

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 NOTICE OF SERVING SECOND SET
OF INTERROGATORIES TO KENNETH A. FRANK**

Pursuant to Rule 1.340 of the Florida Rules of Civil Procedure, Plaintiff Comerica Bank propounds the following written interrogatories to be answered by Defendant Kenneth A. Frank separately and fully in writing under oath within thirty (30) days after service hereof.

Dated: January 7, 2013

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

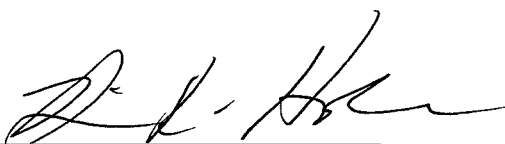
Fax No: (954) 463-2030

By: 

Brian K. Hole
Florida Bar No. 019968
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Joshua R. Levenson
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of January 2013, a copy of the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the Service List below in the authorized manner specified.

By: 

Brian K. Hole
Florida Bar No. 019968
brian.hole@hklaw.com

SERVICE LIST

<p>Krystol L. Rappuhn, Esq. 55 E. Long Lake Road, Suite 204 Troy, Michigan 48085-4738 (248) 645-5400 - Office (313) 319-0743 - Cellular (248) 879-3124 - Facsimile <i>Co-Counsel for Ocean 4660, LLC</i> [Via U.S. Mail only]</p>	<p>Michael Tobin, Esq. Rothman & Tobin, P.A. 11900 Biscayne Boulevard, Suite 740 Miami, Florida 33181 Phone: (305) 895-3225 Fax: (305) 895-7175 E-mail: mtobin@rothmanandtobin.com <i>Counsel for Ocean 4660, LLC, Hanna Karcho-Polselli and Remo Polselli</i> [Via E-mail]</p>
<p>Eduardo M. Soto, Esq. Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. 2525 Ponce de Leon Blvd., Suite 700 Coral Gables, FL 33134 Phone: (305) 854-0800 Fax: (305) 854-2323 E-mail: esoto@wsh-law.com <i>Counsel for Town of Lauderdale-By-The-Sea</i> [Via E-mail]</p>	<p>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 Phone: (954) 357-7600 Fax: (954) 357-7641 E-mail: mmoore@broward.org <i>Counsel for Broward County</i> [Via E-mail]</p>
<p>Charmaine J. Comprosky, Esq. Law Office of Charmaine J. Comprosky, P.A. 2310 East Atlantic Boulevard, Suite 204 Pompano Beach, Florida 33062 E-mail: law@comprosky.com <i>Counsel for Oceanside Lauderdale, Inc.</i> [Via E-mail]</p>	<p>Kenneth A. Frank, <i>Pro Se</i> 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 E-mail: kenknaassociates@gmail.com [Via U.S. Mail, facsimile and E-mail]</p>
<p>Oceanside Lauderdale, Inc. 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 [Via U.S. Mail]</p>	<p>Angela Dipilato 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 [Via U.S. Mail]</p>
<p>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 [Via U.S. Mail]</p>	<p>Angela Dipilato 1323 S.E. 3rd Avenue Pompano Beach, FL 33060 [Via U.S. Mail]</p>

Affinity Mechanical Inc. c/o Edward J. Bender, Registered Agent 2805 E. Oakland Park Boulevard, #144 Fort Lauderdale, FL 33306 Phone: (954) 332-8363 Fax: (954) 688-2524 [Via U.S. Mail]	Rose Portelli 5915 Park Drive Margate, FL 33063 [Via U.S. Mail]
Motion Elevator, Inc. c/o Registered Agent, Rose Portelli 5915 Park Drive Margate, FL 33063 [Via U.S. Mail]	Michal Holovka 1261 S.E. 7th Avenue Pompano Beach, FL 33060 [Via U.S. Mail]
Euro Fist Choice Enterprises, Inc. c/o Registered Agent, Michal Holovka 1261 S.E. 7 th Avenue Pompano Beach, FL 33060 [Via U.S. Mail]	

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LAUDERDALE, INC., a Florida
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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 SECOND SET OF INTERROGATORIES TO
KENNETH A. FRANK

Plaintiff Comerica Bank ("Plaintiff") propounds the following written interrogatories to be answered by Defendant Kenneth A. Frank ("Defendant"), in writing under oath within the time provided by Rule 1.340, or within such time as may be agreed to or required by further order of Court.

DEFINITIONS AND INSTRUCTIONS

1. "You" and "yours" shall mean Defendant and all of its past or present employees, agents, or representatives, as well as all other persons acting or purporting to act on its behalf.
2. "Complaint" shall mean the Second Amended Complaint for Foreclosure and Damages that Plaintiff filed in this action.
3. "Karcho-Polselli" shall mean Hanna Karcho-Polselli.
4. "Frank" shall mean and Kenneth A. Frank.
5. "Ocean 4660" shall means Ocean 4660, LLC.
6. "First Loan" shall mean the principal sum of Ten Million Eight Hundred Fifty Thousand and No/Dollars (\$10,850,000.00) that Plaintiff lent to you on January 3, 2008.
7. "Second Loan" shall mean the principal sum of principal sum of One Million and No/Dollars (\$1,000,000.00) that Plaintiff lent to you on January 3, 2008.
8. "Loan Documents" shall mean the First Loan and Second Loan, collectively.
9. "Property" shall mean the real property located in Broward County, Florida that is more particularly described in paragraph 39 of the Complaint.
10. "Parking Lot" shall mean the real property adjacent to the Property that you use for parking, and that has the following legal description:

Lots 9, 10, 22, 23, and 24, in Block 10, of LAUDERDALE BY THE SEA, according to the Plat thereof, recorded in Plat Book 6, Page 2 of the Public Records of Broward County, Florida.
11. "Ground Lease" shall mean the Lease dated September 5, 1957 pursuant to which you sublease the Parking Lot.
12. "Swap Agreement" shall mean the ISDA Master Agreement dated January 25, 2008, as confirmed by a written Confirmation Letter dated January 25, 2008, between you and Plaintiff.
13. 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.
14. 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.

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

16. “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.”

17. The terms “relate to,” “related to,” or “relating to” shall be construed in their broadest sense and shall mean comprise, consist of, refer to, contain, mention, describe, embody, constitute, support, corroborate, demonstrate, prove, evidence, show, refute, dispute, rebut, controvert, contradict, negate, reflect or be in any way logically or factually connected to, whether directly or indirectly.

18. “Identify,” when used with reference to a natural person means state:

- (a) his full name and address (or if the present is not known, his last known address);
- (b) the full name and address of each of his employers, each corporation of which he is an officer or director and each business in which he is a principal;
- (c) his present (or, if the present is not known, his last known) position and his position or positions at the time of the act to which the interrogatory answer relates; and
- (d) such other information sufficient to enable Plaintiff to identify the person.

19. “Identify,” when used with reference to any entity other than a natural person, means:

- (a) state the full name of the entity, the type of entity (e.g. corporation, partnership, etc.) the address of its principal place of business, its principal business activity and, if it is a corporation, the jurisdiction under the laws of which it has been organized and the date of such organization;
- (b) identify each of the entities’ officers, directors, shareholders or other principals;
- (c) state whatever other information you may have concerning the existence or identity of the entity.

20. “Identify,” when used with reference to a document or communication, means state:

- (a) its nature (e.g. letter, telegram, memorandum, chart, report, study), date, author, date and place of preparation and the name and address of each addressee, if there is an addressee;
- (b) the identify of each signer to the document or communication;
- (c) the title or heading of the document or communication;
- (d) its substance;
- (e) its present (or, if the present is not known, the last known) location and custodian;
- (f) the identity of each person to whom a copy was sent and each date of its receipt and each date of its transmittal or other disposition by (1) you and (2) any other person (naming such other person) who, at the time, either received, transmitted or otherwise disposed of such document or communication and each copy thereof;
- (g) the circumstances of each such receipt and each transmittal or other disposition, including identification of the person from whom received and the person to whom transmitted.

21. You may, in lieu of identifying any document, attach a true copy of such document or communications as an exhibit to your answers to these interrogatories, along with an explicit reference to the interrogatory to which each such attached document or communication relates.

22. In answering each interrogatory, identify each document or communication or act (a) relied upon in the preparation of each answer; (b) which forms all or part of the basis for that answer; (c) which corroborates the answer; and (d) the substance of which forms all or part of the answer.

23. If all of the information furnished in answer to all or part of an interrogatory is not within the personal knowledge of the affiant, identify each person to whom all or part of the information furnished is a matter of personal knowledge and each person who communicated to the affiant any part of the information furnished.

24. If additional space is required, please attach additional sheets.

25. All requests are limited to the twenty-four months preceding the date of this request.

(interrogatories begin on next page)

INTERROGATORIES

1. Please state the name, address, phone number and title of the person answering these Interrogatories.
2. Please identify any and all verbal or oral agreements between Remo Polselli and Frank relating to the Property.

3. Please identify any and all verbal or oral agreements between Karcho-Polselli and Frank relating to the Property.

4. Please identify any and all verbal or oral agreements between Ocean 4660 and Frank relating to the Property.

5. Please identify any and all verbal or oral agreements between Remo Polselli and Frank relating to the Loan Documents.

6. Please identify any and all verbal or oral agreements between Karcho-Polselli and Frank relating to the Loan Documents.

7. Please identify any and all verbal or oral agreements between Ocean 4660 and Frank relating to the Loan Documents.
8. Please provide the date, time, and the topic(s) discussed during any conversation between Remo Polselli and Frank relating to the Loan Documents during the past six months.

VERIFICATION

I swear or affirm that the answers provided to the foregoing are true and correct.

KENNETH A. FRANK

STATE OF _____) : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by Kenneth A. Frank, who is personally known to me or has produced _____ as identification.

Notary Public
Name of Notary Printed:

My commission expires:

(NOTARY SEAL)

My commission number is: