

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NO. 11-028447 (03)

COMERICA BANK, a Texas banking
association,

Plaintiff,

vs.

OCEAN 4660, LLC a Florida limited
liability company, OCEANSIDE
LAUDERDALE, INC., a Florida
corporation, KENNETH A. FRANK,
individually, ANGELA DIPILATO,
individually, TOWN OF
LAUDERDALE-BY-THE-SEA, a
political subdivision of the State of
Florida, WASTE MANAGEMENT
INC. OF FLORIDA d/b/a SOUTHERN
SANITATION SERVICE, a Florida
corporation, AFFINITY
MECHANICAL INC., a Florida
corporation, and BROWARD
COUNTY, a political subdivision of
the State of Florida,

Defendants.

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION
TO DEFENDANT KENNETH A. FRANK**

Pursuant to Florida Rule of Civil Procedure 1.350, Comerica Bank ("Plaintiff") requests Defendant Kenneth A. Frank ("Frank") to examine and/or copy the following designated items within thirty (30) days from the date of service hereof, or at such other time as may be agreed upon by the office of the undersigned. Attention is directed to the "DEFINITIONS" and "INSTRUCTIONS," which are to

be complied with in producing documents pursuant to Florida Rule of Civil Procedure 1.350.

DEFINITIONS

1. “You” and “yours” shall mean Frank and all of his past or present employees, agents, or representatives, as well as all other persons acting or purporting to act on his behalf.

2. “Property” shall mean the real property located in Broward County, Florida that is more particularly described in paragraph 39 of the Complaint.

3. The term “person” shall mean and include natural persons, corporations, partnerships, governmental entities, and any and all other forms of organization and agreement, in addition to any officer, director, consultant, advisor (legal or otherwise), stockholder, employee, agent or partner thereof.

4. The term “document” shall mean any kind of written, electronic, or graphic matter, however produced or reproduced, including all electronically stored or generated material, of any kind or description, whether or not sent or received by Estate, including originals, copies or drafts and both sides thereof, and including but not limited to: papers, books, letters, correspondence, telegrams, cables, telex messages, memoranda, notes, notations, work papers, inter-office or internal memoranda, transcripts, minutes, reports and recordings of telephone or other conversations, or of interviews, or of conferences, or other meetings, affidavits, subpoenas, notices, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, journals, statistical records, desk calendars,

appointment books, diaries, lists, tabulations, sound recordings, computer print-outs, data processing input and output, microfilms, and other records kept by electronic, photographic, or other mechanical means, minutes of meetings of board of directors, executive committees, or any other writings or recordings similar to any of the foregoing, however denominated by Frank, or his present or former partners, attorneys, counsel, accountants, auditors, agents, employees and all persons acting or previously acting on his behalf. The term "document" includes all of the above materials, whether asserted privileged or not.

5. The use of a verb in any tense shall be construed as the use of a verb in all other tenses, whenever necessary to bring within the scope of the specification all responses which might otherwise be construed to be outside its scope.

6. Terms in the singular include the plural and terms in the plural include the singular.

7. The term "relating to" as used herein is defined to mean referring to, evidencing, pertaining to, consisting of, reflecting, concerning or in any way logically or factually connected with the matter discussed.

8. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the specification all responses which might otherwise be construed to be outside its scope. "Each" and "every" shall be construed synonymously, as shall the words "any" and "all."

9. As used in this request for production, the term "correspondence" means all letters, faxes, e-mails, writings or memorandums, authored or received by

any of the persons whose names appear in this request for production or authored or received by their employees, agents or independent contractors. This term also includes every attachment to such correspondence or any documents that accompany such correspondence.

INSTRUCTIONS

1. **Manner of Production.** Documents produced pursuant to this request shall be separately produced for each paragraph of this request, or, in the alternative, shall be identified as complying with the particular paragraph or paragraphs of the request to which they are responsive, if the documents produced for inspection are produced as they are kept in the usual course of business.

2. **Privileged Documents.** In the event that you wish to assert attorney/client privilege, work product exclusion, or any other privilege as to any document requested, then as to each such document subject to such assertion, you shall provide an identification of the document, including (a) the nature of the document, (b) the date of the document, and (c) the author, sender and recipient, together with a summary statement of the subject matter of such document in sufficient detail to permit the court to reach a ruling in the event of a motion to compel and an indication of the factual and legal basis for the assertion of the privilege.

3. **Documents Not in Possession, Custody, or Control.** If you are unable to produce any document requested, state the reasons why you are unable to produce such document. A negative response to any request without further

explanation will be deemed to be your response that the requested document is not in your possession, custody or control, as interpreted by controlling case law.

4. **Documents No Longer in Possession, Custody, or Control.** With respect to documents of which you once had possession, custody or control, but no longer have possession, custody or control, please identify the document and state why the document is no longer in your possession, custody or control and identify the person who currently has possession, custody or control of the documents.

5. In the event that documents are not in your possession, you are hereby requested to deliver original consent forms directing the appropriate agency or entity to supply the information that you are unable to request.

DOCUMENTS REQUESTED

1. Any and all documents supporting the validity of the Notice of Mechanics Lien you recorded on November 4, 2010 in Official Records Book 47501 at Page 1818 of the Public Records of Broward County, Florida.

2. Any and all documents supporting the validity of the Notice of Pendency you recorded on January 11, 2010 in Official Records Book 46790 at Page 604 of the Public Records of Broward County, Florida.

3. Any and all documents supporting the validity of the Notice of Mechanics Lien you recorded on January 21, 2011 in Official Records Book 47664 at Page 42 of the Public Records of Broward County, Florida.

4. Any and all documents supporting the validity of the Notice of Lis Pendens you recorded in Book 48272 at Page 1346 of the Public Records of Broward County, Florida.

5. Any and all documents supporting the validity of the Notice of Mechanics Lien you recorded on July 8, 2011 in Official Records Book 48025 at Page 223 of the Public Records of Broward County, Florida.

6. Any and all documents supporting the validity of the Notice of Lis Pendens you recorded in Book 48300 at Page 259 of the Public Records of Broward County, Florida.

7. Any and all documents supporting the validity of the Lien you recorded on July 8, 2011 in Official Records Book 48025 at Page 217 of the Public Records of Broward County, Florida.

8. Any and all documents supporting the validity of the Lien you recorded on July 8, 2011 in Official Records Book 48025 at Page 223 of the Public Records of Broward County, Florida.

9. Any and all documents supporting the statements in the Affidavit you recorded on January 26, 2012 in Official Records Book 48472 at Page 776 of the Public Records of Broward County of the Public Records of Broward County, Florida.

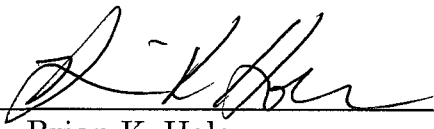
10. True and correct copies of any and all judgments you have obtained against Defendant Ocean 4660, LLC.

11. True and correct copies of any and all judgments you have obtained in connection with the Property.

Dated: July 10, 2012

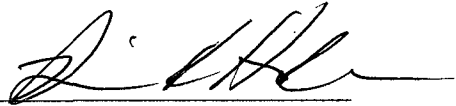
Respectfully Submitted,

HOLLAND & KNIGHT LLP
Counsel for Comerica Bank
515 East Las Olas Boulevard
Suite 1200
Fort Lauderdale, Florida 33301
Telephone No: (954) 525-1000
Fax No: (954) 463-2030

By: 
Brian K. Hole
Fla. Bar No. 0019968
Nicole C. Velasco
Fla. Bar No. 0028585

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 10, 2012, a true and correct copy of the foregoing was provided to all parties on the Service List below.

By: 
Brian K. Hole
Fla. Bar No. 0019968

SERVICE LIST

Krystol L. Rappuhn, Esq. 55 E. Long Lake Road, Suite 204 Troy, Michigan 48085-4738 <i>Co-Counsel for Ocean 4660, LLC</i> By regular U.S. Mail and facsimile	Michael Tobin, Esq. Rothman & Tobin, P.A. 11900 Biscayne Boulevard, Suite 740 Miami, Florida 33181 <i>Co- Counsel for Ocean 4660, LLC</i> By regular U.S. Mail and facsimile
Eduardo M. Soto, Esq. Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. 2525 Ponce de Leon Blvd., Suite 700 Coral Gables, FL 33134 <i>Counsel for Town of Lauderdale-By-The-Sea</i> By regular U.S. Mail and facsimile	Maya A. Moore, Esq. Joni Armstrong Coffey, Esq. County Attorney for Broward County Office of the County Attorney Governmental Center, Suite 423 115 South Andrews Avenue Fort Lauderdale, FL 33301 <i>Counsel for Broward County</i> By regular U.S. Mail and facsimile
Oceanside Lauderdale, Inc. 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 By regular U.S. Mail	Kenneth A. Frank 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 By regular U.S. Mail
Waste Management Inc. of Florida d/b/a Southern Sanitation Service c/o Registered Agent, CT Corporation System 1200 South Pine Island Road Plantation, FL 33324 By regular U.S. Mail	Affinity Mechanical Inc. c/o Edward J. Bender, Registered Agent 2805 E. Oakland Park Boulevard, #144 Fort Lauderdale, FL 33306 By regular U.S. Mail

Angela Dipilato 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 By regular U.S. Mail	Angela Dipilato 1323 S.E. 3rd Avenue Pompano Beach, FL 33060 By regular U.S. Mail
Motion Elevator, Inc. c/o Registered Agent, Rose Portelli 5915 Park Drive Margate, FL 33063 By regular U.S. Mail	Rose Portelli 5915 Park Drive Margate, FL 33063 By regular U.S. Mail
Euro Fist Choice Enterprises, Inc. c/o Registered Agent, Michal Holovka 1261 S.E. 7 th Avenue Pompano Beach, FL 33060 By regular U.S. Mail	Michal Holovka 1261 S.E. 7th Avenue Pompano Beach, FL 33060 By regular U.S. Mail