the contrary.

F. The Waivers of RCW 61.24.100 in the Guarantees are Unenforceable.

²⁶ CP 31. ("This is a guarantee of payment and performance and not of collection, so Lender can enforce this Guarantee against Guarantor *even when Lender has not exhausted Lender's remedies* against anyone else obligated to pay the Indebtedness or *against any collateral securing the Indebtedness*, this Guarantee, or any other guarantee of the Indebtedness.") (emphasis added).

²⁷ RCW 61.24.100(8).

²⁸ RCW 7.60 *et seq.*

The Bank also argues that Appellants waived their right to assert a defense under RCW 61.24.100 when it signed the contract that contained a waiver provision:

Guarantor also waives any and all rights or defenses based on suretyship or the impairment of collateral including, but not limited to defenses arising by reason of . . . any . . . anti-deficiency law.

The waivers confronted in the guarantees are contrary to public policy and thus are unenforceable.

The Washington Supreme Court has held that the Deed of Trust Act represents the “public policy of the state.”²⁹ “[W]here a statutorily created private right serves a public policy purpose, the persons protected by the statute cannot waive the right . . .”³⁰

In two recent cases dealing with The Deed of Trust Act, the Supreme Court refused to enforce language in creditor-drafted boilerplate the purported to waive the Act’s protections. In *Bain v. Metro Mortgage Group, Inc.*³¹, the creditor purported to contractually change the requirement that the beneficiary must be the actual holder of the promissory note under RCW 61.24.030. The Washington Supreme Court did not allow the creditor to contractually circumvent the statute. It analogized to the arbitration process, where parties are free to choose whether or not to arbitrate. But the Supreme Court said that once parties submit to arbitration, the Washington Arbitration Act controls, as does the

²⁹ *Kennebec, Inc. v. Bank of the W.*, 88 Wn.2d 718, 725, 565 P.2d 812 (1977).

³⁰ *Shoreline Community College District v. Employment Security Department*, 102 Wn.2d 394, 410, 842 P.2d 938 (1992).

³¹ 175 Wn.2d 83, 285 P.3d 34 (2012).

“policy embodied therein, not just the parts that are useful to [the parties].”³² The Supreme Court went on to say that “[t]he legislature has set forth in great detail how nonjudicial foreclosures may proceed. We find no indication the legislature intended to allow the parties to vary these procedures by contract. *We will not allow waiver of statutory protections lightly.*”³³

Similarly, in *Schroeder v. Excelsior Management Group, LLC*,³⁴ the creditor attempted to contract around a limitation in the Washington Deed of Trust Act that agricultural land may not be foreclosed on non-judicially.³⁵ The Washington Supreme Court would not allow a contractual waiver under the Deed of Trust Act: “These are not, properly speaking, rights held by the debtor; instead, they are limits on the trustee’s power to foreclose without judicial supervision.”³⁶ In a footnote, the Supreme Court allowed that “[t]here may be *technical procedural details* that the parties may, by agreement, modify or waive but strict compliance with mandated requisites is required.”³⁷

This case is analogous to *Schroeder*. RCW 64.21.100(10) limits the power of parties to foreclose non-judicially when a guarantee is secured by a deed of trust. Parties cannot contract around this mandated limitation. The analogy to the arbitration process by the court in *Bain*

³² *Bain*, 175 Wn.2d at 108, 285 P.3d 34.

³³ *Id.* (emphasis added).

³⁴ 177 Wn. 2d 94, 297 P.3d 677 (2013).

³⁵ *Schroeder*, 177 Wn.2d at 106-07, ¶¶ 16-18.

³⁶ *Id.* at 107, ¶ 17.

³⁷ *Id.* at 107, n. 7 (emphasis added).

supports this conclusion. Non-judicial foreclosure is an elective process, just like arbitration. In exchange for an expedient foreclosure process, the creditor forgoes the right to sue for deficiency. Again, this trade-off is a “*quid pro quo*” encapsulated by the policy of the statute.³⁸ Parties choosing this process, choose to be governed by the procedures, protections and limitations of the applicable statute.

The Bank cannot both use the Deed of Trust Act’s speedy and less expensive non-judicial foreclosure procedure and eliminate by way of a boilerplate waiver the Deed of Trust Act’s limit on the Bank’s power to seek a deficiency judgment after such non-judicial foreclosure. The waiver of any anti-deficiency laws contained in the guarantees is not “technical procedural detail.” The deficiency provision in the Washington Deed of Trust Act is a limit on the Bank’s power to foreclose without judicial supervision. Accordingly, the waiver of that provision in the guarantees violates public policy and is unenforceable.

G. The Attorney’s Fees Provision in the Guarantees Provides Appellants with a Right to Recover Their Fees as the Prevailing Party.

Appellants request attorney’s fees in this case in accordance with the guarantees’ attorney’s fee provision and RCW 4.84.330. That statute provides that in “any action on a contract. . . where such contract or lease specifically provides that attorney’s fees and costs. . . shall be awarded to one of the parties. . . the prevailing party shall be entitled to reasonable

³⁸ *Thompson v. Smith*, 58. Wn. App. 361, 365-66, 793 P.2d 449 (1990).

attorney's fees in addition to costs and necessary disbursements."³⁹ In essence, when a contract contains a one-sided attorney's fee provision, the statute makes that provision two-sided.

Here, the guarantees provide that the Bank is entitled to attorney's fees and costs "incurred in connection with the enforcement of" the guarantees. CP 32. The Bank sought to enforce the guarantees against Appellants. The Court should award Appellants all their reasonable attorney's fees and costs incurred in connection with the enforcement of the guarantees, including all attorneys' fees and costs on appeal.

³⁹ RCW 4.84.330.

VIII. CONCLUSION

The Bank drafted the documents on which it sued in this case. After non-judicially foreclosing the deed of trust which secured performance of the Appellants' guarantees, the Bank brought an action against Appellants for a deficiency based on those guarantees. The Bank's attempt to obtain a deficiency violated the anti-deficiency rule set forth by the Legislature in RCW 61.24.100(10).

The Court should reverse the trial court's decision to grant summary judgment to the Bank and dismiss the Bank's claim against Appellants.

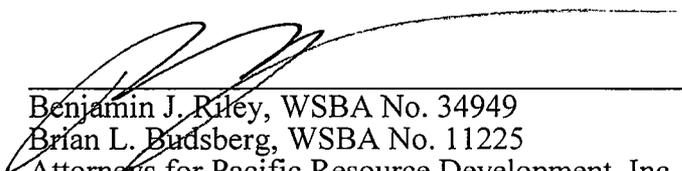
Dated this 13th day of September, 2013.

OWENS DAVIES FRISTOE
TAYLOR & SCHULTZ, P.S.



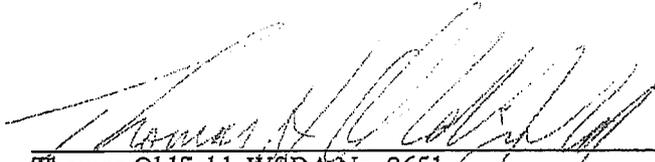
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- B. Guarantee
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- C. Trustee's Deed
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CP 1107-1111

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Talon Group
992680
A Division of First
American Title Insurance
Company

200706150244 9 PGS
05/15/2007 3:10pm S11 00
PIERCE COUNTY, WASHINGTON

RETURN ADDRESS:

Frontier Bank
Sumner
801 Alder
PO Box 1860
Sumner, WA 98390

DEED OF TRUST

DATE: June 13, 2007

Reference # (if applicable): SUMN-XX2955 / ORDER NO. 992680 Additional on page ____

Grantor(s):
1. LFN, LLC

Grantee(s)
1. Frontier Bank
2. The Talon Group, Trustee

Legal Description: LOTS 24-37, 43-72, 87-101, 151 AND 202-214, LIPOMA FIRS NORTH PDD, PHASE 2, REC. 200701245006

Additional on page 2

Assessor's Tax Parcel ID#: 802549-0240, 802549-0250, 802549-0260, 802549-0280,
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802549-0350, 802549-0360, 802549-0370, 802549-0430, 802549-0440, 802549-0450,
802549-0460, 802549-0470, 802549-0480, 802549-0490, 802549-0500, 802549-0510,
802549-0520, 802549-0530, 802549-0540, 802549-0550, 802549-0560, 802549-0570,
802549-0580, 802549-0590, 802549-0600, 802549-0610, 802549-0620, 802549-0630,
802549-0640, 802549-0650, 802549-0660, 802549-0670, 802549-0680, 802549-0690,
802549-0700, 802549-0710, 802549-0720, 802549-0870, 802549-0880, 802549-0890,
802549-0900, 802549-0810, 802549-0920, 802549-0930, 802549-0940, 802549-0950,
802549-0960, 802549-0970, 802549-0980, 802549-0990, 802549-1000, 802549-1010,
802549-1510, 802549-2020, 802549-2030, 802549-2040, 802549-2050, 802549-2060,
802549-2070, 802549-2080, 802549-2090, 802549-2100, 802549-2110, 802549-2120,
802549-2130 and 802549-2140

THIS DEED OF TRUST is dated June 13, 2007, among LFN, LLC, a Washington limited liability company, whose address is 108 W STEWART, PUYALLUP, WA 98371 ("Grantor"); Frontier Bank, whose mailing address is Sumner, 801 Alder, PO Box 1860, Sumner, WA 98390 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and The Talon Group, whose mailing address is 11400 SE 8th Street, Suite 250, Bellevue, WA 98004 (referred to below as "Trustee").

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**DEED OF TRUST
(Continued)**

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CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee in trust with power of sale, right of entry and possession and for the benefit of Lender as Beneficiary, 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 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 PIERCE County, State of Washington:

LOT 24 THROUGH 37, 43 THROUGH 72, 87 THROUGH 101, 151 AND 202 THROUGH 214, INCLUSIVE OF LIPOMA FIRS NORTH PDD, PHASE 2, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 24, 2007 UNDER RECORDING NO. 200701245008, RECORDS OF PIERCE COUNTY, WASHINGTON.

The Real Property or its address is commonly known as 11519, 11523, 11527, 11605, 11609, 11611, 11617, 11625, 11629, 11540, 11512, 11520, 115424, 11606, 11612, 11618, 11626, 11630 185th AND 18603, 18609, 18615, 18619, 18713, 18721, 18727, 18733, 18735, 18801, 18805, 18809, 18813, 18817, 18821, 18825, 18829, 18833, 18835, 188605 AND 18818 117th AVENUE COURT EAST AND:

11718, 11714, 11710, 11706, 11622, 11614, 11608, 11602, 11508, 11504, 11221 189th STREET EAST AND:

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18712, 18718, 18722, 18726, 18730, 18810, 18816, 18822, 18828, 18834, 18902, 18906, 18910 110th AVENUE COURT EAST, PUJALLUP, WA 98373. The Real Property tax identification number is 602549-0240, 602549-0250, 602549-0260, 602549-0280, 602549-0290, 602549-0300, 602549-0310, 602549-0320, 602549-0330, 602549-0340, 602549-0350, 602549-0360, 602549-0370, 602549-0430, 602549-0440, 602549-0450, 602549-0460, 602549-0470, 602549-0480, 602549-0490, 602549-0500, 602549-0510, 602549-0520, 602549-0530, 602549-0540, 602549-0560, 602549-0560, 602549-0570, 602549-0580, 602549-0590, 602549-0600, 602549-0610, 602549-0620, 602549-0630, 602549-0640, 602549-0650, 602549-0660, 602549-0670, 602549-0680, 602549-0690, 602549-0700, 602549-0710, 602549-0720, 602549-0870, 602549-0880, 602549-0890, 602549-0900, 602549-0910, 602549-0920, 602549-0930, 602549-0940, 602549-0950, 602549-0960, 602549-0970, 602549-0980, 602549-0990, 602549-1000, 602549-1010, 602549-1510, 602549-2020, 602549-2030, 602549-2040, 602549-2050, 602549-2060, 602549-2070, 602549-2080, 602549-2090, 602549-2100, 602549-2110, 602549-2120, 602549-2130 and 602549-2140.

Grantor hereby assigns as security to Lender, all of Grantor's right, title, and interest in and to all leases, Rents, and profits of the Property. This assignment is recorded in accordance with RCW 85.08.070; the lien created by this assignment is intended to be specific, perfected and chaste upon the recording of this Deed of Trust. Lender grants to Grantor a license to collect the Rents and profits, which license may be revoked at Lender's option and shall be automatically revoked upon acceleration of all or part of the indebtedness.

THIS DEED OF TRUST, 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 ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

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 (this privilege is a license from Lender to Grantor automatically revoked upon default). The following provisions relate to the use of the Property or to other limitations on the Property. The Real Property is not used principally for agricultural purposes.

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

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

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Talon Group
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A Division of First
American Title Insurance
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802549-0460, 802549-0470, 802549-0480, 802549-0490, 802549-0500, 802549-0510,
802549-0520, 802549-0530, 802549-0540, 802549-0550, 802549-0560, 802549-0570,
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802549-0640, 802549-0650, 802549-0660, 802549-0670, 802549-0680, 802549-0690,
802549-0700, 802549-0710, 802549-0720, 802549-0870, 802549-0880, 802549-0890,
802549-0900, 802549-0910, 802549-0920, 802549-0930, 802549-0940, 802549-0950,
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DEED OF TRUST
(Continued)

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CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee in trust with power of sale, right of entry and possession and for the benefit of Lender as Beneficiary, 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 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 PIERCE County, State of Washington:

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Removal of Improvements. Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

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**DEED OF TRUST
(Continued)**

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Compliance with Governmental Requirements. Grantor shall promptly comply, and shall promptly cause compliance by all agents, tenants or other persons or entities of every nature whatsoever who rent, lease or otherwise use or occupy the Property in any manner, with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, (A) declare immediately due and payable all sums secured by this Deed of Trust or (B) increase the interest rate provided for in the Note or other documents evidencing the indebtedness and impose such other conditions as Lender deems appropriate, 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. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Washington law.

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

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions 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 to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Deed of Trust.

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a fair value 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. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustee and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. 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, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and 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.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid without interest to Grantor as Grantor's interests may appear.

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**DEED OF TRUST
(Continued)**

Page 4

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note 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 (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Deed of Trust:

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 any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust 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. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's Indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice at Grantor's expense, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

DISPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the Indebtedness secured by this Deed of Trust; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Real and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor

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**DEED OF TRUST
(Continued)**

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shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Deed of Trust, and the Related Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Undue prohibited by law or Lender agrees to the contrary in writing. Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Realty and the Personal Property. Any reconveyance fee shall be paid by Grantor, if permitted by applicable law. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto", and the recitals in the reconveyance of any matters or facts shall be conclusive proof of the truthfulness of any such matters or facts.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Deed of Trust:

Payment Default. Grantor fails to make any payment when due under the indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Compliance Default. Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

Default on Other Payments. Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the indebtedness or perform their respective obligations under this Deed of Trust or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Deed of Trust or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness. In the event of a death, Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

Right to Cure. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Deed of Trust within the preceding twelve (12) months, it may be cured if

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**DEED OF TRUST
(Continued)**

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Grantor, after receiving written notice from Lender demanding cure of such default: (1) cures the default within ten (10) days; or (2) if the cure requires more than ten (10) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

Accelerate Indebtedness. Lender shall have the right at its option to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

Foreclosure. With respect to all or any part of the Real Property, the Trustee shall have the right to exercise its power of sale and to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

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.

Collect Rents. Lender shall have the right, without notice to Grantor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding or pending foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Note or available at law or in equity.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or 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.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, 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 Note 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, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

Rights of Trustee. Trustee shall have all of the rights and duties of Lender as set forth in this section.

POWERS AND OBLIGATIONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee (pursuant to Lender's instructions) are part of this Deed of Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless required by applicable law, or unless the action or proceeding is brought by Trustee.

Trustee. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

Successor Trustee. Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Lender and recorded in the office of the recorder of PIERCE County, State of Washington. The instrument shall contain, in addition to all other matters required by state law, the names of the original Lender, Trustee, and Grantor, the book and page or the

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DEED OF TRUST
(Continued)

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Auditor's File Number where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

NOTICES. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender's address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration of or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Governing Law. This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Washington.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Pierce County, State of Washington.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust.

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

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

Beneficiary. The word "Beneficiary" means Frontier Bank, and its successors and assigns.

Borrower. The word "Borrower" means LFN, LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Deed of Trust. The words "Deed of Trust" mean this Deed of Trust among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

Default. The word "Default" means the Default set forth in this Deed of Trust in the section titled "Default".

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

Grantor. The word "Grantor" means LFN, LLC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the

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DEED OF TRUST
(Continued)

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Indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

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

Lender. The word "Lender" means Frontier Bank, its successors and assigns.

Note. The word "Note" means the promissory note dated June 13, 2007, in the original principal amount of \$5,010,000.00 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. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

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 accessories, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all issues and profits thereon and 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 Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan 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; provided, that the environmental indemnity agreements are not "Related Documents" and are not secured by this Deed of Trust.

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

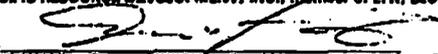
Trustee. The word "Trustee" means The Teton Group, whose mailing address is 11400 SE 8th Street, Suite 250, Bellevue, WA 98004 and any substitute or successor trustees.

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

GRANTOR:

LPN, LLC

PACIFIC RESOURCE DEVELOPMENT, INC., Member of LPN, LLC

By: 
DONALD C. LINKEM, President of PACIFIC RESOURCE DEVELOPMENT, INC.

L & P DEVELOPMENT, L.L.C., Member of LPN, LLC

By: 
PAUL E. GREEN, Member of L & P DEVELOPMENT, L.L.C.

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(Continued)

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LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington)
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COUNTY OF Pierce)
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On this 14th day of June, 20 07, before me, the undersigned Notary Public, personally appeared DONALD C. LINDEM, President of PACIFIC RESOURCE DEVELOPMENT, INC., Member of LPN, LLC, and personally known to me or proved to me on the basis of satisfactory evidence to be a member or designated agent of the limited liability company that executed the Deed of Trust and acknowledged the Deed of Trust to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Deed of Trust and in fact executed the Deed of Trust on behalf of the limited liability company.

By Jara Cole Residing at Tacoma
Notary Public in and for the State of WA My commission expires 5/28/2009

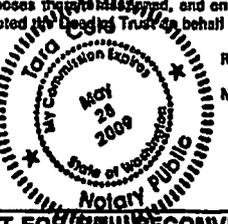


LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington)
)
) 188
COUNTY OF Pierce)
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On this 14th day of June, 20 07, before me, the undersigned Notary Public, personally appeared PAUL E. GREEN, Member of L & P DEVELOPMENT, L.L.C., Member of LPN, LLC, and personally known to me or proved to me on the basis of satisfactory evidence to be a member or designated agent of the limited liability company that executed the Deed of Trust and acknowledged the Deed of Trust to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Deed of Trust and in fact executed the Deed of Trust on behalf of the limited liability company.

By Jara Cole Residing at Tacoma
Notary Public in and for the State of WA My commission expires 5/28/2009



REQUEST FOR FULL RECONVEYANCE

To: _____, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. You are hereby requested, upon payment of all sums owing to you, to reconvey without warranty, to the persons entitled thereto, the right, title and interest now held by you under the Deed of Trust.

Date: _____ Beneficiary: _____
By: _____
Its: _____

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EXHIBIT C

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COMMERCIAL GUARANTY

Principal	Loan Date	Maturity	Loan No.	Book	Account	City	State
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or line. Any item above containing ***** has been omitted due to text length limitations.							

Borrower: LFN, L.L.C.
108 W STEWART
PUYALLUP, WA 98371

Lender: Frontier Bank
Summer
801 Alder
PO Box 1650
Summer, WA 98380

Guarantor: L&P DEVELOPMENT, L.L.C.
1103 SHAW ROAD
PUYALLUP, WA 98372

CONTINUING GUARANTEE OF PAYMENT AND PERFORMANCE. For good and valuable consideration, Guarantor absolutely and unconditionally guarantees full and punctual payment and satisfaction of the indebtedness of Borrower to Lender, and the performance and discharge of all Borrower's obligations under the Note and the Related Documents. This is a guaranty of payment and performance and not of collection, so Lender can enforce this Guaranty against Guarantor even when Lender has not exhausted Lender's remedies against anyone else obligated to pay the indebtedness or against any collateral securing the indebtedness, this Guaranty or any other guaranty of the indebtedness. Guarantor will make any payments to Lender or its order, on demand, in legal tender of the United States of America, in same-day funds, without set-off or deduction or counterclaim, and will otherwise perform Borrower's obligations under the Note and Related Documents. Under this Guaranty, Guarantor's liability is unlimited and Guarantor's obligations are continuing.

INDEBTEDNESS. The word "indebtedness" as used in this Guaranty means all of the principal amount outstanding from time to time and at any one or more times, accrued unpaid interest thereon and all collection costs and legal expenses related thereto permitted by law, attorneys' fees, arising from any and all debts, liabilities and obligations of every nature or form, now existing or hereafter arising or acquired, that Borrower individually or collectively or interchangeably with others, owes or will owe Lender. "Indebtedness" includes, without limitation, loans, advances, debts, overdraft indebtedness, credit card indebtedness, lease obligations, liabilities and obligations under any interest rate protection agreements or foreign currency exchange agreements or commodity price protection agreements, other obligations, and liabilities of Borrower, and any present or future judgments against Borrower, future advances, loans or transactions that renew, extend, modify, refinance, consolidate or substitute these debts, liabilities and obligations whether voluntarily or involuntarily incurred; due or to become due by their terms or acceleration; absolute or contingent; liquidated or unliquidated; determined or undetermined; direct or indirect; primary or secondary in nature or arising from a guaranty or surety; secured or unsecured; joint or several or joint and several; evidenced by a negotiable or non-negotiable instrument or writing; originated by Lender or another or others; barred or unenforceable against Borrower for any reason whatsoever; for any transactions that may be voidable for any reason (such as infancy, insanity, ultra vires or otherwise); and originated then reduced or extinguished and then afterwards increased or reinstated.

If Lender presently holds one or more guaranties, or hereafter receives additional guaranties from Guarantor, Lender's rights under all guaranties shall be cumulative. This Guaranty shall not (unless specifically provided below to the contrary) affect or invalidate any such other guaranties. Guarantor's liability will be Guarantor's aggregate liability under the terms of this Guaranty and any such other unexpired guaranties.

CONTINUING GUARANTY. THIS IS A "CONTINUING GUARANTY" UNDER WHICH GUARANTOR AGREES TO GUARANTEE THE FULL AND PUNCTUAL PAYMENT, PERFORMANCE AND SATISFACTION OF THE INDEBTEDNESS OF BORROWER TO LENDER, NOW EXISTING OR HEREAFTER ARISING OR ACQUIRED, ON AN OPEN AND CONTINUING BASIS. ACCORDINGLY, ANY PAYMENTS MADE ON THE INDEBTEDNESS WILL NOT DISCHARGE OR DIMINISH GUARANTOR'S OBLIGATIONS AND LIABILITY UNDER THIS GUARANTY FOR ANY REMAINING AND SUCCEEDING INDEBTEDNESS EVEN WHEN ALL OR PART OF THE OUTSTANDING INDEBTEDNESS MAY BE A ZERO BALANCE FROM TIME TO TIME.

DURATION OF GUARANTY. This Guaranty will take effect when received by Lender without the necessity of any acceptance by Lender, or any notice to Guarantor or to Borrower, and will continue in full force until all the indebtedness incurred or contracted before receipt by Lender of any notice of revocation shall have been fully and finally paid and satisfied and all of Guarantor's other obligations under this Guaranty shall have been performed in full. If Guarantor elects to revoke this Guaranty, Guarantor may only do so in writing. Guarantor's written notice of revocation must be mailed to Lender, by certified mail, at Lender's address listed above or such other place as Lender may designate in writing. Written revocation of this Guaranty will apply only to new indebtedness created after actual receipt by Lender of Guarantor's written revocation. For this purpose and without limitation, the term "new indebtedness" does not include the indebtedness which at the time of notice of revocation is contingent, unliquidated, undetermined or not due and which later becomes absolute, liquidated, determined or due. For this purpose and without limitation, "new indebtedness" does not include all or part of the indebtedness that is: incurred by Borrower prior to revocation; incurred under a commitment that became binding before revocation; any renewals, extensions, substitutions, and modifications of the indebtedness. This Guaranty shall bind Guarantor's estate as to the indebtedness created both before and after Guarantor's death or incapacity, regardless of Lender's actual notice of Guarantor's death. Subject to the foregoing, Guarantor's executor or administrator or other legal representative may terminate this Guaranty in the same manner in which Guarantor might have terminated it and with the same effect. Release of any other guarantor or termination of any other guaranty of the indebtedness shall not affect the liability of Guarantor under this Guaranty. A revocation Lender receives from any one or more Guarantors shall not affect the liability of any remaining Guarantors under this Guaranty. It is anticipated that fluctuations may occur in the aggregate amount of the indebtedness covered by this Guaranty, and Guarantor specifically acknowledges and agrees that reductions in the amount of the indebtedness, even to zero dollars (\$0.00), shall not constitute a termination of this Guaranty. This Guaranty is binding upon Guarantor and Guarantor's heirs, successors and assigns so long as any of the indebtedness remains unpaid and even though the indebtedness may from time to time be zero dollars (\$0.00).

GUARANTOR'S AUTHORIZATION TO LENDER. Guarantor authorizes Lender, either before or after any revocation hereof, without notice or demand and without lessening Guarantor's liability under this Guaranty, from time to time: (A) prior to revocation as set forth above, to make one or more additional secured or unsecured loans to Borrower, to lease equipment or other goods to Borrower, or otherwise to extend additional credit to Borrower; (B) to alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms of the indebtedness or any part of the indebtedness, including increases and decreases of the rate of interest on the indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) to take and hold security for the payment of this Guaranty or the indebtedness, and exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any such security, with or without the substitution of new collateral; (D) to release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; (E) to determine how, when and what application of payments and credits shall be made on the indebtedness; (F) to apply such security and direct the order or manner of sale thereof, including without limitation, any nonjudicial sale permitted by the terms of the controlling security agreement or deed of trust, as Lender in its discretion may determine; (G) to sell, transfer, assign or grant participations in all or any part of the indebtedness; and (H) to assign or transfer this Guaranty in whole or in part.

GUARANTOR'S REPRESENTATIONS AND WARRANTIES. Guarantor represents and warrants to Lender that (A) no representations or agreements of any kind have been made to Guarantor which would limit or qualify in any way the terms of this Guaranty; (B) this Guaranty is executed at Borrower's request and not at the request of Lender; (C) Guarantor has full power, right and authority to enter into this Guaranty; (D) the provisions of this Guaranty do not conflict with or result in a default under any agreement or other instrument binding upon Guarantor and do not result in a violation of any law, regulation, court decree or order applicable to Guarantor; (E) Guarantor has not and will not, without the prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; (F) upon Lender's request, Guarantor will provide to Lender financial and credit information in form acceptable to Lender, and all such financial information which currently has been, and all future financial information which will be provided to Lender is and will be true and correct in all material respects and fairly present Guarantor's financial condition as of the date the financial information is provided; (G) no material adverse change has occurred in Guarantor's financial condition since the date of the most recent financial statements provided to Lender and no event has occurred which may materially adversely affect Guarantor's financial condition; (H) no litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Guarantor is pending or threatened; (I) Lender has made no representation to Guarantor as to the creditworthiness of Borrower; and (J) Guarantor has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Guarantor's risks under this Guaranty, and Guarantor further agrees that, absent a request for information, Lender shall have no obligation to disclose to Guarantor any information or documents acquired by Lender in the course of its relationship with Borrower.

GUARANTOR'S WAIVERS. Except as prohibited by applicable law, Guarantor waives any right to require Lender (A) to continue lending money or to extend other credit to Borrower; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of the indebtedness or of any nonpayment related to any collateral, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the indebtedness or in connection with the creation of new or additional loans or obligations; (C) to resort for payment or to proceed directly or at once against any person, including Borrower or any other guarantor;

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(D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to pursue any other remedy within Lender's power; or (F) to commit any act or omission of any kind, or at any time, with respect to any matter whatsoever.

Guarantor also waives any and all rights or defenses based on suretyship or impairment of collateral including, but not limited to, any rights or defenses arising by reason of (A) any "one action" or "anti-deficiency" law or any other law which may prevent Lender from bringing any action, including a claim for deficiency, against Guarantor, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale; (B) any election of remedies by Lender which destroys or otherwise adversely affects Guarantor's subrogation rights or Guarantor's rights to proceed against Borrower for reimbursement, including without limitation, any loss of rights Guarantor may suffer by reason of any law limiting, qualifying, or discharging the Indebtedness; (C) any disability or other defense of Borrower, of any other guarantor, or of any other person, or by reason of the cessation of Borrower's liability from any cause whatsoever, other than payment in full in legal tender, of the Indebtedness; (D) any right to claim discharge of the Indebtedness on the basis of unjustified impairment of any collateral for the Indebtedness; (E) any statute of limitations, if at any time any action or suit brought by Lender against Guarantor is commenced, there is outstanding Indebtedness which is not barred by any applicable statute of limitations; or (F) any defenses given to guarantors at law or in equity other than actual payment and performance of the Indebtedness. If payment is made by Borrower, whether voluntarily or otherwise, or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment to Borrower's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, the Indebtedness shall be considered unpaid for the purpose of the enforcement of this Guaranty.

Guarantor further waives and agrees not to assert or claim at any time any deductions to the amount guaranteed under this Guaranty for any claim of setoff, counterclaim, counter demand, recoupment or similar right, whether such claim, demand or right may be asserted by the Borrower, the Guarantor, or both.

GUARANTOR'S UNDERSTANDING WITH RESPECT TO WAIVERS. Guarantor warrants and agrees that each of the waivers set forth above is made with Guarantor's full knowledge of its significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any such waiver is determined to be contrary to any applicable law or public policy, such waiver shall be effective only to the extent permitted by law or public policy.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Guarantor's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Guarantor holds jointly with someone else and all accounts Guarantor may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Guarantor authorizes Lender, to the extent permitted by applicable law, to hold these funds if there is a default, and Lender may apply the funds in these accounts to pay what Guarantor owes under the terms of this Guaranty.

SUBORDINATION OF BORROWER'S DEBTS TO GUARANTOR. Guarantor agrees that the Indebtedness, whether now existing or hereafter created, shall be superior to any claim that Guarantor may now have or hereafter acquire against Borrower, whether or not Borrower becomes insolvent. Guarantor hereby expressly subordinates any claim Guarantor may have against Borrower, upon any account whatsoever, to any claim that Lender may now or hereafter have against Borrower. In the event of insolvency and consequent liquidation of the assets of Borrower, through bankruptcy, by an assignment for the benefit of creditors, by voluntary liquidation, or otherwise, the assets of Borrower applicable to the payment of the claims of both Lender and Guarantor shall be paid to Lender and shall be first applied by Lender to the Indebtedness. Guarantor does hereby assign to Lender all claims which it may have or acquire against Borrower or against any assignee or trustee in bankruptcy of Borrower; provided however, that such assignment shall be effective only for the purpose of assuring to Lender full payment in legal tender of the Indebtedness. If Lender so requests, any notes or credit agreements now or hereafter evidencing any debts or obligations of Borrower to Guarantor shall be marked with a legend that the same are subject to this Guaranty and shall be delivered to Lender. Guarantor agrees, and Lender is hereby authorized, in the name of Guarantor, from time to time to file financing statements and continuation statements and to execute documents and to take such other actions as Lender deems necessary or appropriate to perfect, preserve and enforce its rights under this Guaranty.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Guaranty:

Amendments. This Guaranty, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Guaranty. No alteration of or amendment to this Guaranty shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Guarantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Guaranty. Lender may hire or pay someone else to help enforce this Guaranty, and Guarantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Guarantor also shall pay all court costs and such additional fees as may be directed by the court.

Caption Headings. Caption headings in this Guaranty are for convenience purposes only and are not to be used to interpret or define the provisions of this Guaranty.

Governing Law. This Guaranty will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions.

Choice of Venue. If there is a lawsuit, Guarantor agrees upon Lender's request to submit to the jurisdiction of the courts of Pierce County, State of Washington.

Integration. Guarantor further agrees that Guarantor has read and fully understands the terms of this Guaranty; Guarantor has had the opportunity to be advised by Guarantor's attorney with respect to this Guaranty; the Guaranty fully reflects Guarantor's intentions and parole evidence is not required to interpret the terms of this Guaranty. Guarantor hereby indemnifies and holds Lender harmless from all losses, claims, damages, and costs (including Lender's attorneys' fees) suffered or incurred by Lender as a result of any breach by Guarantor of the warranties, representations and agreements of this paragraph.

Interpretation. In all cases where there is more than one Borrower or Guarantor, then all words used in this Guaranty in the singular shall be deemed to have been used in the plural where the context and construction so require; and where there is more than one Borrower named in this Guaranty or when this Guaranty is executed by more than one Guarantor, the words "Borrower" and "Guarantor" respectively shall mean all and any one or more of them. The words "Guarantor," "Borrower," and "Lender" include the heirs, successors, assigns, and transferees of each of them. If a court finds that any provision of this Guaranty is not valid or should not be enforced, that fact by itself will not mean that the rest of this Guaranty will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Guaranty even if a provision of this Guaranty may be found to be invalid or unenforceable. If any one or more of the Borrower or Guarantor are corporations, partnerships, limited liability companies, or similar entities, it is not necessary for Lender to inquire into the powers of Borrower or Guarantor or of the officers, directors, partners, managers, or other agents acting or purporting to act on their behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed under this Guaranty.

Notices. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Guaranty shall be given in writing, and, except for revocation notices by Guarantor, shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Guaranty. All revocation notices by Guarantor shall be in writing and shall be effective upon delivery to Lender as provided in the section of this Guaranty entitled "DURATION OF GUARANTY." Any party may change its address for notices under this Guaranty by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Guarantor agrees to keep Lender informed at all times of Guarantor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Guarantor, any notice given by Lender to any Guarantor is deemed to be notice given to all Guarantors.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Guaranty unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Guaranty shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Guaranty. No prior waiver by Lender, nor any course of dealing between Lender and Guarantor, shall constitute a waiver of any of Lender's rights or of any of Guarantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Guaranty, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Successors and Assigns. Subject to any limitations stated in this Guaranty on transfer of Guarantor's interest, this Guaranty shall be binding upon and inure to the benefit of the parties, their successors and assigns.

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DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Guaranty. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Guaranty shall have the meanings attributed to such terms in the Uniform Commercial Code:

Borrower. The word "Borrower" means LFN, L.L.C. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Guarantor. The word "Guarantor" means everyone signing this Guaranty, including without limitation L&P DEVELOPMENT, L.L.C., and in each case, any signer's successors and assigns.

Guaranty. The word "Guaranty" means this guaranty from Guarantor to Lender.

Indebtedness. The word "Indebtedness" means Borrower's indebtedness to Lender as more particularly described in this Guaranty.

Lender. The word "Lender" means Frontier Bank, its successors and assigns.

Note. The word "Note" means and includes without limitation all of Borrower's promissory notes and/or credit agreements evidencing Borrower's loan obligations in favor of Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions for promissory notes or credit agreements.

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.

EACH UNDERSIGNED GUARANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS GUARANTY AND AGREES TO ITS TERMS. IN ADDITION, EACH GUARANTOR UNDERSTANDS THAT THIS GUARANTY IS EFFECTIVE UPON GUARANTOR'S EXECUTION AND DELIVERY OF THIS GUARANTY TO LENDER AND THAT THE GUARANTY WILL CONTINUE UNTIL TERMINATED IN THE MANNER SET FORTH IN THE SECTION TITLED "DURATION OF GUARANTY". NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS GUARANTY EFFECTIVE. THIS GUARANTY IS DATED DECEMBER 18, 2007.

GUARANTOR:

L&P DEVELOPMENT, L.L.C.

By: 
PAUL E. GREEN, Member of L&P DEVELOPMENT,
L.L.C.

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PACIFIC NORTHWEST TITLE

117791-2



201012200448 4 PGS
12/20/2010 12:24:48 PM \$65.00
PIERCE COUNTY, WASHINGTON

After Recording Return to:
Hacker & Willig, Inc., P.S.
1501 Fourth Avenue, Suite 2150
Seattle, Washington 98101-3225

TRUSTEE'S DEED

Grantor:	Hacker & Willig, Inc., P.S.
Grantee:	Union Bank, N.A.
Abbv. Legal Description:	LOTS 24-37, 43-72, 87-101, 151 AND 202-214, LIPOMA FIRS NORTH PDD, PHASE 2, REC. 200701245006, PIERCE COUNTY
Assessor's Tax Parcel ID #:	602549-0240, 602549-0250, 602549-0260, 602549-0270, 602549-0280, 602549-0290, 602549-0300, 602549-0310, 602549-0320, 602549-0330, 602549-0340, 602549-0350, 602549-0360, 602549-0370, 602549-0430, 602549-0440, 602549-0450, 602549-0460, 602549-0470, 602549-0480, 602549-0490, 602549-0500, 602549-0510, 602549-0520, 602549-0530, 602549-0540, 602549-0550, 602549-0560, 602549-0570, 602549-0580, 602549-0590, 602549-0600, 602549-0610, 602549-0620, 602549-0630, 602549-0640, 602549-0650, 602549-0660, 602549-0670, 602549-0680, 602549-0690, 602549-0700, 602549-0710, 602549-0720, 602549-0870, 602549-0880, 602549-0890, 602549-0900, 602549-0910, 602549-0920, 602549-0930, 602549-0940, 602549-0950, 602549-0960, 602549-0970, 602549-0980, 602549-0990, 602549-1000, 602549-1010, 602549-1510, 602549-2020, 602549-2030, 602549-2040, 602549-2050, 602549-2060, 602549-2070, 602549-2080, 602549-2090, 602549-2100, 602549-2110, 602549-2120, 602549-2130, 602549-2140.
File No.:	2010-177

THE GRANTOR, Hacker & Willig, Inc. P.S., as current Trustee under that Deed of Trust, as hereinafter particularly described, in consideration of the premises and payment recited below, **HEREBY GRANTS AND CONVEYS**, without representations or warranty, expressed or implied, to the Grantee, Union Bank, N.A., successor in interest to the FDIC as receiver of Frontier Bank, that real property ("the Property"), situated in the County of Pierce, State of Washington, described as follows:

LOTS 24 THROUGH 37, INCLUSIVE, 43 THROUGH 72, INCLUSIVE, 87 THROUGH 101, INCLUSIVE, AND 151 AND 202 THROUGH 214, INCLUSIVE, OF LIPOMA FIRS NORTH PDD, PHASE 2, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 24, 2007 UNDER RECORDING NO. 200701245006, RECORDS OF PIERCE COUNTY, WASHINGTON.

The addresses of said property are commonly known as: 11519, 11523, 11527, 11601, 11605, 11609, 11611, 11617, 11625, 11629, 11504, 11512, 11520, 11524, 11606, 11612, 11618, 11626, 11630 185th Street Court East, Puyallup, WA 98373;

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12/20/2010 11:59:42 AM DMXINS 4250682 2 PGS
EXCISE COLLECTED: \$0.00 PROC FEE: \$5.00
AUDITOR
PIERCE COUNTY, WA TECH FEE: \$5.00

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18603, 18609, 18615, 18619, 18713, 18721, 18727, 18733, 18735, 18801, 18805, 18809, 18813, 18817, 18821, 18825, 18829, 18833, 18835, 18608 and 18618 117th Avenue Court East, Puyallup, WA 98373;

11718 11714, 11710, 11706, 11622, 11614, 11608, 11602, 11508, 11504, 11221 189th Street East, Puyallup, WA 98373;

18822, 18818, 18814, 18810, 18806, 18519, 18513, 18507, 18503 115th Avenue East, Puyallup, WA 98373;

18712, 18718, 18722, 18726, 18730, 18810, 18816, 18822, 18828, 18834, 18902, 18906, 18910 110th Avenue Court East, Puyallup, WA 98373.

RECITALS:

1. This conveyance is made pursuant to the powers, including the power of sale, conferred upon said Trustee by that certain Deed of Trust dated June 13, 2007 and recorded on June 15, 2007, under Auditor's File No. 200706150844, records of Pierce County, State of Washington from LFN, LLC, a Washington limited liability company, as Grantor to The Talon Group as Trustee, to secure an obligation in favor of Frontier Bank, the original beneficiary. Union Bank, N.A., successor in interest to the FDIC as receiver Frontier Bank, is the current beneficiary.
2. Said Deed of Trust was executed to secure, together with other undertakings, the payment of a promissory note in the original sum of \$5,010,000.00 with interest thereon, according to the terms thereof, in favor of Frontier Bank and to secure any other sums of money which might become due and payable under the terms of said Deed of Trust. Union Bank, N.A., is successor in interest to the FDIC as receiver of Frontier Bank
3. The described Deed of Trust contains a statement that the real property conveyed therein is not used principally for agricultural purposes.
4. Default having occurred in the obligations secured and/or covenants of the Grantor under said Deed of Trust, as set forth in the Notice of Trustee's Sale described below, which by the terms of the Deed of Trust made operative the power to sell, the thirty-day advance Notice of Default was transmitted to said Grantor, Borrower, occupants, and tenants, and a copy of said Notice was posted or served in accordance with law.
5. Union Bank, N.A., successor in interest to the FDIC as receiver of Frontier Bank, being then the holder of the indebtedness secured by said Deed of Trust, delivered to said Trustee a written request directing said Trustee or his authorized agent to sell the described property in accordance with law and the terms of said Deed of Trust.
6. The defaults specified in the Notice of Default not having been cured, the Trustee, in compliance with the terms of said Deed of Trust, executed and on September 9, 2010, recorded in the office of the Auditor of Pierce County, Washington under Auditor's File No. 201009090623, a Notice of Trustee's Sale of said property.
7. The Trustee, in its aforesaid Notice of Trustee's Sale, fixed the original date of the sale as December 10, 2010, and place of sale at the following location: At the Second Floor Entry Plaza Outside Pierce County Courthouse, 930 Tacoma Avenue South, City of Tacoma, State of Washington a public place, at 10:00 AM, and in accordance with law caused copies of the statutory Notice of Trustee's Sale to be transmitted by mail to all persons entitled thereto and either posted or served prior to 90 days before the sale; further, the Trustee caused a copy of said Notice of Trustee's Sale to be published once between the thirty-fifth and twenty-eighth day before the date of sale, and once between the fourteenth and seventh day

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before the sale; and further, included with this Notice, which was transmitted to or served upon the Grantor or their successor in interest, a Notice of Foreclosure in substantially the statutory form, to which copies of the subject Deed of Trust were attached.

8. During the foreclosure, no action was pending on an obligation secured by said Deed of Trust.

9. All legal requirements and all provisions of said Deed of Trust have been complied with, as to acts to be performed and notices to be given, as provided in Revised Code of Washington, Chapter 61.24.

10. The defaults specified in the Notice of Trustee's Sale not having been cured no fewer than eleven days prior to the Trustee's Sale and said obligation secured by said Deed of Trust remaining unpaid, on December 10, 2010, the date of sale, which was not fewer than 190 days from the date of default in the obligation secured, the Trustee then and there sold at public auction to said Grantee, the highest bidder therefore, the property hereinabove described, for the sum of \$2,538,900.00, by the satisfaction of the obligation then secured by said Deed of Trust, together with all fees, costs and expenses as provided by statute.

11. Words and expressions used herein shall be applicable according to the context hereof, and without regard to the number or gender of such words or expressions.

This conveyance is made without representations or warranties of any kind, expressed or implied. By recording this Trustee's Deed, Grantee understands, acknowledges and agrees that the Property was purchased in the context of a foreclosure, that the trustee made no representations to Grantee concerning the Property and that the trustee owed no duty to make disclosures to Grantee concerning the Property, Grantee relying solely upon his/her/their/its own due diligence investigation before electing to bid for the Property.

DATED this 17th day of December, 2010

TRUSTEE

HACKER & WILLIG, INC., P.S.

By:


Donald E. Hacker, Jr.

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STATE OF WASHINGTON)
) ss:
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Donald E. Hacker, Jr. is the person who appeared before me, and said person acknowledged that he signed this instrument and on oath stated that he was authorized to execute the instrument and acknowledged it as Trustee to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

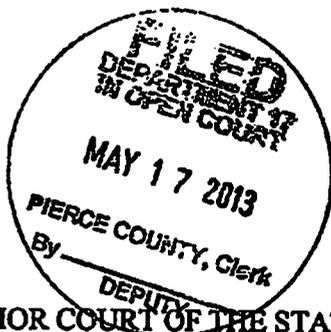
DATED: 12/17/2010



Donna M. Findlay
Name Donna M. Findlay
Notary Public in and for the State of Washington
My Commission/Appointment expires _____.

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The Honorable Ronald Culpepper
Date of Hearing: May 17, 2013
Time of Hearing: 9:00 A.M.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF PIERCE

UNION BANK, N.A., as successor in interest
to the FDIC as Receiver of Frontier Bank,

Plaintiff,

vs.

L&P DEVELOPMENT, L.L.C., a
Washington limited liability company;
PACIFIC RESOURCE DEVELOPMENT,
INC., a Washington corporation; PARKER
FAMILY L.L.C., a Washington limited
liability company; RTB, INC.; RICHARD T.
BRUNAUGH and AMANDA BRUNAUGH,
husband and wife, and the marital community
composed thereof; LYLE E. FOX and VICKY
J. FOX, husband and wife, and the marital
community composed thereof; PAUL E.
GREEN and ANNETTE GREEN, husband
and wife, and the marital community
composed thereof; DONALD C. LINKEM
and ELIZABETH A. LINKEM, husband and
wife, and the marital community composed
thereof; DAVID A. PARKER and VELMA L.
PARKER, husband and wife, and the marital
community composed thereof; PAUL E.
WILSON and KELLY I. WILSON, husband
and wife, and the marital community
composed thereof,

Defendants.

No. 11-2-16499-9

ORDER GRANTING SUMMARY
JUDGMENT TO UNION BANK, N.A.,
AND DENYING DEFENDANTS'
CROSS MOTION FOR SUMMARY
JUDGMENT

THIS MATTER has come before the Court on the parties' cross motions for
summary judgment. The Court being fully advised and having specifically reviewed the

ORDER GRANTING SUMMARY JUDGMENT TO UNION
BANK, N.A., AND DENYING DEFENDANTS' CROSS
MOTION FOR SUMMARY JUDGMENT - 1

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Attorneys at Law
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Seattle, WA 98101-4010
Telephone: 206.622.1711

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1 following:

2 **UNION BANK:**

- 3 1. Union Bank's Motion for Summary Judgment on All Causes of Action
4 Against Defendants;
- 5 2. Declaration of Andrew Bembry ISO Union Bank's Motion for Summary
6 Judgment on All Causes of Action Against Defendants;
- 7 3. [Proposed] Order Granting Union Bank's Motion for Summary Judgment on
8 All Causes of Action Against Defendants;
- 9 4. [Proposed] Final Judgment on All Causes of Action Against Defendants;
- 10 5. Defendant Fox's Response in Opposition to Plaintiff's Motion for Summary
11 Judgment on All Causes of Action Against Defendants;
- 12 6. Declaration of Lyle Fox ISO Defendant Fox's Response in Opposition to
13 Plaintiff's Motion for Summary Judgment on All Causes of Action
14 Against Defendants;
- 15 7. Defendants' Response to Union Bank's Motion for Summary Judgment
16 on All Causes of Action Against Defendants;
- 17 8. Union Bank's Reply to Defendant's Response to Union Bank's Motion for
18 Summary Judgment on All Causes of Action Against Defendants;
- 19 9. Declaration of Andrew Bembry in Support of Union Bank's Reply to
20 Defendants' Response to Union Bank's Motion for Summary Judgment on All
21 Causes of Action Against Defendants ("Second Bembry Declaration");

22 **L & P DEVELOPMENT:**

- 23 10. Defendants' Cross Motion for Summary Judgment Dismissing Complaint;
- 24 11. Declaration of Donald Linkem in Support of Defendants' Cross Motion for
25 Summary Judgment Dismissing Complaint;
- 26 12. Defendants' Motion for Order Shortening Time to Hear Cross Motion for
Summary Judgment Dismissing Complaint;
13. Declaration of Benjamin Riley in Support of Defendants' Motion for Order
Shortening Time to Hear Cross Motion for Summary Judgment Dismissing
Complaint;

ORDER GRANTING SUMMARY JUDGMENT TO UNION
BANK, N.A., AND DENYING DEFENDANTS' CROSS
MOTION FOR SUMMARY JUDGMENT - 2

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- 1 14. [Proposed] Order Shortening Time to Hear Motion Defendants' Cross Motion
2 for Summary Judgment Dismissing Complaint;
- 3 15. Union Bank's Response to Defendants' Cross Motion for Summary
4 Judgment Dismissing Complaint; and

5 **GREEN:**

- 6 16. Defendant Green's Joinder in Defendants' Motion for Summary Judgment
7 Dismissing Complaint.

8 The Court deems itself apprised in the premises and, therefore, it is hereby
9 ORDERED, ADJUDGED, AND DECREED that Defendants' Cross Motion for Summary
10 Judgment Dismissing Complaint is DENIED. The Court rejects as a matter of law
11 Defendants' defense that the Deed of Trust secures the guaranties and that the Deed of Trust
12 Act bars a deficiency judgment against these guarantors. There being no contested issues of
13 material fact, Union Bank's Motion for Summary Judgment is GRANTED. *as to liability.*

14 The Court FINDS that there is no genuine issue of material fact that would
15 necessitate a trial on the merits over the following:

16 1. That the Note (as defined in the Complaint) executed by borrower LFN, LLC
17 ("LFN") is in default as of its maturity date—November 15, 2009;

18 2. That, after the Property (as defined in the Complaint) securing the Note was
19 sold at the trustee's sale on December 10, 2010 for the bid amount of \$2,538,900.00, and the
20 proceeds therefrom were used to partial pay to Union Bank the indebtedness owing under the
21 Note, *which amount is not disputed.* and after deduction of the fair market value ("FMV") of the Property at the time of the
22 trustee's sale, *^ will be determined later upon at a fair value hearing to consider* a deficiency amount of no less than \$2,768,845.14 remains
23 *the defendant's evidence of fair value limited to Mr. Fox's testimony* outstanding under the terms of the Note, calculated as follows:
24 *that the value is \$3.5 million.*

25 ~~\$5,498,845.14 (Debt) - \$2,730,000.00 (FMV) = \$2,768,845.14;~~

26 3. That the Defendants have materially breached their respective Guaranties (as
27 defined in the Complaint) in which, by the terms therein, they each absolutely and
28 unconditionally guaranteed any and all indebtedness owing by LFN to Union Bank under the

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terms of the Note; and

4. That, pursuant to the terms of the Guaranties, the Defendants are each liable to Union Bank for an amount of ~~no less than \$3,577,199.39 as of May 17, 2013~~, plus Union Bank attorneys' fees, costs, and expenses incurred to bring this litigation (the amount of Union Bank's attorneys' fees, costs, and expenses shall be determined by subsequent motion).

Defendants, and each of them, are jointly and severally liable for the judgment amount of ~~\$3,577,199.39 as of May 17, 2013, together with attorney fees, and expenses.~~ Union Bank may make application for judicial determination of the amount of fees and costs by subsequent motion.

~~Post-judgment interest shall accrue on the total judgment of \$3,577,199.39 at the rate of 12% per annum.~~

DONE IN OPEN COURT this 17 day of May, 2013.


The Honorable Ronald Culpepper
Washington Superior Court Judge



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Presented By:

SCHWABE, WILLIAMSON & WYATT, P.C.

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[Signature]
Approved as to form only
Din Daddery WSBA 11225

Noel P. Shillito
Approved as to form only - Atty for Defs For
Noel P. Shillito WSBA 6764

Thomas H. Oldfield
Thomas H. Oldfield WSBA #2651
attorney for defendants herein
Approved as to form only

CP
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CERTIFICATE OF SERVICE

I certify that on the 16th day of September, 2013, I caused a true and correct copy of this Appellants' Opening Brief to be served on the following in the manner indicated below:

Benjamin J Riley
Budsberg Law Group, PLLC
PO Box 1489
Olympia WA 98507-1489
Via Hand Delivery

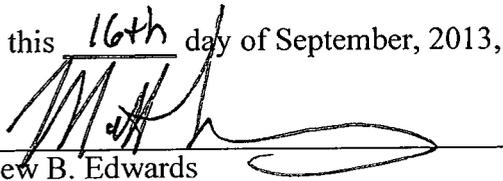
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Via Regular U.S. Mail

Dated this 16th day of September, 2013, at Olympia, Washington.

By: 
Matthew B. Edwards

BUDSBERG LAW GROUP PLLC
September 16, 2013 - 5:09 PM

Transmittal Letter

Document Uploaded: 450143-Appellants' Brief.pdf

Case Name: L&P Development LLC et al v. Union Bank

Court of Appeals Case Number: 45014-3

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

Brief: Appellants'

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Emily P Rambo - Email: paralegal@budsberg.com