

FILED  
U.S. DISTRICT COURT

2015 FEB 20 A 10:35

DISTRICT OF UTAH

BY: \_\_\_\_\_  
DEPUTY CLERK

Peggy Hunt (Utah State Bar No. 6060)  
Chris Martinez (Utah State Bar No. 11152)  
Jeffrey M. Armington (Utah State Bar No. 14050)

**DORSEY & WHITNEY LLP**

136 South Main Street, Suite 1000

Salt Lake City, UT 84101-1685

Telephone: (801) 933-7360

Facsimile: (801) 933-7373

Email: [hunt.peggy@dorsey.com](mailto:hunt.peggy@dorsey.com)

[martinez.chris@dorsey.com](mailto:martinez.chris@dorsey.com)

[armington.jeff@dorsey.com](mailto:armington.jeff@dorsey.com)

*Attorneys for Court-Appointed Receiver R. Wayne Klein*

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

<p>R. WAYNE KLEIN, as Receiver of National Note of Utah, LC <i>et al.</i>,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>LARRY L. ADAMS, <i>et al.</i>,</p> <p style="text-align: right;">Defendant.</p>	<p style="text-align: center;"><b>DEFAULT JUDGMENT</b></p> <p style="text-align: center;">Civil No. 2:14-cv-00614</p> <p style="text-align: center;">The Honorable Bruce S. Jenkins</p>
--	---

Pursuant to Fed. R. Civ. P. 55, the Clerk of the Court has certified that (1) Defendant Mark Cardone ("Defendant") was properly served with process in this action; (2) Defendant has failed to appear, plead, answer, or otherwise respond in this action; and (3) the time allowed by law for Defendant to plead, answer, or otherwise respond in this action has expired.

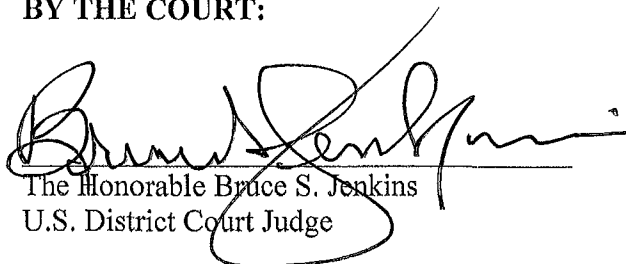
Accordingly, judgment by default is appropriate against Defendant in favor of Plaintiff.

Thus, based on applicable law, the record in this case, and for good cause shown, the Court hereby **DECLARES** that the Assignments of Beneficial Interest in Trust Deed For Security

dated April 6, 2007, and attached hereto as Exhibit 1, is void, invalid, and of no legal effect.

Dated this 23 day of January, 2015.

**BY THE COURT:**



The Honorable Bruce S. Jenkins  
U.S. District Court Judge

# **EXHIBIT 1**

ENT 50747:2007 PG 1 of 4  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2007 Apr 06 2:15 PM FEE 58.00 BY CS  
RECORDED FOR NATIONAL NOTE OF UTAH, LC  
ELECTRONICALLY RECORDED

When recorded, return to:  
**Mark or Lisa R. Cardone**  
2047 East 9060 South  
Sandy, UT 84093

ASSIGNMENT OF BENEFICIAL INTEREST IN TRUST DEED  
FOR SECURITY

For value received, and to secure the payment of the indebtedness described below, the undersigned Assignor, National Note of Utah, L.C., hereby assigns to the Assignee(s), **Mark or Lisa R. Cardone**, an undivided **\$825,000.00** of Assignor's right, title and interest in and to the beneficial interest in that certain Trust Deed dated March 31, 2005, between Expressway Business Park, LLC, A Utah limited liability company, as Trustor(s), in favor of Pro-Title and Escrow, Inc., as Trustee, for the benefit of National Note of Utah LC, as Beneficiary, recorded April 1, 2005, as Entry No. 034529:2005, in the official records of the Recorder of Utah County, State of Utah against the following described real property in Utah County, State of Utah:

See Attached Exhibit "A"

which has the address of **Expressway Business Park and Discount Mall, 1227 East Expressway Lane, Spanish Fork, Utah 84062**

Parcel No. **38:377:0205, 38:377:0208, 38:377:0213 through 38:377:0222 and 38:400:301 through 38:400:326 plus metes and bounds area.**

Assignor hereby represents the following to Assignee(s):

1. The Assignor has duly performed all of the conditions imposed on Assignor under said Trust Deed and the related Trust Deed Note.
2. The Trust Deed is now in full force and effect, and the unpaid balance owing on the Trust Deed Note secured by the Trust Deed is \$3,977,000.00 as of January 1, 2007.
3. The Trust Deed is assignable.

This assignment is given for the purpose of securing payment of the indebtedness evidenced by a Promissory Note dated **April 1, 2007**, in the principle sum of **\$824,460.27** in which Assignor is the maker, payable to the order of Assignee, at the times and in the manner and with interest as therein set forth.

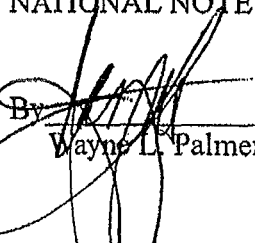
As long as there is no default in the obligations of Assignor to Assignee in the Promissory Note from Assignor to Assignee, Assignor shall continue to collect all payments paid under the Trust Deed Note secured by the Trust Deed hereby assigned and shall have the right to enforce all remedies against the Trustors as makers of the Trust Deed Note if there is a default under the Trust Deed and/or the Trust Deed Note.

If there is any default in the payments due from Assignor to Assignee under the Promissory Note between them, and the default continues for more than sixty (60) days after written notice of said default from Assignee to Assignor, then Assignee shall have the right to give notice directly to the Trustor(s) under the Trust Deed, as makers of the Trust Deed Note secured by the Trust Deed, to thereafter make all payments [or a proportionate amount of the payments if this is an assignment of a partial interest] under the Trust Deed Note directly to Assignee until the payment default in the Promissory Note between Assignor and Assignee is fully and completely cured, including but not limited to the payment of all attorneys fees and costs incurred by Assignee in giving notice of default, directing Trustors to make payments directly to Assignee and otherwise enforcing the rights of Assignee against Assignor under the Trust Deed and Trust Deed Note.

In addition to having the right to collect payments directly from the Trustors in the event of an uncured default under the Promissory Note between Assignor and Assignee as herein provided, if the Trustors default under the Trust Deed and/or the Trust Deed Note during the time of the uncured default between Assignor and Assignee, Assignee shall have the right to direct the Trustee to undertake foreclosure and all other available legal and equitable proceedings under the Trust Deed, for the benefit of Assignee, and, if Assignee deems such action advisable, to substitute a new Trustee under the Trust Deed to take such actions.

Dated April 10, 2007.

NATIONAL NOTE OF UTAH, L.C.

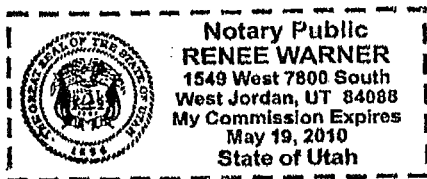
By  \_\_\_\_\_  
Wayne L. Palmer, Manager

STATE OF UTAH                         )  
   ss  
COUNTY OF SALT LAKE    )

On the 10<sup>th</sup> day of April, 2007, personally appeared before me Wayne L. Palmer, the Manager of National Note of Utah, L.C., a Utah limited liability company, the signer of the foregoing instrument, who being by me duly sworn, acknowledged to me that he executed the same for and on behalf of said limited liability company.

SEAL:

  
Notary Public



## EXHIBIT "A"

Parcel 1: (deleted)

Parcel 2: Units 205, 208, 213, 214, 215, 216, 217, 218, 219, 220, 221, and 222, contained within Phase 2, EXPRESSWAY BUSINESS PARK CONDOMINIUMS, Spanish Fork, Utah, as the same is identified in the Recorded Survey Map recorded in Utah County, Utah, on October 12, 2005, as Entry No. 116066, and Map Filing No. 11326-126, (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions, Restrictions and Easements recorded in Utah County, Utah, as Entry No. 132860:2004, (as said Declaration may have heretofore been amended or supplemented).

Together with an undivided ownership interest in and to the Common Areas and Facilities which are appurtenant to said Unit as more particularly described in said Declaration (as said Declaration may have heretofore been amended or supplemented.)

Parcel 3: Units 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325 and 326, contained within Phase 3, EXPRESSWAY BUSINESS PARK CONDOMINIUMS, Spanish Fork, Utah, as the same is identified in the Recorded Survey Map recorded in Utah County, Utah, on December 5, 2006, as Entry No. 163806, and Map Filing No. 12006, (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions, Restrictions and Easements recorded in Utah County, Utah, as Entry No. 163807:2006, (as said Declaration may have heretofore been amended or supplemented).

Together with an undivided ownership interest in and to the Common Areas and Facilities which are appurtenant to said Unit as more particularly described in said Declaration (as said Declaration may have heretofore been amended or supplemented.)

## EXHIBIT "A" CONTINUED

Parcel 3: Beginning at a point which is North 00 deg 18'06" West along the Section line 95.74 feet and East 33.00 feet from the West quarter corner of Section 17, Township 8 South, Range 3 East, Salt Lake Base and Meridian; said point of beginning is on the proposed East right of way line of 1100 East Street and is 33.00 feet East of the Section line, thence from said point of beginning North 00 deg 18'06" West along the West right of way line of 1100 East Street 815.48 feet to the common boundary with Willowbrook Subdivision; thence along said common boundary North 89 deg 41'54" East 827.00 feet; thence continuing along said common boundary with Willowbrook Subdivision South 00 deg 18'06" East 216.50 feet; thence North 89 deg 41'54" East 460.00 feet; thence North 00 deg 18'06" West 633.33 feet; thence leaving the common boundary with Willowbrook Subdivision and running North 52 deg 30'10" East 283.42 feet; thence North 65 deg 15'00" East 15.36 feet; thence South 00 deg 37'07" East 834.96 feet; thence North 89 deg 19'55" East 583.01 feet to the Highway West right of way line for Highway 156; thence along said right of way line South 34 deg 25'32" West 837.47 feet to the intersection with a 20 foot radius curve to the right and along said curve 31.42 feet, said curve has a chord bearing of South 79 deg 25'32" West and a chord distance of 28.28 feet to the North right of way line of Expressway Lane; thence continuing along said North right of way the following calls: North 55 deg 34'28" West 58.42 feet to the intersection of a 500.00 foot radius curve to the left and along said curve 314.16 feet, said curve has a chord bearing and distance of North 73 deg 34'28" West 309.02 feet; thence South 88 deg 25'34" West 1245.35 feet to the intersection with a 20 foot radius curve to the right and along said curve 31.86 feet; the chord bearing and distance of said curve is North 45 deg 56'17" West 28.60 feet to the point of beginning.

LESS AND EXCEPTING from parcel 3 any portion lying within the bounds of the existing Roadway Right of Ways.

ALSO LESS AND EXCEPTING from parcel 3 any portion lying within the bounds of EXPRESSWAY BUSINESS PARK CONDOMINIUMS, Phase 1, according to the official plat thereof on file in the office of the Utah County Recorder.

ALSO LESS AND EXCEPTING from parcel 3 any portion lying within the bounds of EXPRESSWAY BUSINESS PARK CONDOMINIUMS, Phase 2, according to the official plat thereof on file in the office of the Utah County Recorder.

ALSO LESS AND EXCEPTING from parcel 3 any portion lying within the bounds of EXPRESSWAY BUSINESS PARK CONDOMINIUMS, Phase 3, according to the official plat thereof on file in the office of the Utah County Recorder.