

COMERICA BANK,

Plaintiff,

vs.

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

GENERAL JURISDICTION DIVISION

CASE NO.: CACE11028447 (03)

OCEAN 4660, LLC, et. al.,

Defendants.

**DEFENDANT'S, OCEAN 4660, LLC, RESPONSES TO PLAINTIFF'S, COMERICA
BANK, FIRST SET OF INTERROGATORIES**

Defendant, OCEAN 4660, LLC, by and through its undersigned counsel, hereby
files its responses to Plaintiff's First Set of Interrogatories as follows:

1. Hanna Karcho
Title: Member
55 E. Long Lake Road, #204
Troy, MI 48085
(248) 645-5400

Remo Polselli
Title: Consultant
55 E. Long Lake Road, #204
Troy, MI 48085
(248) 645-5400
2. Hanna Karcho, 55 E. Long Lake Road, #204, Troy, MI 48085. (248) 645-5400
Remo Polselli, 55 E. Long Lake Road, #204, Troy, MI 48085. (248) 645-5400
3. Hanna Karcho, 55 E. Long Lake Road, #204, Troy, MI 48085. (248) 645-5400
Remo Polselli, 55 E. Long Lake Road, #204, Troy, MI 48085. (248) 645-5400

4. To the best of Defendant's knowledge, below are the following dates and amounts for each:

a) 09/01/2009	\$20,000.00
b) 09/01/2010	\$20,000.00
c) 09/24/2011	\$20,000.00
d) 08/09/2012	\$20,000.00

5. Plaintiff required the SWAP Agreement to be executed as part of the underlying Loan. However, it was done after Closing on the Loan. On many occasions, Defendant explained to the Plaintiff that Defendant did not understand how the SWAP Agreement worked and why it was required. However, to avoid defaulting on the Loan, Defendant felt compelled to do as Plaintiff requested. Also, to the best of Defendant's knowledge and recollection, on numerous occasions, Plaintiff made representations to Defendant that the SWAP would not have an adverse affect on Defendant, which was not the case as Defendant ultimately paid unnecessary funds toward the SWAP Agreement forced upon them.

6. Making the SWAP Agreement a post closing requirement to avoid default of the underlying Loan.

7. Defendant does not have any records sufficient to be able to respond to this Interrogatory with specificity. Any and all property tax payments are a matter of public record.

8. Defendant does not have records sufficient to be able to respond to this Interrogatory with specificity. Any and all property tax payments are a matter of public record.

9. Plaintiff required terms and conditions in the Forbearance Agreement(S) to which Defendant had no control over, and therefore, despite making significant payments to comply with the Forbearance Agreement and attempts to mitigate its loss regarding the Loans, including a payment of \$112,053.70 in June, 2010, Plaintiff continued to unreasonably determine Defendant to be in default if the Loans. The unreasonable and unconscionable requirements include, but are not limited to, (i) requiring liens filed by Ken Frank, Angela Dipilato and related entities to be removed within a short period entities to be removed within a short period of time which was not possible considering the time frames required/allowed within the Florida judicial system and the fraudulent nature of the liens themselves; (ii) requiring Defendant to cross-collateralize another asset, which resulted in Defendant being unable to sell the properties separately at their discretion which may have allowed them to avoid being in default and foreclosure.

10. To the best of Defendant's knowledge:

- a. Kenneth Frank, 2310 E. Atlantic Blvd., Suite 206, Pompano Beach, FL 33062
- b. Angela Dipilato, 1035 S. Riverside Drive, Pompano Beach, FL 33062
- c. Robert Cvetkovski, Shaka Jon's Beach Bars, 3101 N.E. 56th Court, Ft. Lauderdale, FL 33308. (248) 421-8855.

11. On numerous occasions over the previous year, Plaintiff and Defendant have had telephone conferences, and met in person, to discuss resolution of the Plaintiff's assertions that the Loans are in default. Plaintiff, on more than one occasion, has specifically indicated to Defendant that it would accept a principal paydown in order to reinstate the Loans.

12. Defendant has attempted to the Property on numerous, specifically:

- a. The Property has been listed for sale for approximately two (2) years since Defendant has owned the Property.
- b. To the Best of Defendant's knowledge, the following brokers have assisted with the marketing and selling of the Property at one time or another:
 - i. Ross Mallory, Jones Land LaSalle Hotels, in 2008
 - ii. Ron Muzii, HREC, in 2010 & 2011
 - iii. Ahmed Khabani, Marcus & Millichap, 2012
- c. The Property has been shown to prospective buyers over the years on more than a dozen occasions. However, the Defendant does not have specific dates sufficient to respond to this Interrogatory.
- d. Defendant has received offers in the following amounts:
 - i. \$13,500,000.00
 - ii. \$13,250,000.00
 - iii. \$18,000,000.00
 - iv. \$16,500,000.00
- e. CRP/SP Lauderdale, LLC entered into a Purchase Agreement with Defendant on 09/02/2010. There is a current offer by a broker representing the prospective buyer, however, Defendant does not have information as of yet on the specific buyer to provide the name to the Plaintiff.

13. These are matters that Defendant is still seeking discovery with respect to, which will be proven at trial.

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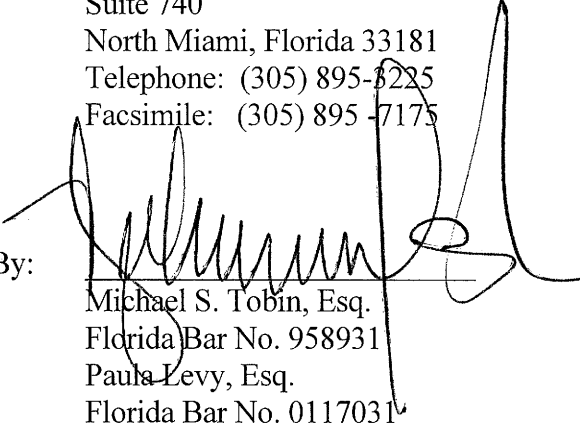
CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was sent this 11 day of September, 2012 to: Brian K. Hole, Esq., Holland & Knight LLP, 515 E. Las Olas Blvd., Suite 1200, Fort Lauderdale, FL 33301-4249; E-Mail: brian.hole@hkllaw.com.

ROTHMAN & TOBIN, P.A.

11900 Biscayne Boulevard
Suite 740
North Miami, Florida 33181
Telephone: (305) 895-8225
Facsimile: (305) 895-7175

By:


Michael S. Tobin, Esq.
Florida Bar No. 958931
Paula Levy, Esq.
Florida Bar No. 0117031

VERIFICATION

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

Remo Polsell
OCEAN 4660, LLC

By: Remo Polsell

Its: Managing Member

STATE OF Michigan)
: ss.
COUNTY OF Oakland)

The foregoing instrument was acknowledged before me this 7th day of November, 2012, by Remo Polsell, as Managing Member of Ocean 4660, LLC, who is personally known to me or has produced _____ as identification.

Anna M Sigurdson
Notary Public

Name of Notary Printed:

Anna M. Sigurdson

My commission expires: 4/26/19

(NOTARY SEAL)

My commission number is:

#11340993_v1