

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

ALEX BISTRICER, as limited partner of
GULF ISLAND RESORT, L.P., and
GULF ISLAND RESORT, L.P.,

Case No.: 09-51034-CA-01

Plaintiffs,

vs.

KEITH NOVAK, individually, and
UNIFIRST MORTGAGE CORPORATION,
a Florida corporation,

Defendants.

**MOTION FOR AND MEMORANDUM IN SUPPORT OF DEFENDANT, KEITH
NOVAK'S MOTION FOR SUMMARY JUDGMENT OF DISMISSAL**

COMES NOW Defendant, KEITH NOVAK, by and through his undersigned counsel,
and files this, his motion for summary judgment pursuant to Fla. R. Civ. P. 1.510, and in
support thereof states as follows:

BACKGROUND

1. This is an action to quiet title in certain property brought by Plaintiffs herein.
Title to the property that is the subject of this lawsuit, however, has already been quieted
in favor of Defendant KEITH NOVAK's predecessor in interest.

2. The identical issues regarding the identical real property have been fully
adjudicated first by Judge Cobb in the case styled Alex Bistricher, a limited partner of Gulf
Island Resort, L.P. and Gulf Island Resort, L.P., Plaintiffs v. Coast Real Estate Associates,
case no.: 51-2003-CA-942 ES (the "first case"). A copy of the Court's "Order Granting

Defendants' Motion for Contempt and Sanctions" is attached hereto as Exhibit 1. A copy of the Court's "Partial Final Judgment on Action to Quiet Title", confirming quiet title in favor of Oceanside Acquisitions, LLC (of which Mr. Novak is a member), is attached hereto as Exhibit 2. The judgment is *res judicata* as to the issues which are the subject of this action.

3. Subsequent to Judge Cobb's Order Granting Defendant's Motion for Contempt and Sanctions and "Partial Final Judgement on Action to Quiet Title", the remaining claims in the first case were transferred to this Court for further adjudication. On October 9, 2009 Circuit Judge Thomas S. Wilson, Jr. issued a "Summary Final Judgment in Favor of Oceanside and DBKN as to Counts III and IV and in favor of Steven Carlyle Cronig as to Count III" a copy of which is attached hereto and incorporated herein by reference as Exhibit 3. As can be seen by the judgment, it is a final judgment on the merits of the remaining claims in the first case - Alex Bistricher/Gulf Island Resort v. Coast Real Estate Associates, et al.

4. Defendant KEITH NOVAK is a principle of the Oceanside Acquisition, LLC, Defendant in the first case. Claims other than the quiet title claim in the first case have now been fully adjudicated by the Miami-Dade County, Eleventh Judicial Circuit Court.

5. As can be seen in Exhibit 2, the final judgment quieting title was entered on May 9, 2007. On December 5, 2007 quit claim deeds were filed with the Pasco County Clerk wherein Oceanside Acquisitions, LLC granted Mr. Novak title to units 210A, 401A, 510A, and 706A. Certified copies of those quit claim deeds are attached hereto and incorporated herein by reference as Exhibit 4. (The original certified copies were previously filed with Defendant Novak's Motion for Summary Judgment heard June 2, 2009 by the Sixth Judicial Circuit prior to transfer of this case.) Thus, Defendant Keith Novak is

a successor in interest of Oceanside Acquisitions, LLC, and title to the property at issue herein has been quieted in favor of Defendant Novak's predecessor in interest.

PLAINTIFFS' CLAIM IS BARRED BY RES JUDICATA

6. In *Barse v. Whaley*, 135 So. 879 (Fla. 1931) the Florida Supreme Court concisely set forth the public policy behind the doctrine of *res judicata* by quoting two of its prior cases:

The foundation principle upon which the doctrine of *res judicata* rests is that parties ought not to be permitted to litigate the same issue more than once; that, when a right or fact as been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, **so long as it remains unreversed, should be conclusive upon the parties, and those in privity with them in law or estate.** [citation omitted]

Public policy and the interest of litigants alike, require that there be an end to litigation, and the peace and order of society demand that matters distinctly put in issue and determined by a court of competent jurisdiction as to parties and subject-matters shall not be retried between the same parties in any subsequent suit in any court. The doctrine of *res judicata* not only puts an end to strife, but produces certainty as to individual rights and gives dignity and respect to judicial proceedings which otherwise would be endless. [citation omitted] [emphasis supplied]

135 So. at 880, quoting *Hay v. Salisbury*, 190 So. 617, 620-621 (Fla. 1926).

7. Plaintiffs in this case have had their quiet title right judicially tried, or have at least had an opportunity for such trial, from which a judgments were rendered by the courts which "remains unreversed" and thus "should be conclusive upon the parties, and those in privity with them in law or estate." *Id.* All of the claims, including the quiet title claims, have been finally adjudicated as evidenced by Judge Wilson's October 9, 2009 Final

Judgment, and by Judge Cobb's Partial Final Judgment on Action to Quiet Title dated May 9, 2007.

8. More modern Florida cases have identified four identities that must be present for *res judicata* to apply:

In order for *res judicata* to apply four identities must be present: (1) Identity of the things sued for; (2) Identity of the cause of action; (3) identity of the persons and parties; and (4) identity of the quality or capacity of the person for or against whom the claim is made.

Palm AFC Holdings, Inc. v. Palm Beach County, 807 So. 2d 703, 704 (Fla. 4th DCA 2002).

In the case at bar all four identities are present.

9. The "thing" being sued for is quiet title in the four units identified herein above. In both cases Plaintiffs seek to quiet title in those four units.

10. The causes of action are also identical; they are for quiet title in the four units in both cases.

11. The persons and parties are identical. Plaintiffs are identical in name, and Defendant is identical as a successor pursuant to the quiet title statute, and as a member of the partnership in which title was quieted in the first case.

12. The identity of the quality or capacity of the persons against whom Plaintiffs' claims are made are also identical. Mr. Novak's quality or capacity in this suit is the same as it is in the first suit, a person or entity claiming title in the four units at issue herein pursuant to the same predecessor in interest. Florida law has always considered privies of parties as "identical" parties for the purposes for applying *res judicata*. See example *Town of Boca Raton v. Moore*, 165 So. 279, 282 (Fla. 1936).

13. While the judgment in the first case may be subject to appeal, that does not

mean it cannot act as *res judicata* in the instant action. As noted in the *Hay v. Salisbury* case, both Judge Cobb's partial final judgment and Judge Wilson's Final Judgment "remain unreversed" and are therefore entitled to *res judicata* effect.

14. The first case and this case share not only the things sued for, the cause of action, the parties of the action and the quality of the parties for or against whom the claim is made, but the Plaintiffs also are represented by the same lawyer who is still in the process of appealing the first case.

15. To allow this case to go forward would fly in the face of all Florida Public Policy and judicial economy and efficiency. This matter has already been subject to litigation. The same parties (or their privies) have already had their day in court, and Judge Cobb and Wilson have issued final judgments quieting title in favor of defendant's predecessor in interest and adjudicating all remaining claims in the first case. Judge Cobb's judgment quieting title remains unreversed, and in order to comply with the public policies behind the doctrine of *res judicata* and the quiet title statute this matter needs to be considered concluded as to these parties.

PLAINTIFFS HAVE FAILED TO COMPLY WITH THE QUIET TITLE STATUTE

16. Plaintiffs' sole complaint in this cause is founded on quieting title. The Plaintiff has failed to comply with Florida's Quiet Title Statute as Plaintiffs have failed to "deraign title" as required in Florida Statute 65.061(3) which provides as follows:

3) Deraignment of title. - The Plaintiff shall deraign his or her title from the original source or for a period of at least seven (7) years before filing the complaint unless the court otherwise directs, setting forth the book and page of the records where any instrument effecting the title is recorded, if it is recorded, unless plaintiff claims from a common source with defendant.

17. Plaintiffs have failed to comply with the requirements of Fla. Stat. § 65.061(3) and according has failed to state a cause of action. Had Plaintiffs complied with the above requirements their pleadings would have necessarily included reference to OR Book 7549 Page 1610 of the Pasco County Public Records. At the above page is located a judgment quieting title in favor of Oceanside Acquisitions, LLC as against these same Plaintiffs. Oceanside Acquisitions, LLC is the predecessor in interest to Defendant KEITH NOVAK in the instant action and is the direct successor in interest to the party that title was quieted in at the above book and page.

18. Plaintiffs in a quiet title action must be able to show title in themselves from which the cloud is to be removed. *Gantt v. Riverbend Estates, Inc.*, 755 So. 2d 817 (Fla. 2d DCA 2000). The judgment at the above OR Book and Page vested legal and equitable title in Oceanside Acquisitions, LLC, Defendant Novak's predecessor in interest, which had the effect of divesting legal and equitable title to the property that is the subject of the instant litigation away from Plaintiffs herein. Accordingly, Plaintiffs cannot claim to have legal right or equitable title as required to state a cause of action and maintain a suit to quiet title.

QUIET TITLE JUDGMENTS ARE FINAL UNTIL REVERSED

19. Quiet title actions in Florida are governed by Fla. Stat. § 65.061. Pursuant to the statute, once title it quieted in a party, title is also quieted to all persons or entities claiming title under that party. Fla. Stat. § 65.061(4). In other words, once title has been quieted, it is quieted in favor of all successors in interest as though they were parties to the initial quiet title action.

20. Additionally, pursuant to the terms of Fla. Stat. § 65.061(5) a judgment

quieting title vests title just as though a conveyance were issued by the court.

21. Further, and importantly, Fla. Stat. § 65.061(1) allows a judge to issue a partial final judgement quieting title while allowing other issues to remain before the court. This makes sense as public policy strongly favors finality in determining property title. Both the language and the spirit of the statute clearly mandate that once title is quieted it is to remain so as to all successors in interest. This clearly follows public policy in that otherwise a party claiming title could continue to sue to quiet title every time title was transferred after the initial quiet title action, or, as in this case a party could drag out a quiet title action by adding other claims to this suit and drawing out litigation of those claims/issues for years. (Plaintiffs' first case has been pending since 2003 almost 6 years.)

22. The quiet title statute alone mandates dismissal of this action. Judge Cobb has quieted title in favor of Defendant Novak's predecessor in interest, and the only possible disturbance on his judgment is by way of the court of appeals. Yet his judgment has not been appealed, and certainly has not been reversed.

23. In short, the Honorable Wayne L. Cobb's May 9, 2007 Partial Final Judgment On Action to Quiet Title must be considered a valid, final judgment. Even if said judgment was not considered final, however, Circuit Judge Thomas S. Wilson, Jr.'s Summary Final Judgment disposed of all remaining issues in the first case, and must be considered a valid, final judgment.

Additionally, even if Judge Cobb's May 9, 2007 judgment was not considered final, the issue of title of the units described in Plaintiffs' complaint herein is already at least at issue in another action, in another court of the state of Florida, and, as argued below, this Court should not disturb the pre-existing jurisdiction of its sister court by allowing the

Plaintiff to split his cause of action.

PLAINTIFFS HAVE IMPROPERLY SPLIT THEIR CAUSE OF ACTION

24. By bringing a lawsuit to quiet title against a successor and interest of the property subject to the case filed with this circuit in 2003, the Plaintiffs are inappropriately splitting their cause of action with regard to the quiet title of the subject units. Florida's rule against splitting a cause of action precludes successive claims arising from one incident. *Bettcher v. Wadsworth*, 825 So. 2d 438 (Fla. 2d DCA 2002). Simply put, Florida Law does not permit an owner of a cause of action to split that cause of action to make it a subject of several actions. *Quality Type and Graphic v. Guetzloe*, 513 So. 2d 1110 (Fla. 5th DCA 1987).

25. The rule against splitting causes of action is predicated on very strong and basic public policy considerations:

- 1) Finality in court cases promotes stability in the law, See *Tucker v. John Gault Insurance Agency Corp.*, 743 So. 2d 108, 110 (Fla. 4th DCA 1999);
- 2) Multiple lawsuits arising out of a single incident are costly to litigants and an inefficient use of judicial resources (*Id.*); and,
- 3) Multiple lawsuits cause substantial delay in the final resolution of disputes (*Id.*).

26. All three of these strong, basic public policy considerations prohibiting a splitting of a cause of action are present in this case. Quiet title actions by definition exist to bring the finality and to promote stability in the law. A second suit, as here (particularly

judging from the first suit) would be extremely costly and inefficient. Finally, as the actions were filed more than four years apart, the second suit represents at least an apparent four year delay to the quiet title action.

27. Importantly, even if the Plaintiffs were to argue they seek different remedies in the two actions (which they do not, quieting title has been at issue in the pre-existing case since 2003) filing a second action in the same court as the original proceeding, involving the same parties and their successors, and arising out of identical facts and circumstances is an impermissible attempt to split a cause of action. *Thermo Fin Inc. v. Woodruff*, 491 So. 2d 344 (Fla. 4th DCA 1986).

28. In the case at bar, the same Plaintiffs initiated a suit in the Sixth Judicial Circuit in 2003 asking in part that the court to quiet title to certain units including units 210A, 401A, 501A, and 706A (the identical units to which Plaintiffs now seek quiet title). Regardless of the status of that case or issues therein, Plaintiff cannot commence a second suit regarding the title to the above referenced units.

CONCLUSION

29. The parties to this action have had their day in court with regard to the issue of quieting title to the four units at issue herein, and *res judicata* should apply, subjecting this matter to dismissal.

30. Plaintiff has failed to comply with the quiet title statute. Under the mandate and public policy behind the quiet title statute, title to the four units at issue herein has already been quieted in favor of Defendant Oceanside Acquisitions, LLC. and its successor in interest, Defendant herein, KEITH NOVAK. Once title is quieted it is to remain so as to

all successors in interest until such time as the judgment quieting title is reversed.

31. Plaintiffs have inappropriately split their quiet title action between two cases in the same court, four year apart. This is a inappropriate splitting of a cause of action, and this matter should be therefore dismissed.

32. Therefore, Defendant KEITH NOVAK respectfully requests this Court enter an order dismissing this case with prejudice.

WHEREFORE, the Defendant KEITH NOVAK, respectfully prays for an Order compelling discovery in this cause or for such other relief as the Court deems appropriate under the circumstances.

BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP



LEWIS F. COLLINS, JR., ESQ.

Florida Bar No.: 267422

WILLIAM P. SCHOEL, ESQ.

Florida Bar No.: 0014673

777 S. Harbour Island Boulevard

Suite 500

Tampa, Florida 33602

Telephone: (813) 281-1900

Facsimile: (813) 281-0900

lcollins@butlerpappas.com

wschoel@butlerpappas.com

Attorneys for Defendant KEITH NOVAK

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to:

Maurice J. Baumgarten, Esq.

Anania Bandklayder Baumgarten Torricella & Stein

Bank of America Tower

100 Southeast 2nd Street, Suite 4300
Miami, FL 33131

Albert E. Acuna, Esq.
Joseph H. Ganguzza & Associates, P.A.
SunTrust International Center
1 SE 3rd Avenue, Suite 2150
Miami, FL 33131

James D. Gassenheimer, Esq.
Mr. Berger Singerman
Oceanside Acquisitions LLC
Berger Singerman Attorneys at Law
200 South Biscayne Boulevard, Suite 100
Miami, FL 33131-5308

by U.S. Mail and Facsimile on October 30, 2009.



WILLIAM P. SCHOEL, ESQ.

03/03/2008 14:35

(FAX)

P.005/030

15

2008120360

 Reg'd: 2832268 Rec'd: 129.00
 DS: 0.00 IT: 0.00
 08/12/06 Duty Clerk

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
 OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
 CIVIL DIVISION

ALEX BISTRICER, as limited partner of
 GULF ISLAND RESORT, L.P., et al.,

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,
 INC., etc., et al.,

Defendants/Counterclaim Plaintiffs,

COASTAL REAL ESTATE ASSOCIATES,
 INC., etc., et al.,

Defendants/Counterclaim Plaintiffs/
 Third-Party Plaintiffs,

vs.

CANDY SMITH, etc., et al.,

Third-Party Defendants.

CASE NO 51-2003-CA-942ES

JED PITTMAN, PASCO COUNTY CLERK
 08/12/06 8:11am 1 of 15
 OR:SK 7177 P5 366 ✓

BAKER CRONIG CASSENHEIMER LLP.

3250 MARY STREET, STE 307

MIAMI, FLORIDA 33133

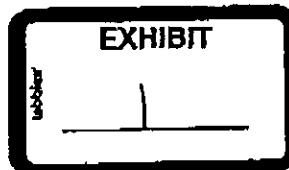
FILED FOR RECORD
 PASCO COUNTY, FLORIDA
 2006 AUG 31 AM 11:23
 JED PITTMAN
 CLERK OF CIRCUIT
 AND COUNTY CLERKS

ORDER GRANTING

DEFENDANTS' MOTION FOR CONTEMPT AND SANCTIONS

This matter came before the Court for evidentiary hearing on August 8, 2006, upon Defendants' Motion for Contempt and Sanctions dated July 14, 2006. The Court has considered the motion, the record in this case, the evidence presented at the hearing, the arguments of counsel, and has been otherwise fully advised. The Court makes the following findings of fact and conclusions of law:

EXHIBIT



03/03/2008 14:35

(FAX)

P.006/030

OR BK 7177 PG 367
2 of 25I. FINDINGS OF FACT

A. This is a case involving a protracted history of discovery abuses by Plaintiffs. Defendants have been required to obtain numerous rulings requiring Plaintiffs and their representatives to produce documents and appear at properly noticed depositions.

B. Twice this Court has withheld ruling on a motion by Defendants seeking sanctions for refusal of Plaintiffs and their representatives to comply with discovery orders of this Court. On January 9, 2006, this Court held Plaintiff Alex Bistrice ("Bistrice"), in contempt of two (2) prior discovery orders dated May 28, 2004 and September 1, 2005. At that time, the Court withheld ruling as to any sanctions that were appropriate for Plaintiff's contempt of the prior Court orders. On May 28, 2004, this Court ordered Plaintiff Bistrice to produce documents in order to comply with this Court's October 8, 2003 discovery order with which Plaintiff had failed to comply previously. On May 28, 2004, the Court withheld ruling on Defendants Motion for Contempt and Sanctions as a result of Plaintiff's refusal to comply with the Court's October 8, 2003 Discovery Order.

C. The most recent violation of this Court's discovery rulings and the Rules of Civil Procedure relating to discovery, and the gravamen of Defendants' Motion for Contempt and Sanctions, involves Plaintiffs' production of 68,111 documents to Defendants after discovery had been completed and after five days of a bench trial had already transpired. Defendants contend that the failure of Plaintiffs and their records custodian to produce these documents timely during discovery constitutes a willful violation of prior discovery orders of this Court and demonstrates a callous disregard for the authority of the Court and the discovery process.

03/03/2008 14:36

(FAX)

P.007/030

OR DK 7177 PG 368
3 of 15

Defendants also argue that the 68,111 newly produced documents establish that Plaintiffs and their representatives have repeatedly and consistently testified falsely to this Court on material issues in the case, thereby perpetrating a fraud upon the Court.

D. The evidence at the hearing established the following facts:

1. During discovery in the instant case, Plaintiffs and their representatives identified Third Party Defendant Candy Smith ("Smith") as the records custodian for Plaintiff Gulf Island Resort, L.P. ("GIRL") and GIRL's corporate general partner, Gulf Island Resort, Inc. ("GIRI"). Smith was also identified by Plaintiffs at trial as an officer of Plaintiff GIRL.

2. On September 18, 2003 - at the outset of discovery - Defendants served an Amended Notice of Deposition ("Amended Notice") *Duces Tecum* upon Smith. As part of this notice *duces tecum*, Defendants included an instruction to Smith such that all "documents requested herein are those maintained or controlled by you, individually, as well as those maintained or controlled by you for GIRL (or any of its general or limited partners), or GIRI (or any of its shareholders)."

3. The document request Defendants directed to Smith in the Amended Notice was very broad, and included virtually every non-privileged document relating to GIRL (and any of its general or limited partners). For example, the request sought all communications between GIRL representatives, as well as "all documents evidencing, referring, or relating to any action(s) taken by or on behalf of GIRL (or any of its general or limited partners), or GIRI, (or any of its shareholders)."

4. Smith, the records custodian for Plaintiff GIRL and GIRI, and -- according to Plaintiffs -- an officer of Plaintiff GIRL, was and is represented in the instant case by R. Nathan

03/03/2008 14:37

(FAX)

P.008/030

OR BK 7177 PG 369
4 of 15

Hightower, Esq. ("Hightower"). Hightower was identified by Plaintiffs as the partnership attorney for Plaintiff GIRL, and is currently counsel of record for Plaintiffs GIRL and Bistrice in the instant case. Smith, by and through her counsel, Hightower, sought a protective order regarding the documents requested by Defendants in the Amended Notice. At a hearing on September 29, 2003, before the Honorable Lynn Tepper, the Court ordered that Smith must produce at the deposition scheduled for September 30, 2003, "all documents created on or after February 10, 1993, that are responsive to the September 18, 2003 Amended Notice," except for a few documents not relevant to the requests referenced above.

5. Smith appeared for deposition on September 30, 2003, represented by Hightower. Plaintiff Bistrice was also present at this deposition. At that deposition, Scott McLaren ("McLaren"), counsel for Defendants, asked Smith if she was producing documents on that date that were responsive to the requests in the Amended Notice and the Court's discovery order. Smith answered that question in the affirmative, and indicated that the documents being produced were voluminous.

6. On October 1, 2003, and again on October 10, 2003, McLaren sent letters to Hightower, by facsimile and by mail, communicating that the Defendants demanded from Plaintiffs that all documents produced at Ms. Smith's deposition in accordance with the Court's September 29, 2003 ruling be copied, with the copies being delivered to McLaren's office. Hightower responded by letter to McLaren on October 15, 2003, stating that the documents requested were to be picked up by a copy service on October 15, 2003, for copying and delivery in accordance with McLaren's requests.

7. Plaintiffs also requested documents from all other GIRL representatives who might have any discoverable documents. Multiple sets of document requests and/or subpoenas

03/03/2008 14:38

(FAX)

P.010/030

OR BK 7177 PG 371
5 of 15

required by prior discovery orders of the Court. McLaren advised that he would seek judicial intervention if all documents were not produced by December 22, 2003.

12. Hightower responded to McLaren by letter on December 18, 2003, indicating that he was unaware of any documents, other than emails, that had not been produced. Hightower requested that McLaren specify documents that he felt had not been produced. The next day, McLaren responded by letter to Hightower and specified several categories of documents he believed Bistrice and Smith had failed to produce.

13. After additional letters from McLaren to Hightower requesting that Plaintiff and Smith produce the documents they had been ordered to produce proved futile, Defendants filed a Motion for Contempt, for Sanctions, and to Compel Discovery as against Smith and Plaintiff Bistrice seeking compliance with the Court's prior discovery orders.

14. A hearing was held on May 20, 2004, on Defendants Motion for Contempt, for Sanctions, and to Compel Discovery. At that hearing, Hightower represented to the Court on the record that, "when Ms. Smith appeared at her deposition day two [September 30, 2003], went through the documents that the subpoena had addressed, all the documents had been produced with the exception of one account." Later in the May 20, 2004 hearing, Hightower agreed to produce the documents relating to the aforementioned "one account." The Court entered an Order dated May 28, 2004 granting Defendants' Motion to Compel and requiring compliance with the Court's prior discovery orders - and setting a specific deadline for compliance. Further, the May 28, 2004 Order specifically withheld any ruling on Defendants' Motion for Contempt and Sanctions for Plaintiff's violation of the prior discovery Orders.

03/03/2008 14:38

(FAX)

P.011/030

OR BK 7177 PG 372
7 of 15

15. Plaintiff Bistrice appeared at a continuation of his deposition on June 9, 2004. During this deposition Bistrice again confirmed that "Ms. Smith, she keeps the books and records. She's the custodian."

16. On June 16, 2004, McLaren sent another letter to Hightower by facsimile and by mail explaining that Plaintiffs still had not produced all of the documents which the Court had ordered produced in the prior discovery Orders, including the May 28, 2004 Order. McLaren described particular documents remaining to be produced. Hightower responded to McLaren by letter on June 18, 2004, informing him that all requested documents had been produced.

17. Plaintiff Bistrice appeared at a continuation of his deposition on December 13, 2005. McLaren asked Bistrice whether he had spoken to Smith regarding the production of documents. Bistrice responded affirmatively, and further testified that "My understanding the last time we visited this issue is that you requested and received 77 boxes, effectively every piece of paper that the partnership [GIRL] had in its possession and Candy Smith was the custodian of all the records and I think -- I recall she told me and I can testify that she gave you every document that she had."

18. After discovery had expired and exhibit lists had been exchanged, a nonjury trial on the merits of this matter commenced on May 30, 2006.

19. Plaintiff Bistrice was called as the first witness in Plaintiffs' case. Bistrice testified that certain documents were executed for each of eight (8) transactions that Plaintiffs were involved in that were important to the merits of the case. During cross-examination of Plaintiff Bistrice on June 6, 2006, Defendants pointed out that despite Bistrice's testimony and Defendants' discovery requests, Plaintiffs had failed to produce the referenced documents for three (3) of the eight (8) transactions in question.

03/03/2008 14:39

(FAX)

P.012/030

OR BK 7177 PG 373
8 of 15

20. Within a few days after the June 6 trial day, Plaintiffs' counsel produced to Defendants, for the first time, alleged copies of the previously missing documents for the three (3) transactions. On June 15, 2006, the next scheduled day of trial, Plaintiffs attempted to introduce these three documents into evidence. Counsel for Defendants objected to their introduction based upon the failure to produce them in response to discovery requests and discovery Orders of the Court, or otherwise disclose them prior to trial.

21. Plaintiffs' counsel argued that these three (3) documents had been located by Plaintiffs after the June 6 trial day. Hightower gave testimony confirming that during discovery, the "10 to 20 bankers boxes" of documents produced at Smith's September, 2003 deposition were copied, reproduced, and delivered to counsel for Defendants. Hightower further testified that the three (3) new documents were not produced during discovery. Hightower testified that after the June 6 trial date, he obtained the keys to the GIRL office maintained by Smith from co-counsel for Plaintiffs, Maurice Baumgarten ("Baumgarten"), went to that office, and found two of the three missing documents.¹

22. Although Plaintiff moved for these three (3) previously "missing" documents to be introduced into evidence at trial on June 15, 2006, neither Plaintiffs nor their counsel made mention of any additional documents that: (a) were responsive to prior discovery requests and orders; (b) were located in GIRL's offices; and (c) had not been produced previously.

23. Subsequently, counsel for Defendants requested from the Court an opportunity to review any additional documents that: (a) were located in GIRL's offices; (b) were responsive to prior discovery requests and orders of the Court; and (c) had not been previously produced in discovery. In response, on June 29, 2006, Plaintiffs produced to Defendants 46 bankers boxes of

¹ Counsel for Plaintiffs testified that the third missing document was obtained from a Miami attorney, Louis Zawatsky, Esquire. Mr. Zawatsky was identified by Plaintiffs and their representatives as another attorney for Plaintiff GIRL.

03/03/2008 14:39

(FAX)

P.013/030

OR BK 7177 PG 374
9 of 15

documents, containing 68,111 pages of materials. The Court finds, based on the evidence presented, that a small percentage of these documents were produced previously in discovery, and that some of these documents were not responsive to prior discovery requests and orders of the Court. However, the Court also finds that a substantial amount of the 68,111 documents produced during the trial were: (a) required to be produced by prior discovery Orders of this Court, and (b) were not produced during discovery in violation of these discovery Orders.

24. The Court finds that a number of the 68,111 documents are quite relevant to the cross examination of key witnesses in the case, and to rulings that the Court is required to make on the issue of title to the disputed properties. Three (3) years of discovery and dozens of depositions have been taken subsequent to the time that the documents should have been produced. Therefore, Defendants have been prejudiced greatly by Plaintiffs' failure to timely produce these documents.

25. Also contained within the 46 boxes/68,111 documents produced during trial are certain letters and other documents relating to the instant case dated after the September 30, 2003 document production and after Plaintiffs' representations that all documents had been produced. The existence of these documents within the 46 newly produced boxes establishes that Plaintiffs and their representatives were aware of the existence of these boxes during discovery and before trial, yet failed to produce these documents as required.

26. Among the materials produced for the first time on June 29, 2006 were documents establishing facts directly inconsistent with those testified to at trial and in deposition by Plaintiff Birtcher, Smith and Plaintiff GIRL's corporate representative, Robert Farwacker, concerning issues material to the case. One such issue involved their knowledge and involvement relating to a 1999 quit claim deed ("1999 Deed") from GIRL to Gulf of Mexico

03/03/2008 14:40

(FAX)

P.015/030

OR EX 7177 PG 376
11 of 15

anything to do with preparing it [the 1999 Deed], or recording it." A copy of a check signed by Smith, made out to the Pasco County Clerk of Court, and used to record the 1999 Deed in the public records, was located in the newly produced documents. Counsel for Plaintiffs and Smith even conceded that Smith wrote the check to record the 1999 Deed at the evidentiary hearing on August 8, 2006.

32. Although Plaintiffs argue that GIRL representatives Bistrice, Smith and Fireworker were merely "mistaken" concerning their knowledge of and involvement with the 1999 Deed, the Court finds that this is not a reasonable explanation for the false testimony given by all three representatives of Plaintiff GIRL on this important issue.

33. In addition to the testimony concerning the 1999 Deed, Plaintiffs and their representatives repeatedly (and falsely) assured Defendants and the Court that all requested documents had been produced to Defendants.

34. The Court finds that the collective effect of the false testimony provided by Plaintiffs and their representatives constitutes a fraud upon the Court resulting in the loss of evidence to the Defense.

35. The Court finds that there were voluminous records in the possession, custody, and control of Plaintiffs that had been requested by Defendants during discovery which Plaintiffs' records custodian had been ordered to produce, but that were not produced prior to trial. Plaintiffs and their officers/representatives misled Defendants and the Court with repeated assurances that all requested documents had been produced. The existence of the 68,111 documents was not disclosed by Plaintiffs until several days into the trial when Plaintiffs found it to their advantage to offer into evidence some of the previously undisclosed documents in

03/03/2008 14:41

(FAX)

P.016/030

OR BK 7177 PG 377
12 of 15

support of their claims. Only after another request was made by Defendants at trial was this large volume of previously undisclosed documents made known and available to Defendants.

36. Defendants were effectively denied the opportunity to examine the documents and determine their relevance at a time when they could incorporate them into their discovery planning, case preparation, trial strategy, and use at trial for cross-examination and other purposes. The documents produced for the first time during the trial included relevant and important documents bearing on central issues in the case.

II. CONCLUSIONS OF LAW

A. On July 14, 2006, Defendants filed their Motion for Sanctions and Contempt. Defendants' motion sought relief based upon Plaintiffs' abuses and violations of the discovery process and false testimony constituting a fraud upon the Court. The evidence presented at the August 2 hearing and in the record support Defendants' request for the imposition of the most severe sanctions on these grounds.

B. Plaintiffs' actions constitute a violation of prior discovery Orders of this Court, and demonstrate deliberate and contemptuous disregard of this court's authority, as well as behavior evincing deliberate callousness to the discovery process. *Mercer v. Ratae*, 443 So.2d 944 (Fla. 1983); *Marr v. State of Florida*, 614 So.2d 619 (Fla. 2d DCA 1993).

C. Defendants have presented clear and convincing evidence of actions on the part of Plaintiffs and their representatives intended to interfere with the judicial system's ability to impartially adjudicate this matter by improperly influencing the trial of fact and by unfairly

03/03/2008 14:41

(FAX)

P.017/030

DR BK 7177 PG 378
13 of 15

hampering the presentation of the Defendants' claims and defenses. *Hutchinson v. Plantation Bay Apartments*, 931 So.2d 957 (Fla. 1st DCA 2006); *Cox v. Burke*, 706 So.2d 43 (Fla. 5th DCA 1998).

D. Plaintiffs' discovery abuses and violations of the Court's orders were egregious. Plaintiffs are responsible for creating a situation during the trial, which has made striking their pleadings and entering judgment in favor of the Defendants, the only practical alternative available to resolve this matter. *Montage Group Ltd. v. Athlete-tech Computer Systems, Inc.*, 839 So.2d 180 (Fla. 2d DCA 2004).

E. Additionally, the false testimony provided to this Court by Plaintiffs and their representatives, constituting a fraud on the Court, warrants the severe sanction of striking the pleadings in this case. *Morgan v. Campbell*, 816 So.2d 251 (Fla. 2d DCA 2002); *Austin v. Liquid Distributors*, 928 So.2d 521 (Fla. 3d DCA 2006); *Hutchinson v. Plantation Bay Apartments*, 931 So.2d 957 (Fla. 1st DCA 2006).

Based on the foregoing findings and conclusions, it is

ORDERED AND ADJUDGED as follows:

1. Defendants' Motion for Contempt and Sanctions is hereby **GRANTED** on the grounds set forth therein as more specifically stated below.

03/03/2008 14:42

(FAX)

P.018/030

OR BK	7177	PG	379
	14	of	15

2. The Pleadings filed on behalf of Plaintiffs Districer and GIRL as to the Quiet Title in Count I of Plaintiff's Second Amended Complaint and Count I of Defendants Counterclaim are hereby stricken with prejudice.

3. Good and marketable title to the properties that are the subject of the instant case (the "Subject Property") is hereby quieted in Defendants. Defendants shall be entitled to immediate possession of the Subject Property and entry of judgment in their favor as to the issues of quiet title to the Subject Property, specifically:

A. Oceanside Acquisitions LLC shall be entitled to immediate possession and the entry of a judgment quieting title in its favor as to Condominium Units 104-A, 105-A, 111-A, 202-A, 210-A, 501-A, 502-A, 508-A, 511-A, 401-A, 405-A, 408-A, 510-A, 601-A, 704-A, 706-A, 803-A, and 804-A, of GULF ISLAND BEACH AND TENNIS CLUB I, A CONDOMINIUM, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381 at Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto, and Condominium Unit 201-W of GULF ISLAND BEACH AND TENNIS CLUB II, A CONDOMINIUM according to the Declaration of Condominium thereof filed for record in Official Records Book 3300 at Page 208 of the Public Records of Pasco County, Florida; and

B. DEKN Golf Incorporated shall be entitled to immediate possession and the entry of judgment quieting title in its favor as to a parcel of land lying in SECTION 32, TOWNSHIP

03/03/2008 14:43

(FAX)

P.019/030

OR BK 7177 PG 380
15 of 15

24 SOUTH, RANGE 16 EAST, Pasco County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Northeast one-quarter (1/4) of Section 33, Township 24 South, Range 16 East; thence run South 89° 36' 30" West a distance of 3170.03 feet to the POINT OF BEGINNING; thence run due South a distance of 883.88 feet; thence run South 83° 03' 23" West a distance of 33.41 feet; thence run South 08° 30' 58" East a distance of 319.09 feet; thence run South 03° 00' 00" West a distance of 5.63 feet; thence run North 87° 00' 00" West a distance of 91.87 feet; thence run South 03° 00' 00" a distance of 134.74 feet; thence run South 89° 29' 25" West a distance of 175.92 feet; thence run due North a distance of 1341.45 feet; and thence run North 89° 36' 30" East a distance of 287.99 feet to the POINT OF BEGINNING.

4. This Court retains jurisdiction and reserves ruling as to the entitlement to, and the amount of, any damages, costs, attorneys' fees, and any other relief sought by Defendants' Motion for Contempt and Sanctions.

DONE AND ORDERED in Chambers at Dade City, Pasco County, Florida, on this 30 day of Aug, 2006.

Wayne L. Cobb
Circuit Court Judge

Copies furnished to:

Scott A. McLane, Esquire
Eric R. Page, Esquire
P. Husbisson Barck, II, Esquire
William S. Dufor, Esquire
Robert W. Lang, Esquire
Maurice Baumgarten, Esquire
R. Nathan Hightower, Esquire
Deborah P. Fitzgerald, Esquire
Peter Valori, Esquire

STATE OF FLORIDA
COUNTY OF PASCO

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE DOCUMENT ON FILE ON OF PUBLIC RECORD IN THIS OFFICE. WITNESS MY HAND AND OFFICIAL SEAL THIS 30 DAY OF AUGUST 2006.
JUDY PRITCHARD, CLERK OF CIRCUIT COURT
BY *Judy Pritchard* DEPUTY CLERK

03/03/2008 14:43

(FAX)

P.020/030

RECORDING; SEE BODY
FOR SPECIFIC PARTIESIN THE CIRCUIT COURT OF THE
SIXTH JUDICIAL CIRCUIT IN AND
FOR PASCO COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION B

CASE NO: 51-2003-CA -942ES

ALEX BISTRICER, as limited
Partner of GULF ISLAND RESORT
L.P., et al.,

JUDGE: WAYNE L COBB

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,
INC., etc., et al.,

Defendants/Counterclaim Plaintiffs.

COASTAL REAL ESTATE ASSOCIATES,
INC., etc., et al.,Defendants/Counterclaim Plaintiffs/
Third-Party Plaintiffs,

vs.

CANDY SMITH, etc., et al.,

Third-Party Defendants.

JED PITMAN, PASCO COUNTY CLERK
2/21/08 10:07 AM 1 of 3
OR BK 7549 PG 1610FILED FOR RECORD
PASCO COUNTY FLORIDA
2007 MAY -9 PM 2:55
CLERK OF SIXTH
AND SEVENTH JUDICIAL
CIRCUITSPARTIAL FINAL JUDGEMENT ON ACTION TO QUIT TITLE

This action was tried before the Court. Matters arose during trial, which resulted in an Evidentiary Hearing on August 8, 2006, upon a Motion for Contempt and Sanctions. This Court granted Defendants' Motion for Contempt and Sanctions in an Order dated August 30, 2006. Therefore, pursuant to Defendants' (Oceanside) →

R•FM•DC



03/03/2008 14:44

(FAX)

P.021/030

CASE NO: 51-2003-CA -94ZES

Acquisitions, LLC and (DBKN Gulf Incorporated's) Motion for Entry of Final Judgment

as to Quiet Title and Slender of Title Actions, it is

OR BK 7549 Pg 1611
2 of 3

ADJUDGED that:

1. Good and marketable title to Units 104-A, 105-A, 111-A, 202-A, 210-A, 301-A, 302-A, 308-A, 311-A, 401-A, 406-A, 408-A, 510-A, 601-A, 704-A, 706-A, 803-A, and 804-A, of GULD ISLAND BEACH AND TENNIS CLUB I, A CONDOMINIUM, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, at Page 992, of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto, and Condominium Unit 201-W of GULD ISLAND BEACH AND TENNIS CLUB II, A CONDOMINIUM, according to the Declaration of Condominium thereof filed for record in Official Records Book 3300, at Page 208, of the Public Records of Pasco County, Florida, is quieted in favor of Oceanside Acquisitions, LLC, which shall be entitled to immediate possession thereon.

2. Good and marketable title to the property known as, SECTION 32, TOWNSHIP 24 SOUTH, RANGE 16 EAST, Pasco County, Florida, being more particularly described as follows:

Commence at the Northeast corner of the Northeast one-quarter (1/4) of Section 33, Township 24 South, Range 16 East; thence 89° 36' 30" West a distance of 3170.03 feet to the POINT OF BEGINNING; thence run due South a distance of 883.80 feet; thence run South 83° 03' 23" West a distance of 33.41 feet; thence run South 08° 30' 58" East a distance of 319.09 feet; thence run South 03° 00' 00" West a distance of 5.63 feet; thence run North 87° 00' 00" West a distance of 91.87 feet; thence run South 03° 00' 00" a distance of 134.74 feet; thence run South 89° 29' 25" West a distance of 175.92 feet; thence run due North a distance of 1341.45 feet; and thence run North 89° 36' 30" East a distance of 287.99 feet to the POINT OF BEGINNING.

03/03/2008 14:44

(FAX)

P.022/030

CASE NO: 51-2003-CA -942ES

Is quieted in favor of DEKN Gulf Incorporated and said Defendant shall be entitled to immediate possession of the subject property and entry thereon.

3. This Court retains jurisdiction over this action to award attorney's fees and costs pursuant to Defendant's pending Motion for Attorney's Fees and Costs.

DONE AND ORDERED in Chambers, at Pasco County, Florida, this 9 day of

May, 2007.


CIRCUIT JUDGE

Copies furnished to:

ATTORNEYS FOR PLAINTIFF/COUNTER-DEFENDANT AND THIRD-PARTY DEFENDANTS

Maurice Baumgarten, Esquire

ANANIA, BANDELAIDER, BLACKWELL, BAUMGARTEN, TORRECELLA & STEIN
Bank of America Tower - Suite 4300
100 SE 2nd St
Miami, FL 33131

CO-COUNSEL FOR PLAINTIFF/COUNTER-DEFENDANT AND THIRD-PARTY DEFENDANTS

Charles L. Neustein, Esquire

Charles L. Neustein, P.A.
777 Arthur Godfrey Road, 2nd Fl.
Miami Beach, FL 33140

Scott A. McLaren, Esquire

HILL, WARD AND HENDERSON, P.A.
101 East Kennedy Boulevard, Suite 3700
Tampa, FL 33602

ATTORNEYS FOR DEFENDANT STEVEN CARLYLE GREGG

Deborah Anne Fitzgerald, Esquire

WALTON LANTAFF, SCHROEDER & CARSON, LLP
Corporate Center - Suite 2000
100 E. Broward Blvd.
Pt. Landerdale, FL 33301-3503

D ALICE BUSTROCK, Individually as limited partner of GOLF ISLAND RESORT, L.P.; and individually as shareholder of GOLF ISLAND RESORT, INC.

PARTIES TO FS PER ATTY.
JAMES GARDENHEIMER. 6-29-07
XAA

US BK 1349 P 1014
3 of 3

OCT-09-2009 FRI 03:50 PM BERGER SINGERMAN

FAX NO. 3057144340

P. 02/03

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR MIAMI-DADE COUNTY
CIVIL DIVISION

ALEX BISTRICER, as limited partner of
GULF ISLAND RESORT, L.P., et al.,

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,
INC., etc., et al.,

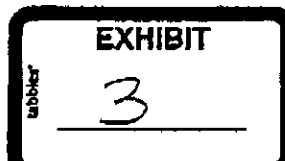
Defendants/Counterclaim Plaintiffs.

CASE NO.: 08-79169 CA (09)

SUMMARY FINAL JUDGMENT IN FAVOR OF OCEANSIDE AND DBKN AS TO
COUNTS III AND IV AND IN FAVOR OF STEVEN CARLYLE CRONIG AS TO
COUNT III

This matter came before the Court on September 15, 2009, on Receiver's Motion for Summary Judgment in Favor of Oceanside and DBKN (the "Receiver's Motion") and Steven Carlyle Cronig's Motion for Summary Judgment as to Count III ("Cronig's Motion"). The Receiver's Motion requested the entry of a final summary judgment in favor of Oceanside Acquisitions, LLC ("Oceanside") and DBKN Gulf Incorporated ("DBKN") as to Counts III (conspiracy) and IV (civil theft) of Plaintiffs' Third Revised Amended Complaint (the "Complaint"). Cronig's Motion requested the entry of a final summary judgment in favor of Steven Carlyle Cronig ("Cronig") as to Count III. All claims other than those asserted in Counts III and IV have been adjudicated and disposed of by previous orders of the Court.

The Court has reviewed the motions and the record, including the exhibits filed by the parties, and has considered the arguments of counsel. The



OCT-09-2009 FRI 03:50 PM BERGER SINGERMAN

FAX NO. 3057144340

P. 03/03

CASE NO.: 08-79169 CA (09)

Court finds that there are no genuine issues of material fact as to the claims asserted in Counts III and IV of the Complaint, and that Oceanside, DBKN, and Cronig are entitled to judgment as a matter of law. It is, therefore,

ORDERED AND ADJUDGED as follows:

1. The Receiver's Motion and Cronig's Motion are hereby GRANTED.
2. Plaintiffs, Alex Bistricec, as limited partner of Gulf Island Resort, L.P., and Gulf Island Resort, L.P., shall take nothing by this action.
3. Defendants, Oceanside, DBKN, and Cronig, shall go hence without day.
4. The Court reserves jurisdiction to tax costs and attorney fees upon appropriate motion.

-DONE AND ORDERED in chambers at Miami, Dade County, Florida, this

___ day of ___, 2009.

Original Copy

OCT 09 2009

Thomas R. Wilson, Jr.
Circuit Court Judge

THOMAS R. WILSON, JR.
CIRCUIT COURT JUDGE

Copies furnished to:

Counsel of Record
Receivership Website

8839339_v2

S/H



Parcel Identification No: 33-24-16-0360-00000-5100

This Instrument Prepared By
and Return to:Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133Rcpt: 1146294 Rec: 10.00
DS: 0.70 IT: 0.00
12/05/07 *[Signature]* Dpty ClerkJED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OR BK 7705 PG 1417**QUITCLAIM DEED**

This Quitclaim Deed, made this 01, day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KEITH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 510A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

[Signature]
Witness #1 Signature*Gabrielle Dialcarbone*
Witness #1 Printed Name*[Signature]*
Witness #2 Signature*Patsy S. Berman*
Witness #2 Printed Name*[Signature]*
By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.*[Signature]*
By: Keith L. Novak, as a Member of Oceanside Acquisitions, LLC.STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 01 day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced as Identification.

SEAL

NOTARY PUBLIC-STATE OF FLORIDA

Betty G. Pace



Commission # DD54164

Expires: APR. 18, 2010

Bonded Thru Atlantic Bonding Co., Inc.

[Signature]
Printed Notary Signature

My Commission Expires:

EXHIBIT

4

S/P



Parcel Identification No: 33-24-16-0360-00000-4010

This Instrument Prepared By
and Return to:

Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

Repl: 1146294 Rec: 10.00
DS: 0.70 IT: 0.00
12/05/07 12:39pm 1 of 1
Dpty Clerk

JED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OP. BK 7705 PG 1418

QUITCLAIM DEED

This Quitclaim Deed, made this 8 day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KEITH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 401A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

Witness #1 Signature

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name

By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.

By: KEITH L. NOVAK, as a Member of Oceanside Acquisitions, LLC.

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 8 day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced _____ as identification.

SEAL

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DD541643
Expires: APR. 18, 2010
Bonded Thru Atlantic Bonding Co., Inc.

My Commission Expires:

Notary Signature

Printed Notary Signature

Parcel Identification No: 33-24-16-0360-00000-2100

This Instrument Prepared By
and Return to:Occanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

2007198348

Rcpt: 1146294 Rec: 10.00
DS: 0.70 LT: 0.00
12/05/07 Dly ClerkJED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OR BK 7705 PG 1419**QUITCLAIM DEED**

This Quitclaim Deed, made this 01 day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KEITH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 210A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

Witness #1 Signature

Gabriele D'Alencastre

Witness #1 Printed Name

Patsy S. Berman

Witness #2 Signature

Patsy S. Berman

Witness #2 Printed Name

By: DANA BERMAN, as Managing Member, Occanside Acquisitions, LLC.

By: Keith L. Novak, as a Member of Occanside Acquisitions, LLC.

**STATE OF FLORIDA
COUNTY OF PASCO**

The foregoing instrument was acknowledged before me this 01 day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced as identification.

SEAL

NOTARY PUBLIC-STATE OF FLORIDA

Berry G. Pace

Commission # DDS41643

Expires: APR. 18, 2010

Bonded Thru Atlantic Bonding Co., Inc.

My Commission Expires:

Notary Signature

Printed Notary Signature

Parcel Identification No: 33-24-16-0360-00000-7060

This Instrument Prepared By
and Return to:

Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

2007198349

Repl: 1146294 Rec: 10.00
DS: 0.70 IL: 0.00
12/05/07 12:39pm Dpty Clerk

JED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm
OR BK 7705 PG 1420

QUITCLAIM DEED

This Quitclaim Deed, made this 01 day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KETH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 706A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

Witness #1 Signature

GABRIELLE DALAMBERT

Witness #1 Printed Name

Patsy S. Berman

Witness #2 Signature

Patsy S. Berman

Witness #2 Printed Name

By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.

By: Keith E. Novak, as a Member of Oceanside Acquisitions, LLC.

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 01 day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced _____ as identification.

SLB

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace

Commission # DDS41643
Expires: APR. 18, 2010

My Commission Expires _____
Bonded Thru Atlantic Bonding Co., Inc.

Notary Signature

Betty G. Pace

Printed Notary Signature

3
44
Baker, Cling & Keenan, LLP
307 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

This Instrument Prepared
By: ~~notarized~~

E. Harold Gassnerhelmer
M. A. M. C. Incorporated
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133
Telephone No.: 305.341.0600
Facsimile No.: 305.358.5160

2009023166

Repl: 1227654 Rec: 27-00
DS: 0.00 11: 0.00
02/18/09 Deputy Clerk

FRANK S. D'NEIL, PASCO CLERK & COMPTROLLER
02/18/09 04:29PM 1 of 3
OR BK 8023 PG 1981

PARTIAL RELEASE

KNOW ALL MEN BY THESE PRESENTS: That Coconut Grove Bank, as Custodian of the Sidney Oliver S/D IRA et al (See Exhibit "A" for List of Lenders); ALL of the foregoing by and through their servicing agent M.A.M.C. Incorporated as successor interest to Berman Mortgage Corporation, d/b/a BMC Loan Servicing, and as owners and holders of that certain First Mortgage dated February 21, 2003 executed by Oceanside Acquisitions, LLC, a Florida limited liability company, in favor of the Mortgagees, filed for record on February 21, 2003, in Official Records Book 5247, at Page 1816 of the Public Records of Pasco County, Florida; and thereafter modified by First Notice of Future Advance; Modification of Note, Mortgage, and Related Loan Documents dated February 28, 2003, filed to record on February 28, 2003 in Official Records Book 5257 at Page 297 of the Public Records of Pasco County, Florida; and further secured by that certain Assignment of Leases and Rents dated February 21, 2003, filed for record on February 21, 2003 in Official Records Book 5247, at Page 1825 of the Public Records of Pasco County, Florida, thereafter, several assignments of undivided percentages were recorded as follows: Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated February 21, 2003, filed to record on May 22, 2003 in Official Records Book 5367 at Page 1247 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated December 17, 2003, filed to record on March 7, 2005 in Official Records Book 6258 at Page 239 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated May 5, 2004, filed to record on March 7, 2005 in Official Records Book 6258 at Page 241 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated October 1, 2004, filed to record on October 26, 2004 in Official Records Book 6081 at Page 91 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated September 10, 2004, filed to record on March 7, 2005 in Official Records Book 6258 at Page 226 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated June 30, 2005, filed to record on October 26, 2005 in Official Records Book 6659 at Page 1769 of the Public Records of Pasco County, Florida, (referred to as the "Loan Documents") securing certain future advance promissory note in the principal sum of ONE MILLION FIFTY THOUSAND DOLLARS (\$1,050,000.00).

In consideration of the sum of TEN AND NO/100 (10.00) DOLLARS and other good and valuable considerations, the receipt of the sufficiency of which are hereby acknowledged, the Mortgagees hereby release, quit-claim, exonerate and discharge from the lien and operation of the Loan Documents, the parcel of the real property described as follows:

Condominium Units No. 210, 401, 510 and 706 of GULF ISLAND BEACH AND TENNIS CLUB I, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 3300 at Page 212, of the Public Records of Pasco County, Florida.

Property Address: 6035 Sea Ranch Drive, Hudson, Pasco County, Florida, 34667.

Partial Release

M.A.M.C. INCORPORATED
501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133
Telephone 305.341.0600; Facsimile: 305.358.5160

Page - 1 of 3

EXHIBIT

5

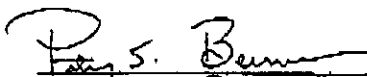
OR BK 8023 1982
2 of 3

PROVIDED, nevertheless, that nothing herein contained shall in any manner impair, alter or diminish the effect, lien or encumbrance of the Loan Documents on the remaining portion of the property therein particularly described, or affect any of the rights or remedies of the holders thereof.

IN WITNESS WHEREOF, the undersigned has caused this Partial Release present to be executed in its name, this 2nd day of November, 2007.

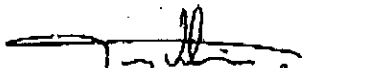
Signed, sealed and delivered

M.A.M.C. INCORPORATED as successor
to BERMAN MORTGAGE
CORPORATION, a Florida corporation, as
authorized servicing agent and attorney-in-
fact of Lenders


Print Name of Witness: Patsy S. Beeman

By: E. Harold Gassenheimer

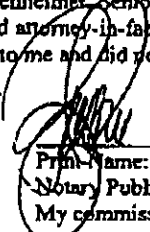
Senior VP Finance
501 Continental Plaza
3250 Mary Street
Cocoanut Grove, Florida 33133


Print Name of Witness: Patsy S. Beeman

NOTARY PUBLIC

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 2nd day of November, 2007 by E. Harold Gassenheimer, Senior Vice-President Finance of M.A.M.C. Incorporated, as servicing agent and attorney-in-fact of Lenders, on behalf of the Lenders. He is personally known to me and did not take an oath.


Print Name: Betty G. Pace
Notary Public, State of Florida at Large
My commission expires: April 18, 2010

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DD541643
Expires: APR 18, 2010
Bonded Thru Allstate Bonding Co., Inc.

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DD541643
Expires: APR 18, 2010
Bonded Thru Allstate Bonding Co., Inc.

Butler, Pappas & Kremen, LLP
307 Continental Plaza
3230 Mary Street
Coconut Grove, Florida 33133

2009023169

Rept: 1227658 Rec: 27.00
DS: 0.00 17: 0.00
02/18/09 Opty Clerk

This Instrument Prepared
By ~~Butler Pappas & Kremen, LLP~~

Mitchell Morgan
M. A. M. C. Incorporated
501 Continental Plaza
3230 Mary Street
Coconut Grove, Florida 33133
Telephone No.: 305.341.0600
Facsimile No.: 305.358.5160

MALE S. O'NEIL, PASCO CLERK & CONTROLLER
02/18/09 PM 3:10 1 of 3
OR BK 8023 PG 1996

PARTIAL RELEASE

KNOW ALL MEN BY THESE PRESENTS: That Coconut Grove Bank, as Trustee of the Gail Lane IRA et al (See Exhibit "A" for List of Lenders); ALL of the foregoing by and through their servicing agent M.A.M.C. Incorporated as successor interest to Berman Mortgage Corporation, d/b/a BMC Loan Servicing, and as owners and holders of that certain Second Mortgage and Security Agreement dated February 21, 2003 executed by Oceanside Acquisitions, LLC, a Florida limited liability company, in favor of the Mortgagees, filed for record on February 21, 2003, in Official Records Book 5247, at Page 1796 of the Public Records of Pasco County, Florida; and secured by that second Assignment of Leases and Rents dated February 21, 2003, filed for record on in Official Records Book 5247, at Page 1805 of the Public Records of Pasco County, Florida; thereafter several assignments of undivided percentage interests were recorded as follows: Assignment of Promissory Note, Second Mortgage and Related Documents dated February 21, 2003, filed to record May 22, 2003 in Official Records Book 5367, at Page 1250; Assignment of Undivided Percentage Interest In and To Promissory Note, Second Mortgage and Related Loan Documents dated September 10, 2004, filed to record on March 7, 2005 in Official Records Book 6251 at Page 216 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, Second Mortgage and Related Loan Documents dated August 22, 2005, filed to record on December 6, 2005 in Official Records Book 6729 at Page 400 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, Second Mortgage and Related Loan Documents dated August 22, 2005, filed to record on December 6, 2005 in Official Records Book 6729 at Page 877 of the Public Records of Pasco County, (referred to as the "Loan Documents") securing certain future advance promissory note in the principal sum of SIX HUNDRED FIFTY THOUSAND DOLLARS (\$650,000.00).

In consideration of the sum of TEN AND NO/100 (10.00) DOLLARS and other good and valuable considerations, the receipt of the sufficiency of which are hereby acknowledged, the Mortgagees hereby release, quit-claim, exonerate and discharge from the lien and operation of the Loan Documents, the parcel of the real property described as follows:

Condominium Units No. 210, 401, 510 and 706 of GULF ISLAND BEACH AND TENNIS CLUB I, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 3300 at Page 212, of the Public Records of Pasco County, Florida.

Property Address: 6035 Sea Ranch Drive, Hudson, Pasco County, Florida, 34667.

PROVIDED, nevertheless, that nothing herein contained shall in any manner impair, alter or diminish the effect, lien or encumbrance of the Loan Documents on the remaining portion of the property therein particularly described, or affect any of the rights or remedies of the holders thereof.

Partial Release

M.A.M.C. INCORPORATED
301 Continental Plaza, 3230 Mary Street, Coconut Grove, Florida 33133
Telephone 305.341.0600; Facsimile 305.358.5160

Page - 1 of 3

EXHIBIT

tabler

6

Exhibit "A"
List of Lenders

Coconut Grove Bank, as Custodian of the Gail Lane Cornebium Rollover IRA, as to an undivided 23.077% interest; Coconut Grove Bank, as Custodian of the Delsie Lipton IRA, as to an undivided 3.077% interest; Keith Lawrence Novak, as to an undivided 11.538% interest; Fredric V. Giffords, as to an undivided 7.692% interest; Judith Trontz, as to an undivided 6.923% interest; Camelot Holdings, L.P., as to an undivided 30.769% interest; Gabe Sanders or Barbara Sanders, as to an undivided 3.846% interest; Ali and Adam Reiss, as to an undivided 0.308% interest; Iris Radomson Trust, as to an undivided 6.615% interest; Delsie Lipton Revocable Trust, as to an undivided 6.154% interest.

**IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA**

ALEX BISTRICER, as limited partner of
GULF ISLAND RESORT, L.P., and
GULF ISLAND RESORT, L.P.,

Case No.: 09-51034-CA-01

Plaintiffs,

vs.

KEITH NOVAK, individually, and
UNIFIRST MORTGAGE CORPORATION,
a Florida corporation,

Defendants.

**NOTICE OF DEFENDANT, KEITH NOVAK'S REQUEST
THAT THE COURT TAKE JUDICIAL NOTICE**

COMES NOW Defendant, KEITH NOVAK, by and through his undersigned counsel, and pursuant to Florida Evidence Code Section 90.202 respectfully requests the Court take judicial notice of the documents identified herein, copies of which are attached hereto and incorporated herein by reference.

1. "Order Granting Defendant's Motion for Contempt and Sanctions" dated August 30, 2006 and signed by the Honorable Wayne L. Cobb. This order was filed in the Circuit Court of the Sixth Judicial Circuit of the State of Florida in and for Pasco County in case #51-2003-CA-942-ES on August 31, 2006. Attached as Exhibit "1".

2. "Partial Final Judgment on Action to Quiet Title" dated May 9, 2007 and signed by the Honorable Wayne L. Cobb. This judgment was filed in the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida in case #51-2003-CA-942-ES on May 9, 2007. Attached as Exhibit "2".

3. Summary Final Judgment in Favor of Oceanside and DBKN as to Counts III and IV and in Favor of Steven Carlyle Cronig as to Count III, dated August 30, 2006 and signed by the Honorable Thomas R. Wilson, Jr. This order was filed in the Circuit Court of the Eleventh Judicial Circuit of the State of Florida in and for Miami-Dade County in case #08-79169 CA(09). Attached as Exhibit "3".

3. Quit Claim Deed between Oceanside Acquisitions, LLC, grantor, and Keith L. Novak pertaining to condominium unit 510 A of the Gulf Island Beach and Tennis Club I dated August 1, 2007. This Quit Claim Deed was filed with the Pasco County Clerk on December 5, 2007. Attached as Composite Exhibit "4".

5. Quit Claim Deed between Oceanside Acquisitions, LLC, grantor, and Keith L. Novak pertaining to condominium unit 401 A of the Gulf Island Beach and Tennis Club I dated August 1, 2007. This Quit Claim Deed was filed with the Pasco County Clerk on December 5, 2007. Attached as Composite Exhibit "4".

6. Quit Claim Deed between Oceanside Acquisitions, LLC, grantor, and Keith L. Novak pertaining to condominium unit 210 A of the Gulf Island Beach and Tennis Club I dated August 1, 2007. The Quit Claim Deed was filed with the Pasco County Clerk on December 5, 2007. Attached as Composite Exhibit "4".

7. Quit Claim Deed between Oceanside Acquisitions, LLC, grantor, and Keith L. Novak pertaining to condominium unit 706 A of the Gulf Island Beach and Tennis Club I dated August 1, 2007. This Quit Claim Deed was filed with the Pasco County Clerk on December 5, 2007. Attached as Composite Exhibit "4".

8. Partial Release executed by M.A.M.C. Incorporated on November 2, 2007, relating to the promissory note in the principal sum of One Million Fifty Thousand Dollars

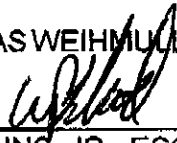
(\$1,050,000.00) regarding the real property located at 6035 Sea Ranch Drive, Hudson, Florida 34667, Condominium Units No. 210, 401, 510 and 706 of Gulf Island Beach and Tennis Club I and recorded in the Pasco County Public Records OR Book 8023, Page 1981. Attached as Exhibit "5".

9. Partial Release executed by M.A.MC. Incorporated on November 2, 2007 relating to the promissory note in the principal sum of Six Hundred Fifty Thousand Dollars (\$650,000.00) regarding the real property located at 6035 Sea Ranch Drive, Hudson, Florida 34667, Condominium Units No. 210, 401, 510 and 706 of Gulf Island Beach and Tennis Club I and recorded in the Pasco County Public Records OR Book 8023, Page 1996. Attached as Exhibit "6".

Defendant Keith L. Novak request that the Court take judicial notice of the above identified documents in reference to Defendant Novak's motion for summary judgment filed with the Clerk on Court on October 30, 2009.

Respectfully submitted.

BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP


LEWIS F. COLLINS, JR., ESQ.
Florida Bar No.: 267422
WILLIAM P. SCHOEL, ESQ.
Florida Bar No.: 0014673
777 S. Harbour Island Boulevard
Suite 500
Tampa, Florida 33602
Telephone: (813) 281-1900
Facsimile: (813) 281-0900
lcollins@butlerpappas.com
wschoel@butlerpappas.com
Attorneys for Defendant Keith Novak

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to:

Maurice J. Baumgarten, Esq.
Anania Bandklayder Baumgarten Torricella & Stein
Bank of America Tower
100 Southeast 2nd Street, Suite 4300
Miami, FL 33131

Albert E. Acuna, Esq.
Joseph H. Ganguzza & Associates, P.A.
SunTrust International Center
1 SE 3rd Avenue, Suite 2150
Miami, FL 33131

James D. Gassenheimer, Esq.
Berger Singerman, Esq.
Oceanside Acquisitions LLC
Berger Singerman Attorneys at Law
200 South Biscayne Boulevard, Suite 100
Miami, FL 33131-5308

by U.S. Mail on October 30, 2009.



WILLIAM P. SCHOEL, ESQ.

03/03/2008 14:35

(FAX)

P.005/030

15



Rept: 1832263 Recd: 129.000
 DS: 8.00 IT: 8.00
 08/12/06 Duty Clerk

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
 OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
 CIVIL DIVISION

ALEX BISTRICER, as limited partner of
 GULF ISLAND RESORT, L.P., et al.,

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,
 INC., et al.,

Defendants/Counterclaim Plaintiffs,

CASE NO 51-2003-CA-942ES

COASTAL REAL ESTATE ASSOCIATES,
 INC., et al.,

Defendants/Counterclaim Plaintiffs/
 Third-Party Plaintiffs,

vs.

CANDY SMITH, et al.,

Third-Party Defendants.

BAKER CRONIG-GASSENHEIMER LLP.

3230 MARY STREET, STE 307

MIAMI, FLORIDA 33133

JED P. LITMAN, PASCO COUNTY CLERK
 08/12/06 8:14pm 1 of 35
 OR BK 7177 PS 366

FILED FOR RECORD
 PASCO COUNTY, FLORIDA
 2006 AUG 31 AM 11:23
 CLERK OF CIRCUIT
 AND COUNTY CLERK

ORDER GRANTING
DEFENDANTS' MOTION FOR CONTEMPT AND SANCTIONS

This matter came before the Court for evidentiary hearing on August 8, 2006, upon Defendants' Motion for Contempt and Sanctions dated July 14, 2006. The Court has considered the motion, the record in this case, the evidence presented at the hearing, the arguments of counsel, and has been otherwise fully advised. The Court makes the following findings of fact and conclusions of law:

EXHIBIT

tabbier

03/03/2008 14:35

(FAX)

P.006/030

OR BK 7177 PG 367
2 of 25I. FINDINGS OF FACT

A. This is a case involving a protracted history of discovery abuses by Plaintiffs. Defendants have been required to obtain numerous rulings requiring Plaintiffs and their representatives to produce documents and appear at properly noticed depositions.

B. Twice this Court has withheld ruling on a motion by Defendants seeking sanctions for refusal of Plaintiffs and their representatives to comply with discovery orders of this Court. On January 9, 2006, this Court held Plaintiff, Alex Bistrice ("Bistrice"), in contempt of two (2) prior discovery orders dated May 28, 2004 and September 1, 2005. At that time, the Court withheld ruling as to any sanctions that were appropriate for Plaintiff's contempt of the prior Court orders. On May 28, 2004, this Court ordered Plaintiff Bistrice to produce documents in order to comply with this Court's October 8, 2003 discovery order with which Plaintiff had failed to comply previously. On May 28, 2004, the Court withheld ruling on Defendants Motion for Contempt and Sanctions as a result of Plaintiff's refusal to comply with the Court's October 8, 2003 Discovery Order.

C. The most recent violation of this Court's discovery rulings and the Rules of Civil Procedure relating to discovery, and the gravamen of Defendants' Motion for Contempt and Sanctions, involves Plaintiffs' production of 68,111 documents to Defendants after discovery had been completed and after five days of a bench trial had already transpired. Defendants contend that the failure of Plaintiffs and their records custodian to produce these documents timely during discovery constitutes a willful violation of prior discovery orders of this Court and demonstrates a callous disregard for the authority of the Court and the discovery process.

03/03/2008 14:36

(FAX)

P.007/030

DR BK 7177 PG 368
3 of 25

Defendants also argue that the 68,111 newly produced documents establish that Plaintiffs and their representatives have repeatedly and consistently testified falsely to this Court on material issues in the case, thereby perpetrating a fraud upon the Court.

D. The evidence at the hearing established the following facts:

1. During discovery in the instant case, Plaintiffs and their representatives identified Third Party Defendant Candy Smith ("Smith") as the records custodian for Plaintiff Golf Island Resort, L.P. ("GIRL") and GIRL's corporate general partner, Golf Island Resort, Inc. ("GRI"). Smith was also identified by Plaintiffs at trial as an officer of Plaintiff GIRL.

2. On September 18, 2003 - at the outset of discovery - Defendants served an Amended Notice of Deposition ("Amended Notice") Duces Tecum upon Smith. As part of this notice duces tecum, Defendants included an instruction to Smith such that all "documents requested herein are those maintained or controlled by you, individually, as well as those maintained or controlled by you for GIRL (or any of its general or limited partners), or GRI (or any of its shareholders)."

3. The document request Defendants directed to Smith in the Amended Notice was very broad, and included virtually every non-privileged document relating to GIRL (and any of its general or limited partners). For example, the request sought all communications between GIRL representatives, as well as "all documents evidencing, referring, or relating to any action(s) taken by or on behalf of GIRL (or any of its general or limited partners), or GRI, (or any of its shareholders)."

4. Smith, the records custodian for Plaintiff GIRL and GRI, and - - according to Plaintiffs - - an officer of Plaintiff GIRL, was and is represented in the instant case by R. Nathan

03/03/2008 14:37

(FAX)

P.046/030

OR BK 7177 PG 369
4 of 13

Hightower, Esq. ("Hightower"). Hightower was identified by Plaintiffs as the partnership attorney for Plaintiff GIRL, and is currently counsel of record for Plaintiffs GIRL and Bistrice in the instant case. Smith, by and through her counsel, Hightower, sought a protective order regarding the documents requested by Defendants in the Amended Notice. At a hearing on September 29, 2003, before the Honorable Lynn Tappan, the Court ordered that Smith must produce at the deposition scheduled for September 30, 2003, "all documents created on or after February 10, 1993, that are responsive to the September 18, 2003 Amended Notice," except for a few documents not relevant to the requests referenced above.

5. Smith appeared for deposition on September 30, 2003, represented by Hightower. Plaintiff Bistrice was also present at this deposition. At that deposition, Scott McLaren ("McLaren"), counsel for Defendants, asked Smith if she was producing documents on that date that were responsive to the requests in the Amended Notice and the Court's discovery order. Smith answered that question in the affirmative, and indicated that the documents being produced were voluminous.

6. On October 1, 2003, and again on October 10, 2003, McLaren sent letters to Hightower, by facsimile and by mail, communicating that the Defendants demanded from Plaintiffs that all documents produced at Ms. Smith's deposition in accordance with the Court's September 29, 2003 ruling be copied, with the copies being delivered to McLaren's office. Hightower responded by letter to McLaren on October 15, 2003, stating that the documents requested were to be picked up by a copy service on October 15, 2003, for copying and delivery in accordance with McLaren's requests.

7. Plaintiffs also requested documents from all other GIRL representatives who might have any discoverable documents. Multiple sets of document requests and/or subpoenas

03/03/2008 14:38

(FAX)

P.010/030

OR BK 7177 PG 371
6 of 15

required by prior discovery orders of the Court. McLaren advised that he would seek judicial intervention if all documents were not produced by December 22, 2003.

12. Hightower responded to McLaren by letter on December 18, 2003, indicating that he was unaware of any documents, other than emails, that had not been produced. Hightower requested that McLaren specify documents that he felt had not been produced. The next day, McLaren responded by letter to Hightower and specified several categories of documents he believed Bistrice and Smith had failed to produce.

13. After additional letters from McLaren to Hightower requesting that Plaintiff and Smith produce the documents they had been ordered to produce proved futile, Defendants filed a Motion for Contempt, for Sanctions, and to Compel Discovery as against Smith and Plaintiff Bistrice seeking compliance with the Court's prior discovery orders.

14. A hearing was held on May 20, 2004, on Defendants Motion for Contempt, for Sanctions, and to Compel Discovery. At that hearing, Hightower represented to the Court on the record that, "when Ms. Smith appeared at her deposition day two [September 30, 2003], went through the documents that the subpoena had addressed, all the documents had been produced with the exception of one account." Later in the May 20, 2004 hearing, Hightower agreed to produce the documents relating to the aforementioned "one account." The Court entered an Order dated May 28, 2004 granting Defendants' Motion to Compel and requiring compliance with the Court's prior discovery orders -- and setting a specific deadline for compliance. Further, the May 28, 2004 Order specifically withheld any ruling on Defendants' Motion for Contempt and Sanctions for Plaintiff's violation of the prior discovery Order.

03/03/2008 14:38

(FAX)

P.011/030

OR BK 7177 PG 372
7 of 15

15. Plaintiff Bistricec appeared at a continuation of his deposition on June 9, 2004. During this deposition Bistricec again confirmed that "Ms. Smith, she keeps the books and records. She's the custodian."

16. On June 16, 2004, McLaren sent another letter to Hightower by facsimile and by mail explaining that Plaintiffs still had not produced all of the documents which the Court had ordered produced in the prior discovery Orders, including the May 28, 2004 Order. McLaren described particular documents remaining to be produced. Hightower responded to McLaren by letter on June 18, 2004, informing him that all requested documents had been produced.

17. Plaintiff Bistricec appeared at a continuation of his deposition on December 13, 2005. McLaren asked Bistricec whether he had spoken to Smith regarding the production of documents. Bistricec responded affirmatively, and further testified that "My understanding the last time we visited this issue is that you requested and received 17 boxes, effectively every piece of paper that the partnership [GRL] had in its possession and Candy Smith was the custodian of all the records and I think - I recall she told me and I can testify that she gave you every document that she had."

18. After discovery had expired and exhibit lists had been exchanged, a nonjury trial on the merits of this matter commenced on May 30, 2006.

19. Plaintiff Bistricec was called as the first witness in Plaintiffs' case. Bistricec testified that certain documents were executed for each of eight (8) transactions that Plaintiffs were involved in that were important to the merits of the case. During cross-examination of Plaintiff Bistricec on June 6, 2006, Defendants pointed out that despite Bistricec's testimony and Defendants' discovery requests, Plaintiffs had failed to produce the referenced documents for three (3) of the eight (8) transactions in question.

03/03/2008 14:39

(FAX)

P.012/030

OR BK 7177 PG 373
8 of 15

20. Within a few days after the June 6 trial day, Plaintiffs' counsel produced to Defendants, for the first time, alleged copies of the previously missing documents for the three (3) transactions. On June 15, 2006, the next scheduled day of trial, Plaintiffs attempted to introduce these three documents into evidence. Counsel for Defendants objected to their introduction based upon the failure to produce them in response to discovery requests and discovery Orders of the Court, or otherwise disclose them prior to trial.

21. Plaintiffs' counsel argued that these three (3) documents had been located by Plaintiffs after the June 6 trial day. Hightower gave testimony confirming that during discovery, the "10 to 20 bankers boxes" of documents produced at Smith's September, 2003 deposition were copied, reproduced, and delivered to counsel for Defendants. Hightower further testified that the three (3) new documents were not produced during discovery. Hightower testified that after the June 6 trial date, he obtained the keys to the GIRL office maintained by Smith from co-counsel for Plaintiffs, Maurice Baumgarten ("Baumgarten"), went to that office, and found two of the three missing documents.¹

22. Although Plaintiff moved for these three (3) previously "missing" documents to be introduced into evidence at trial on June 15, 2006, neither Plaintiffs nor their counsel made mention of any additional documents that: (a) were responsive to prior discovery requests and orders; (b) were located in GIRL's offices; and (c) had not been produced previously.

23. Subsequently, counsel for Defendants requested from the Court an opportunity to review any additional documents that: (a) were located in GIRL's offices; (b) were responsive to prior discovery requests and orders of the Court; and (c) had not been previously produced in discovery. In response, on June 29, 2006, Plaintiffs produced to Defendants 46 bankers boxes of

¹ Counsel for Plaintiffs testified that the third missing document was obtained from a Miami attorney, Louis Zaretsky, Esquire. Mr. Zaretsky was identified by Plaintiffs and their representatives as another attorney for Plaintiff GIRL.

03/03/2008 14:39

(FAX)

P.013/030

OR BK 7177 PG 374
9 of 15

documents, containing 68,111 pages of materials. The Court finds, based on the evidence presented, that a small percentage of these documents were produced previously in discovery, and that some of these documents were not responsive to prior discovery requests and orders of the Court. However, the Court also finds that a substantial amount of the 68,111 documents produced during the trial were: (a) required to be produced by prior discovery Orders of this Court, and (b) were not produced during discovery in violation of these discovery Orders.

24. The Court finds that a number of the 68,111 documents are quite relevant to the cross examination of key witnesses in the case, and to rulings that the Court is required to make on the issue of title to the disputed properties. Three (3) years of discovery and dozens of depositions have been taken subsequent to the time that the documents should have been produced. Therefore, Defendants have been prejudiced greatly by Plaintiffs' failure to timely produce these documents.

25. Also contained within the 46 boxes/68,111 documents produced during trial are certain letters and other documents relating to the instant case dated after the September 30, 2003 document production and after Plaintiffs' representations that all documents had been produced. The existence of these documents within the 46 newly produced boxes establishes that Plaintiffs and their representatives were aware of the existence of these boxes during discovery and before trial, yet failed to produce these documents as required.

26. Among the materials produced for the first time on June 29, 2006 were documents establishing facts directly inconsistent with those testified to at trial and in deposition by Plaintiff Bistricec, Smith and Plaintiff GURL's corporate representative, Robert Fireworker, concerning issues material to the case. One such issue involved their knowledge and involvement relating to a 1999 quit claim deed ("1999 Deed") from GURL to Gulf of Mexico

03/03/2008 14:40

OR BX 7177 PG 376
11 of 15

anything to do with preparing it [the 1999 Deed], or recording it." A copy of a check signed by Smith, made out to the Pasco County Clerk of Court, and used to record the 1999 Deed in the public records, was located in the newly produced documents. Counsel for Plaintiffs and Smith even conceded that Smith wrote the check to record the 1999 Deed at the evidentiary hearing on August 8, 2006.

32. Although Plaintiffs argue that GIRL representatives Bistrice, Smith and Fireworker were merely "mistaken" concerning their knowledge of and involvement with the 1999 Deed, the Court finds that this is not a reasonable explanation for the false testimony given by all three representatives of Plaintiff GIRL on this important issue.

33. In addition to the testimony concerning the 1999 Deed, Plaintiffs and their representatives, repeatedly (and falsely) assured Defendants and the Court that all requested documents had been produced to Defendants.

34. The Court finds that the collective effect of the false testimony provided by Plaintiffs and their representatives constitutes a fraud upon the Court resulting in the loss of evidence to the Defense.

35. The Court finds that there were voluminous records in the possession, custody, and control of Plaintiffs that had been requested by Defendants during discovery which Plaintiffs' records custodian had been ordered to produce, but that were not produced prior to trial. Plaintiffs and their officers/representatives misled Defendants and the Court with repeated assurances that all requested documents had been produced. The existence of the 68,111 documents was not disclosed by Plaintiffs until several days into the trial when Plaintiffs found it to their advantage to offer into evidence some of the previously undisclosed documents in

03/03/2009 14:41

(FAX)

P.016/030

OR BK 7177 PG 377
12 of 15

support of their claims. Only after another request was made by Defendants at trial was this large volume of previously undisclosed documents made known and available to Defendants.

36. Defendants were effectively denied the opportunity to examine the documents and determine their relevance at a time when they could incorporate them into their discovery planning, case preparation, trial strategy, and use at trial for cross-examination and other purposes. The documents produced for the first time during the trial included relevant and important documents bearing on central issues in the case.

II. CONCLUSIONS OF LAW

A. On July 14, 2006, Defendants filed their Motion for Sanctions and Contempt. Defendants' motion sought relief based upon Plaintiffs' abuses and violations of the discovery process and false testimony constituting a fraud upon the Court. The evidence presented at the August 8 hearing and in the record support Defendants' request for the imposition of the most severe sanctions on those grounds.

B. Plaintiffs' actions constitute a violation of prior discovery Orders of this Court, and demonstrate deliberate and contemptuous disregard of this court's authority, as well as behavior evincing deliberate callousness to the discovery process. *Mercer v. Rabae*, 443 So.2d 944 (Fla. 1983); *Marr v. State of Florida*, 614 So.2d 619 (Fla. 2d DCA 1993).

C. Defendants have presented clear and convincing evidence of actions on the part of Plaintiffs and their representatives intended to interfere with the judicial system's ability to impartially adjudicate this matter by improperly influencing the trier of fact and by unfairly

03/03/2008 14:41

DR BK 7177 PG 378
13 of 25

himping the presentation of the Defendants' claims and defenses. *Hutchinson v. Plantation Bay Apartments*, 931 So.2d 957 (Fla. 1st DCA 2005); *Car v. Burke*, 706 So.2d 43 (Fla. 5th DCA 1998).

D. Plaintiffs' discovery abuses and violations of the Court's orders were egregious. Plaintiffs are responsible for creating a situation during the trial, which has made striking their pleadings and entering judgment in favor of the Defendants, the only practical alternative available to resolve this matter. *Montage Group Ltd. v. Athletech Computer Systems, Inc.*, 839 So.2d 180 (Fla. 2d DCA 2004).

E. Additionally, the false testimony provided to this Court by Plaintiffs and their representatives, constituting a fraud on the Court, warrants the severe sanction of striking the pleadings in this case. *Morgan v. Campbell*, 816 So.2d 251 (Fla. 2d DCA 2002); *Austin v. Liquid Distributors*, 928 So.2d 521 (Fla. 3d DCA 2006); *Hutchinson v. Plantation Bay Apartments*, 931 So.2d 957 (Fla. 1st DCA 2006).

Based on the foregoing findings and conclusions, it is

ORDERED AND ADJUDGED as follows:

1. Defendants' Motion for Contempt and Sanctions is hereby GRANTED on the grounds set forth therein as more specifically stated below.

(FAX)

03/03/2008 14:42

OR AX 7177 PG 379
14 of 15

2. The Pleadings filed on behalf of Plaintiffs Bistrice and GRL as to the Quiet Title in Count I of Plaintiff's Second Amended Complaint and Count I of Defendants Counterclaim are hereby stricken with prejudice.

3. Good and marketable title to the properties that are the subject of the instant case (the "Subject Property") is hereby quieted in Defendants. Defendants shall be entitled to immediate possession of the Subject Property and entry of judgment in their favor as to the issues of quiet title to the Subject Property, specifically:

A. Occaside Acquisitions LLC shall be entitled to immediate possession and the entry of a judgment quieting title in its favor as to Condominium Units 104-A, 105-A, 111-A, 202-A, 210-A, 301-A, 302-A, 308-A, 311-A, 401-A, 406-A, 408-A, 510-A, 601-A, 704-A, 706-A, 803-A, and 804-A, of GULF ISLAND BEACH AND TENNIS CLUB I, A CONDOMINIUM, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381 at Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto, and Condominium Unit 201-W of GULF ISLAND BEACH AND TENNIS CLUB II, A CONDOMINIUM according to the Declaration of Condominium thereof filed for record in Official Records Book 3300 at Page 203 of the Public Records of Pasco County, Florida; and

B. DBKN Golf Incorporated shall be entitled to immediate possession and the entry of judgment quieting title in its favor as to a parcel of land lying in SECTION 22, TOWNSHIP

03/03/2008 14:43

OR BX 7177 PB 380
15 of 15

24 SOUTH, RANGE 16 EAST, Pasco County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Northeast one-quarter (1/4) of Section 33, Township 24 South, Range 16 East; thence run South 89° 30' 30" West a distance of 3170.03 feet to the POINT OF BEGINNING; thence run due South a distance of 843.88 feet; thence run South 83° 03' 23" West a distance of 33.41 feet; thence run South 08° 30' 51" East a distance of 319.09 feet; thence run South 03° 00' 00" West a distance of 5.63 feet; thence run North 87° 00' 00" West a distance of 91.87 feet; thence run South 03° 00' 00" a distance of 134.74 feet; thence run South 89° 29' 25" West a distance of 175.92 feet; thence run due North a distance of 1341.45 feet; and thence run North 89° 36' 30" East a distance of 217.99 feet to the POINT OF BEGINNING.

4. This Court retains jurisdiction and reserves ruling as to the entitlement to, and the amount of, any damages, costs, attorneys' fees, and any other relief sought by Defendants' Motion for Contempt and Sanctions.

DONE AND ORDERED in Chambers at Dade City, Pasco County, Florida, on this 30th day of Aug - 2006.

Wayne Cobb
Wayne Cobb
Circuit Court Judge

Copies furnished to:

Scott A. McLaren, Esquire
Eric E. Page, Esquire
P. Hutchinson Brock, II, Esquire
William S. Dwyer, Esquire
Robert W. Lang, Esquire
Martrice Barmington, Esquire
R. Nathan Hightower, Esquire
Deborah P. Fitzgerald, Esquire
Peter Valod, Esquire

STATE OF FLORIDA
COUNTY OF PASCO

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE DODDSEN FILE OR OF PUBLIC RECORD IN THIS OFFICE. NOTED BY HAND AND OVER SEAL THIS 30th DAY OF

John J. [Signature]
JOHN J. [Signature]
BY [Signature] CLERK OF CIRCUIT COURT

03/03/2008 14:43

RECORDING: SEE BODY
FOR SPECIFIC PARTIESIN THE CIRCUIT COURT OF THE
SIXTH JUDICIAL CIRCUIT IN AND
FOR PASCO COUNTY, FLORIDAGENERAL JURISDICTION DIVISION *B*

CASE NO: 51-2003-CA-942ES

ALEX BISTRICER, as limited
Partner of GULF ISLAND RESORT
L.P., et al.,

JUDGE: WAYNE L. COBB

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,
INC., etc., et al.,

Defendants/Counterclaim Plaintiffs.

COASTAL REAL ESTATE ASSOCIATES,
INC., etc., et al.,Defendants/Counterclaim Plaintiffs/
Third-Party Plaintiffs,

vs.

CANDY SMITH, etc., et al.,

Third-Party Defendants.

FILED P. JUDICIAL, PASCO COUNTY CLERK
2007 MAY 14 11:07 AM
OR BY 7548 PG 1610FILED FOR RECORD
PASCO COUNTY FLORIDA
2007 MAY -9 PM 2:55
CLERK OF CIRCUIT
AND COUNTY CLERKPARTIAL FINAL JUDGEMENT ON ACTION TO QUIET TITLE

This action was tried before the Court. Matters arose during trial, which resulted in an Evidentiary Hearing on August 8, 2006, upon a Motion for Contempt and Sanctions. This Court granted Defendants' Motion for Contempt and Sanctions in an Order dated August 30, 2006. Therefore, pursuant to Defendants' (Occaside) →

R•FM•DC



03/03/2008 14:44

CASE NO: 51-2003-CA-942ES

Acquisitions, LLC) and (P) (DBKN Golf Incorporated's) Motion for Entry of Final Judgment
as to Quiet Title and Slender of Title Actions, it is

OR BK-7549 PG 1611
2 of 3

ADJUDGED that

1. Good and marketable title to Units 104-A, 105-A, 111-A, 202-A, 210-A, 301-A, 302-A, 308-A, 311-A, 401-A, 406-A, 408-A, 510-A, 601-A, 704-A, 706-A, 803-A, and 804-A, of GULD ISLAND BEACH AND TENNIS CLUB I, A CONDOMINIUM, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, at Page 992, of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto, and Condominium Unit 201-W of GULD ISLAND BEACH AND TENNIS CLUB II, A CONDOMINIUM, according to the Declaration of Condominium thereof filed for record in Official Records Book 3300, at Page 208, of the Public Records of Pasco County, Florida, is quieted in favor of OceanSide Acquisitions, LLC, which shall be entitled to immediate possession thereon.

2. Good and marketable title to the property known as, SECTION 32, TOWNSHIP 24 SOUTH, RANGE 16 EAST, Pasco County, Florida, being more particularly described as follows:

Commence at the Northeast corner of the Northeast one-quarter (1/4) of Section 33, Township 24 South, Range 16 East; thence 89° 36' 30" West a distance of 3170.03 feet to the POINT OF BEGINNING; thence run due South a distance of 883.80 feet; thence run South 83° 03' 23" West a distance of 33.41 feet; thence run South 08° 30' 58" East a distance of 319.09 feet; thence run South 03° 00' 00" West a distance of 5.63 feet; thence run North 87° 00' 00" West a distance of 91.87 feet; thence run South 03° 00' 00" a distance of 134.74 feet; thence run South 89° 29' 25" West a distance of 125.92 feet; thence run due North a distance of 1341.45 feet; and thence run North 89° 36' 30" East a distance of 287.99 feet to the POINT OF BEGINNING.

03/03/2008 14:44

CASE NO: 51-2003-CA-942ES

Is granted in favor of DEKN Golf Incorporated and said Defendant shall be entitled to immediate possession of the subject property and entry thereon.

3. This Court retains jurisdiction over this action to award attorney's fees and costs pursuant to Defendant's pending Motion for Attorney's Fees and Costs.

DONE AND ORDERED in Chambers, at Pasco County, Florida, this 9 day of

May, 2007.


CIRCUIT JUDGE

Copies furnished to:

ATTORNEYS FOR PLAINTIFF/COUNTER-DEFENDANT AND THIRD-PARTY DEFENDANTS
Marcia Baumgarten, Esquire

ANANIA, BANDELAIDER, BLACKWELL, BAUMGARTEN, TORRELLA & STEIN
Bank of America Tower - Suite 4300
100 SE 2nd St.
Miami, FL 33131


CO-COUNSEL FOR PLAINTIFF/COUNTER-DEFENDANT AND THIRD-PARTY DEFENDANTS
Charles L. Neuman, Esquire

Charles L. Neuman, P.A.
777 Arthur Godfrey Road, 2nd Fl.
Miami Beach, FL 33140

Scott A. McLaren, Esquire
HILL, WARD AND HENDERSON, P.A.
101 East Kennedy Boulevard, Suite 3700
Tampa, FL 33602

ATTORNEYS FOR DEFENDANT STEVEN CARLIS GROGG
Deborah Anne Fitzgerald, Esquire

WALTON LINTAFF, SCHROEDER & CARSON, LLP
Corporate Center - Suite 2000
100 E. Broward Blvd.
Pt. Landerdale, FL 33301-3503

 ALEX KISTNER, Attorney at Law
Partner of GOLF ISLAND RESORT, L.P.; and
Solely and exclusively authorized agent of GOLF ISLAND
RESORT, INC.

PARTIES TO FS PER ATTY.
JAMES GARDENHEIMER - 6-29-07
JAG

UN. BK 1049 Pg 1014
3 of 3

OCT-09-2009 FRI 03:50 PM BERGER SINGEMAN

FAX NO. 3057144340

P. 02/03

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR MIAMI-DADE COUNTY
CIVIL DIVISION

ALEX BISTRICER, as limited partner of
GULF ISLAND RESORT, L.P., et al.,

Plaintiffs/Counterclaim Defendants,

vs.

COASTAL REAL ESTATE ASSOCIATES,
INC., etc., et al.,

Defendants/Counterclaim Plaintiffs.

CASE NO.: 08-79169 CA (09)

SUMMARY FINAL JUDGMENT IN FAVOR OF OCEANSIDE AND DBKN AS TO
COUNTS III AND IV AND IN FAVOR OF STEVEN CARLYLE CRONIG AS TO
COUNT III

This matter came before the Court on September 15, 2009, on Receiver's Motion for Summary Judgment in Favor of Oceanside and DBKN (the "Receiver's Motion") and Steven Carlyle Cronig's Motion for Summary Judgment as to Count III ("Cronig's Motion"). The Receiver's Motion requested the entry of a final summary judgment in favor of Oceanside Acquisitions, LLC ("Oceanside") and DBKN Gulf Incorporated ("DBKN") as to Counts III (conspiracy) and IV (civil theft) of Plaintiffs' Third Revised Amended Complaint (the "Complaint"). Cronig's Motion requested the entry of a final summary judgment in favor of Steven Carlyle Cronig ("Cronig") as to Count III. All claims other than those asserted in Counts III and IV have been adjudicated and disposed of by previous orders of the Court.

The Court has reviewed the motions and the record, including the exhibits filed by the parties, and has considered the arguments of counsel. The

EXHIBIT

3

OCT-09-2009 FRI 03:50 PM BERGER SINGERMAN

FAX NO. 3057144340

P. 03/03

CASE NO.: 08-79169 CA (09)

Court finds that there are no genuine issues of material fact as to the claims asserted in Counts III and IV of the Complaint, and that Oceanside, DBKN, and Cronig are entitled to judgment as a matter of law. It is, therefore,

ORDERED AND ADJUDGED as follows:

1. The Receiver's Motion and Cronig's Motion are hereby GRANTED.
2. Plaintiffs, Alex Bistricher, as limited partner of Gulf Island Resort, L.P., and Gulf Island Resort, L.P., shall take nothing by this action.
3. Defendants, Oceanside, DBKN, and Cronig, shall go hence without day.
4. The Court reserves jurisdiction to tax costs and attorney fees upon appropriate motion.

-DONE AND ORDERED in chambers at Miami, Dade County, Florida, this

___ day of ___, 2009.

Confirmed Copy

OCT 09 2009

THOMAS R. WILSON, JR.
Circuit Court Judge

THOMAS R. WILSON, JR.
CIRCUIT COURT JUDGE

Copies furnished to:

Counsel of Record
Receivership Website

8839339_v2

2007198346

Parcel Identification No: 33-24-16-0360-00000-5100

This Instrument Prepared By
and Return to:

Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

Rept: 1146294 Rec: 10.00
DS: 0.70 JT: 0.00
12/05/07 *PL* Dpty Clerk

JED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OR BK 7705 PG 1417

QUITCLAIM DEED

This Quitclaim Deed, made this 01, day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KEITH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 510A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set her/his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

Witness #1 Signature

By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.

Witness #1 Printed Name

By: Keith L. Novak, as a Member of Oceanside Acquisitions, LLC.

Witness #2 Signature

Witness #2 Printed Name

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 01, day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced as identification.

SEAL

NOTARY PUBLIC-STATE OF FLORIDA



Betty G. Pace
Commission # DDS4164
Expires: APR. 18, 2010
Bonded Thru Atlantic Bonding Co., Inc.

Printed Notary Signature

My Commission Expires:

EXHIBIT

4

2007198347

Parcel Identification No: 33-24-16-0360-00000-4010

This Instrument Prepared By
and Return to:

Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

Rcpt: 1146294 Rec: 10.00
OS: 0.70 IT: 0.00
12/05/07 Dpty Clerk

JED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OP BK 7705 PG 1418

QUITCLAIM DEED

This Quitclaim Deed, made this 31 day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KEITH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 401A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

Witness #1 Signature

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name

By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.

By: Keith L. Novak, as a Member of Oceanside Acquisitions, LLC.

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 01 day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DD541643
Expires: APR 18, 2010
My Commission Expires: _____
Bonded thru Atlantic Bonding Co., Inc.

Notary Signature

Printed Notary Signature

Parcel Identification No: 3J-24-16-0360-00000-2100

This Instrument Prepared By
and Return to:Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

2007198348

Rcpt: 1146294 Rec: 10.00
DS: 0.70 17: 0.00
12/05/07 DZ Dpty ClerkJED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OR BK 7705 PG 14 19**QUITCLAIM DEED**

This Quitclaim Deed, made this 01 day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KEITH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 210A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness #1 Signature

Gabriela D'Alemberte

Witness #1 Printed Name

Dana S. Berman

Witness #2 Signature

Dana S. Berman

Witness #2 Printed Name

OCEANSIDE ACQUISITIONS, LLC

By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.

By: Keith L. Novak, as a Member of Oceanside Acquisitions, LLC.

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 01 day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced as identification.

NOTARY PUBLIC-STATE OF FLORIDA

SEAL

Betty G. Pace

Commission # DBS41643

Expires: APR. 18, 2010

Bonded Thru Atlantic Bonding Co., Inc.

My Commission Expires:

Notary Signature

Betty G. Pace

Printed Notary Signature



Parcel Identification No: 33-24-16-0360-00000-7060

This Instrument Prepared By
and Return to:Oceanside Acquisitions, LLC
Dana Berman
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133Rcpt: 1146294 Rec: 10.00
DS: 0.70 17- 0.00
12/05/07 JD Dpty ClerkJED PITTMAN, PASCO COUNTY CLERK
12/05/07 01:39pm 1 of 1
OR BK 7705 PG 1420

QUITCLAIM DEED

This Quitclaim Deed, made this 01, day of August, 2007, between OCEANSIDE ACQUISITIONS, LLC, a Florida Limited Liability Company, whose address is: 501 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133, Grantor, and KETH L. NOVAK, whose address is 60 Edgewater Drive, PH 2F, Coral Gables, FLORIDA 33133, Grantee.

Witnesseth, that the Grantor, for and in consideration of the sum of TEN & NO/100 (\$10.00) DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of PASCO, State of Florida, to-wit:

Condominium Unit 706A of Gulf Island Beach and Tennis Club I, a Condominium, according to the Declaration of Condominium thereof filed for record in Official Records Book 1381, Page 932 of the Public Records of Pasco County, Florida, together with all dock spaces, parking spaces and other limited common elements appurtenant thereto.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or equity, for the use, benefit and profit of the said Grantee forever.

In Witness Whereof, the Grantor has hereunto set her/his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

OCEANSIDE ACQUISITIONS, LLC

Witness #1 Signature GABRIELLE DIALAMBELE
Witness #1 Printed Name Gabrielle Dialamberte

By: DANA BERMAN, as Managing Member, Oceanside Acquisitions, LLC.

Witness #2 Signature Patsy S. Berman
Witness #2 Printed Name Patsy S. Berman

By: Keith E. Novak, as a Member of Oceanside Acquisitions, LLC.

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 01, day of August, 2007, by DANA BERMAN, as Managing Member of OCEANSIDE ACQUISITIONS, LLC, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DDS41643
Expires: APR. 18, 2010
My Commission Expires _____

Notary Signature Betty G. Pace
Printed Notary Signature

3
34
301 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

This Instrument Prepared
By Harold Gassenheimer:

E. Harold Gassenheimer
M. A. M. C. Incorporated
301 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133
Telephone No.: 305.341.0600
Facsimile No.: 305.358.5160

2009023166

Rept: 1227654 Rec: 27.00
OS: 0.00 11: 0.00
02/18/09 Duty Clerk

PAID 3 DIMEIL PROLY CLEAR A CONTINENTAL
02/18/09 04:29 PM 1 of 3
OR BK 8023 PG 1981

PARTIAL RELEASE

KNOW ALL MEN BY THESE PRESENTS: That Coconut Grove Bank, as Custodian of the Sidney Oliver S/D IRA et al (See Exhibit "A" for List of Lenders); ALL of the foregoing by and through their servicing agent M.A.M.C. Incorporated as successor interest to Berman Mortgage Corporation, d/b/a BMC Loan Servicing, and as owners and holders of that certain First Mortgage dated February 21, 2003 executed by Oceanside Acquisitions, LLC, a Florida limited liability company, in favor of the Mortgagees, filed for record on February 21, 2003, in Official Records Book 5247, at Page 1816 of the Public Records of Pasco County, Florida; and thereafter modified by First Notice of Future Advance; Modification of Note, Mortgage, and Related Loan Documents dated February 28, 2003, filed to record on February 28, 2003 in Official Records Book 5257 at Page 297 of the Public Records of Pasco County, Florida; and further secured by that certain Assignment of Leases and Rents dated February 21, 2003, filed for record on February 21, 2003 in Official Records Book 5247, at Page 1825 of the Public Records of Pasco County, Florida; thereafter, several assignments of undivided percentages were recorded as follows: Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated February 21, 2003, filed to record on May 22, 2003 in Official Records Book 5367 at Page 1247 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated December 17, 2003, filed to record on March 7, 2005 in Official Records Book 6258 at Page 239 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated May 5, 2004, filed to record on March 7, 2005 in Official Records Book 6258 at Page 241 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated October 1, 2004, filed to record on October 26, 2004 in Official Records Book 6081 at Page 91 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated September 10, 2004, filed to record on March 7, 2005 in Official Records Book 6258 at Page 226 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, First Mortgage, and Related Loan Documents dated June 30, 2005, filed to record on October 26, 2005 in Official Records Book 6659 at Page 1769 of the Public Records of Pasco County, Florida, (referred to as the "Loan Documents") securing certain future advance promissory note in the principal sum of ONE MILLION FIFTY THOUSAND DOLLARS (\$1,050,000.00).

In consideration of the sum of TEN AND NO/100 (10.00) DOLLARS and other good and valuable considerations, the receipt of the sufficiency of which are hereby acknowledged, the Mortgagees hereby release, quit-claim, exonerate and discharge from the lien and operation of the Loan Documents, the parcel of the real property described as follows:

Condominium Units No. 210, 401, 510 and 706 of GULF ISLAND BEACH AND TENNIS CLUB), a Condominium, according to the Declaration of Condominium thereof, as recorded in Official-Records Book 3300 at Page 212, of the Public Records of Pasco County, Florida.

Property Address: 6035 Sea Ranch Drive, Hudson, Pasco County, Florida, 34667.

Partial Release

M.A.M.C. INCORPORATED
301 Continental Plaza, 3250 Mary Street, Coconut Grove, Florida 33133
Telephone 305.341.0600, Facsimile: 305.358.5160

Page - 1 of 3

EXHIBIT

5

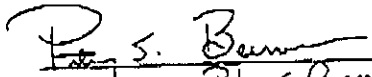
DR BK 8023 1002
2 of 3

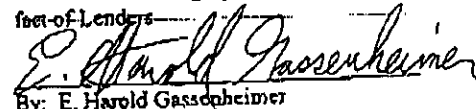
PROVIDED, nevertheless, that nothing herein contained shall in any manner impair, alter or diminish the effect, lien or encumbrance of the Loan Documents on the remaining portion of the property therein particularly described, or affect any of the rights or remedies of the holders thereof.

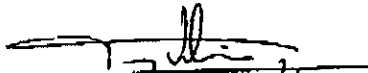
IN WITNESS WHEREOF, the undersigned has caused this Partial Release present to be executed in its name, this 2nd day of November, 2007.

Signed, sealed and delivered

M.A.M.C. INCORPORATED as successor
to BERMAN MORTGAGE
CORPORATION, a Florida corporation, as
authorized servicing agent and attorney-in-
fact of Lenders


Print Name of Witness: Peter S. Beaman


By: E. Harold Gassenheimer
Senior VP Finance
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133


Print Name of Witness: E. Harold Gassenheimer

NOTARY PUBLIC

STATE OF FLORIDA COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 2nd day of November, 2007 by E. Harold Gassenheimer, Senior Vice-President Finance of M.A.M.C. Incorporated, as servicing agent and attorney-in-fact of Lenders, on behalf of the Lenders. He is personally known to me and did not take an oath.


Print Name: Betty G. Pace
Notary Public, State of Florida at Large
My commission expires: April 18, 2010

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DD541643
Expires: APR 18, 2010
Bonded Through Atlantic Bonding Co., Inc.

NOTARY PUBLIC-STATE OF FLORIDA
Betty G. Pace
Commission # DD541643
Expires: APR 18, 2010
Bonded Through Atlantic Bonding Co., Inc.

307 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133

10/30/09 12:16 PM
2009023169

Rept: 1277658 Rec: 27.00
05: B. 00 17: 0.00
02/18/09 Only Clerk

This Instrument Prepared
By Michael Morgan

Michael Morgan
M. A. M. C. Incorporated
501 Continental Plaza
3250 Mary Street
Coconut Grove, Florida 33133
Telephone No.: 305.341.0600
Facsimile No.: 305.338.5160

PRAP 3, D'NEIL, PASCO CLERK & COUNTY CLERK
02/18/09 04:31 PM 1 of 3
OR BK 8023 PG 1996

PARTIAL RELEASE

KNOW ALL MEN BY THESE PRESENTS: That Coconut Grove Bank, as Trustee of the Gulf Lane IRA et al (See Exhibit "A" for List of Lenders); ALL of the foregoing by and through their servicing agent M.A.M.C. Incorporated as successor interest to Berman Mortgage Corporation, d/b/s BMC Loan Servicing, and as owners and holders of that certain Second Mortgage and Security Agreement dated February 21, 2003 executed by OceanSide Acquisitions, LLC, a Florida limited liability company, in favor of the Mortgagees, filed for record on February 21, 2003, in Official Records Book 5247, at Page 1796 of the Public Records of Pasco County, Florida; and secured by that second Assignment of Leases and Rents dated February 21, 2003, filed for record on in Official Records Book 5247, at Page 1805 of the Public Records of Pasco County, Florida; thereafter several assignments of undivided percentage interests were recorded as follows: Assignment of Promissory Note, Second Mortgage and Related Documents dated February 21, 2003, filed to record May 22, 2003 in Official Records Book 5367, at Page 1250; Assignment of Undivided Percentage Interest In and To Promissory Note, Second Mortgage and Related Loan Documents dated September 10, 2004, filed to record on March 7, 2005 in Official Records Book 6258 at Page 236 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, Second Mortgage and Related Loan Documents dated August 22, 2005, filed to record on December 6, 2005 in Official Records Book 6729 at Page 400 of the Public Records of Pasco County, Florida; Assignment of Undivided Percentage Interest In and To Promissory Note, Second Mortgage and Related Loan Documents dated August 22, 2005, filed to record on December 6, 2005 in Official Records Book 6729 at Page 877 of the Public Records of Pasco County, (referred to as the "Loan Documents") securing certain future advance promissory note in the principal sum of SIX HUNDRED FIFTY THOUSAND DOLLARS (\$650,000.00).

In consideration of the sum of TEN AND NO/100 (10.00) DOLLARS and other good and valuable considerations, the receipt of the sufficiency of which are hereby acknowledged, the Mortgagees hereby release, quit-claim, exonerate and discharge from the lien and operation of the Loan Documents, the parcel of the real property described as follows:

Condominium Units No. 210, 401, 510 and 706 of GULF ISLAND BEACH AND TENNIS CLUB I, a Condominium, according to the Declaration of Condominium thereof, as recorded in Official Records Book 3300 at Page 212, of the Public Records of Pasco County, Florida.

Property Address: 6035 Sea Ranch Drive, Hudson, Pasco County, Florida, 34667.

PROVIDED, nevertheless, that nothing herein contained shall in any manner impair, alter or diminish the effect, lien or encumbrance of the Loan Documents on the remaining portion of the property therein particularly described, or affect any of the rights or remedies of the holders thereof.

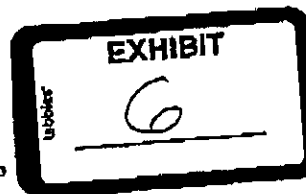


Exhibit "A"
List of Lenders

Coconut Grove Bank, as Custodian of the Gail Lane Corenbium Rollover IRA, as to an undivided 23.077% interest; Coconut Grove Bank, as Custodian of the Delsie Upton IRA, as to an undivided 3.077% interest; Keith Lawrence Novak, as to an undivided 11.538% interest; Fredric V. Gilmoids, as to an undivided 7.692% interest; Judith Tronitz, as to an undivided 5.923% interest; Camelot Holdings, L.P., as to an undivided 30.769% interest; Gabe Sanders or Barbara Sanders, as to an undivided 3.846% interest; Ali and Adam Roles, as to an undivided 0.308% interest; Iris Rederman Trust, as to an undivided 5.615% interest; Delsie Upton Revocable Trust, as to an undivided 6.154% interest.

Partial Release

M.A.M.C. INCORPORATED
301 Continental Plaza, 3250 Mitty Street, Coconut Grove, Florida 33133
Telephone 305.341.0600; Facsimile: 305.318.3160

Page 3 of 3