

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

CADENCE BANK, N.A.,

Plaintiff,

Case No.

v.

TJC PROPERTIES, LLC, a Florida limited liability
company, PAT COOK CONSTRUCTION, INC., a
Florida corporation, PATRICK J. COOK, and
DARLA W. COOK,

Defendants.

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**COMPLAINT TO FORECLOSE
MORTGAGE AND OTHER RELIEF**

COMES NOW Plaintiff, CADENCE BANK, N.A., as successor by merger to SUNCOAST BANK ("CADENCE BANK") by and through its undersigned counsel, and sues Defendants TJC PROPERTIES, LLC, a Florida limited liability company ("TJC PROPERTIES"), PAT COOK CONSTRUCTION, INC., a Florida limited liability company ("PCC"), PATRICK J. COOK ("P. COOK"), and DARLA W. COOK ("D. COOK"), and alleges:

COUNT I - FORECLOSURE

1. This is an action to foreclose a mortgage and security agreement on real property, personal property and fixtures located in Manatee County, Florida, more particularly described in attached Exhibit "1" ("Property")

2. Plaintiff is a national banking association with offices in Manatee County, Florida.

3. On January 30, 2006, Defendants TJC PROPERTIES, PCC, P. COOK and D. COOK, and SUNCOAST BANK ("ORIGINAL LENDER"), as lender, entered into certain loan transactions, as follows:

A. On January 30, 2006, Defendants TJC PROPERTIES and PCC, executed and delivered to ORIGINAL LENDER an Adjustable Rate Term Note in the original principal amount of \$1,600,000.00 ("Note"), a copy of which is attached as Exhibit "2"; and

B. Defendant TJC PROPERTIES executed and delivered to ORIGINAL LENDER a Construction Mortgage ("Mortgage") securing payment of the indebtedness evidenced by the Note. The Mortgage granted to ORIGINAL LENDER a mortgage lien and security interest in the Property. The Mortgage was recorded on February 1, 2006, in Official Records Book 2098, at Page 4043 of the Public Records of Manatee County, Florida. A copy of the Mortgage is attached as Exhibit "3".

C. Defendant TJC PROPERTIES executed and delivered to ORIGINAL LENDER a Collateral Assignment of Leases, Rents and Profits, dated January 30, 2006 ("Assignment of Rents"), and which was recorded on February 1, 2006 in Official Records Book, 2098, Page 4054 of the Public Records of Manatee County, Florida. A copy of the Assignment of Rents is attached as Exhibit "4".

D. Defendant TJC PROPERTIES executed and delivered to ORIGINAL LENDER a Security Agreement dated January 30, 2006 ("Security Agreement"). A copy of the Security Agreement is attached as Exhibit "5"

D. To perfect the security interest granted in the Mortgage and Security Agreement, a UCC Financing Statement was recorded in Official Records Book 2098, Page 4059 of the Public Records of Manatee County, Florida, as continued by UCC Financing Statement Amendment recorded in Official Records Book 2358, Page 576, of the Public Records of Manatee County, Florida, copies of which are attached as composite Exhibit "6".

E. To perfect the security interest granted in the Mortgage and Security Agreement, a UCC Financing Statement was filed with the Florida Secured Transaction Registry on February 2, 2006, bearing File No. 200601783474, as amended UCC Financing Statement Amendment filed January 10, 2007 bearing File No. 200704546076, and continued by UCC Financing Statement Amendment filed November 3, 2010 bearing File No. 201003498343, copies of which are attached as composite Exhibit "7". The UCC Financing Statements attached as Exhibits "6" and "7" are collectively referred to as the "Financing Statements".

F. Also on January 30, 2006, in order to more fully secure the loan referenced above, Defendants PATRICK J. COOK and DARLA W. COOK (collectively, "Guarantors"), executed and delivered to ORIGINAL LENDER Continuing Guaranty agreements ("Guaranties") of the debt of TJC PROPERTIES and PCC, copies of the Guaranties are attached hereto as composite Exhibit "8".

5. On December 27, 2006, Defendants TJC PROPERTIES, PCC, P. COOK and D. COOK, and CADENCE BANK, N.A. ("CADENCE BANK"), as successor by merger to ORIGINAL LENDER, as lender, entered into certain loan transactions, as follows:

A. Defendants, TJC PROPERTIES and PCC executed and delivered to CADENCE BANK an Increase and Renewal Note dated December 27, 2006 in the original principal amount of \$1,850,000.00 ("Renewal Note"). A copy of the Renewal Note is attached hereto as Exhibit "9."

B. Defendant TJC PROPERTIES executed and delivered to CADENCE BANK a Receipt for Future Advance under Mortgage Providing for Future Advances ("First Modification") dated December 27, 2006, and recorded December 28, 2005 in Official Records Book 2176, at Page 3979 of the Public Records of Manatee County, Florida. A copy of the First Modification is attached as Exhibit "10".

C. Defendant TJC PROPERTIES executed and delivered to CADENCE BANK a Reaffirmation of Security Agreement dated December 27, 2006 ("Security Agreement Reaffirmation"), a copy of which is attached as Exhibit "11".

D. Defendants PATRICK J. COOK and DARLA W. COOK (collectively, "Guarantors"), executed and delivered to CADENCE BANK Reaffirmation of Continuing Guaranty agreements ("Reaffirmations of Guaranties") of the debt of TJC PROPERTIES and PCC, copies of which are attached hereto as composite Exhibit "12".

6. The Note, Mortgage, Assignment of Rents, Security Agreement, Guaranties, Financing Statements, Renewal Note, First Modification, Reaffirmation of Security Agreement and Reaffirmations of Guaranties are hereafter collectively referred to as the "Loan Documents."

7. CADENCE BANK, N.A., as successor by merger to SUNCOAST BANK, is the owner and holder the Loan Documents. A copy of the Articles of Merger is attached hereto as Exhibit "13".

8. The Loan Documents are in default. Defendant TJC PROPERTIES, PCC and the Guarantors defaulted under the Loan Documents by failing to pay the payment due on the Note on February 1, 2013, and all subsequent principal and interest payments. Plaintiff, CADENCE BANK,, gave notice of the default to TJC PROPERTIES, PCC, P. COOK and D. COOK by letter dated April 11, 2013, and TJC PROPERTIES, PCC, P. COOK and D. COOK failed to timely cure such default. A copy of the default notice is attached as Exhibit "14".

9. Plaintiff declares the full amounts payable under the Loan Documents to be now due.

10. In order to satisfy the Loan Documents under the Note, CADENCE BANK must be paid ONE MILLION SIX HUNDRED FIVE THOUSAND FIFTEEN AND 88/100 DOLLARS (\$1,605,015.88) that is due on principal, late charges, accrued unpaid interest, and all costs of collection including court costs, title and UCC search expenses for ascertaining proper parties to this action and attorneys' fees and costs.

11. During the pendency of this action, Plaintiff may be required to advance and pay ad valorem taxes, insurance premiums and other costs to protect Plaintiff's security in the Property. In the event same are paid by Plaintiff, Plaintiff is entitled to reimbursement therefor in accordance with the terms of the Mortgages.

12. The Property is now owned by TJC PROPERTIES who holds possession subject to the lease interests of the tenants on the Property..

13. All conditions precedent to Plaintiff bringing this action have been met or have occurred.

14. Plaintiff has retained the law firm of Greene Hamrick Quinlan Schermer & Esposito, P.A., to represent it in connection with this matter and has agreed to pay said firm a reasonable attorneys' fee for their services herein, together with reimbursement of costs expended.

15. The Property or some portion thereof may be rented, leased or sub-leased and is generating rents, income, issues, profits, proceeds and revenues (collectively, "Rent"). Plaintiff hereby perfects its interest in those rents and hereby again demands payment of all Rents received from the Property pursuant to the Assignment of Rents, Mortgages and other Loan Documents.

16. Defendant, PAT COOK CONSTRUCTION, INC., may claim an interest in the Property by virtue of possession of a portion of the Property having an address of 1904 Manatee Avenue West, Bradenton, FL 34205, under rental or lease agreement.

17. The claim, lien, right, title and interest of Defendants is subject, subordinate and inferior to the right, title, interest and lien of the Mortgage.

DEMAND FOR JUDGMENT

Plaintiff respectfully demands judgment as follows:

A. That the Court ascertain the amount of money due Plaintiff for principal and interest on the Renewal, and for abstracting, taxes, expenses and costs, including its attorneys' fees and costs and court costs, which Plaintiff is entitled to recover in this action.

B. That the Court find and order that Plaintiff has a lien upon the Property for the sum of money found to be due Plaintiff.

C. That the Court find and order that Plaintiff's mortgage and security interest lien is superior and paramount to all liens, rights, title and interest of all Defendants or any party claiming by, through or under them, and that such liens, rights, title or interest of the defendants or any party claiming by, through or under them be forever barred and foreclosed.

D. That the Court take an accounting of the sums due Plaintiff under the Renewal Note and other Loan Documents, and, if the sums are not paid within a time set by the Court, that a judgment of foreclosure of the Loan Documents be entered and that the Court order the Property to

be sold by the Clerk of the Court to satisfy Plaintiff's mortgage and security interest liens in accordance with the provisions of Section 45.031, Florida Statutes.

E. That the Court order delivery and possession of the Property to the foreclosure sale purchaser upon proof made of the demand or refusal of any defendant to surrender said

possession, and the Clerk of the Court be directed to issue a Writ of Possession without further order of the Court.

F. That the Court enter an order requiring Defendant TJC PROPERTIES to deposit all Rents from the Property directly to Plaintiff or in the Registry of the Court pending conclusion of this action pursuant to the Assignment of Rents, and Section 697.07, Florida Statutes.

G. That the Court retain jurisdiction of this action to make any and all further orders and judgments as may be necessary and proper including, without limitation, to determine plaintiff's entitlement to and amount of a deficiency judgment against the Defendants.

COUNT II - SUIT ON GUARANTY

18. This is an action for damages in excess of Fifteen Thousand and 00/100 (\$15,000.00) Dollars against Defendants PATRICK J. COOK and DARLA W. COOK, for failure to pay under the Guaranty, and Reaffirmations of Guaranties (collectively, Guaranties").

27. Plaintiff incorporates herein paragraphs 2 through 14 as if set forth fully herein.

28. Defendants P. COOK and D. COOK have refused and failed to pay the amount owed pursuant to the Loan Documents.

WHEREFORE, Plaintiff prays for damages against Defendants PATRICK J. COOK and DARLA W. COOK, including interest, costs, attorneys' fees and for such other relief as the Court may deem proper.

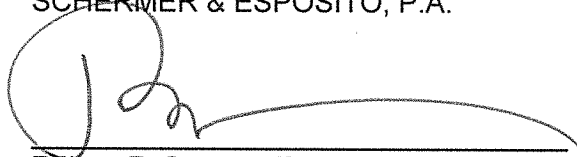
DESIGNATION OF E-MAIL ADDRESSES

Pursuant to Florida Rule of Judicial Administration 2.516(b)(1)(A), Robert F. Greene, Esquire, and the law firm of Greene Hamrick Quinlan Schermer & Esposito, P.A., as counsel for Plaintiff, hereby designate the following email addresses to be used for service of all court papers in this proceeding:

Primary: rgreene@manateelegal.com

Secondary: jsantiago@manateelegal.com

GREENE HAMRICK QUINLAN
SCHERMER & ESPOSITO, P.A.

A handwritten signature in black ink, appearing to be 'R. Greene', written over a horizontal line.

Robert F. Greene, Esquire
Florida Bar No. 252832
Post Office Box 551
Bradenton, Florida 34206
Telephone: (941) 747-1871
Facsimile: (941) 747-2991
rgreene@manateelegal.com
sdavis@manateelegal.com
Attorneys for Plaintiff