

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

IN THE LAKE SUPERIOR COURT  
ROOM NUMBER ONE  
SITTING AT HAMMOND, INDIANA

996438

ENSLEN, ENSLEN & MATTHEWS, )  
an Indiana Partnership, )  
 )  
Plaintiff )  
 )  
-vs- )  
 )  
FAMILY COMMERCE CORPORATION, )  
an Indiana Corporation, )  
 )  
Defendant )

CAUSE NO. 45D01-8807-CP-00623-0

FILED IN OPEN COURT

AUG 09 1988

JUDGMENT

*Robert E. Carter*  
CLERK LAKE SUPERIOR COURT

This matter having come before the Court for trial upon Plaintiff's, ENSLEN, ENSLEN & MATTHEWS, a Partnership's, Complaint for Declaratory Relief against the Defendant, FAMILY COMMERCE CORPORATION, an Indiana Corporation; Plaintiff appears pro se, Defendant appears in person/or by its Secretary and Treasurer, GEORGE B. HOLLE, and its counsel, EDWIN T. BROWN. Witnesses sworn, evidence heard. The Court, being duly advised now finds and decrees as follows:

1. ENSLEN, ENSLEN & MATTHEWS is a partnership having principal place of business in Lake County, Indiana.
2. FAMILY COMMERCE CORPORATION is a corporation, incorporated under the laws of the State of Indiana.
3. ENSLEN, ENSLEN & MATTHEWS has no ownership interest in the stock or assets of FAMILY COMMERCE CORPORATION at the present time, nor has it had such interest in the past.
4. No partners, associates, or employees of ENSLEN, ENSLEN & MATTHEWS have any ownership interest in the stock or assets of FAMILY COMMERCE CORPORATION at the present time, nor has it had such interest in the past.

LILLIAN A. BLASTICK  
RECORDER LAKE COUNTY  
CROWN POINT, INDIANA 46307  
SEP 9 10 12 AM '88  
FILED IN INDIANA

FILED

AUG 31 1988

*Carol N. Anton*  
AUDITOR LAKE COUNTY

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LEGAL DESCRIPTION

**PARCEL I:**

That part of Lot 1 of the Original United States Government Survey of Section-32, Township 37 North, Range 9 West of the Second Principal Meridian, described as follows: Beginning at a point which is 76 feet East of the aforesaid Lot 1 and 452.70 feet South of the South line of the 100.0 foot right-of-way conveyed to the Western Indiana Railway Company by deed dated July 25, 1896 and recorded in the Office of the Recorder of Lake County, Indiana, in Deed Record 79, pages 312 and 313, now controlled by the Elgin, Joliet and Eastern Railway Company; thence South on a line parallel to and 76 feet East of the West line of Lot 1, 1068.87 feet; thence South 89° 56' 28" East 20.72 feet; thence North 44° 35' 52" East 44.29 feet; thence North 53° 08' 18" East 68.97 feet; thence North 46° 59' 32" East, 122.23 feet; thence North 28° 55' 00" East 116.53 feet; thence North 40° 46' 43" East 52.04 feet; thence North 22° 40' 01" East 228.61 feet; thence North 28° 35' 36" East 244.69 feet; thence North 30° 27' 31" East, 140.31 feet; thence North 30° 25' 14" East, 101.22 feet; thence North 37° 30' 53" East 154.05 feet to a point, said point being 452.70 feet South of the South line of the E. J. and E. Railroad; thence North 89° 04' 00" West, 703.00 feet to the place of beginning, all in Lake County, Indiana. Key No. 31-41-16.

**PARCEL II:**

That part of Lot 1 of the Original United States Government Survey of Section 32, Township 37 North, Range 9 West of the Second Principal Meridian, described as follows: Beginning at a point which is 76 feet East of the aforesaid Lot 1, and the South line of the 100.0 foot right-of-way conveyed to the Western Indiana Railway Company by deed dated July 25, 1896 and recorded in the Office of the Recorder of Lake County, Indiana, in Deed Record 79, pages 312 and 313, now controlled by the Elgin, Joliet and Eastern Railway Company; thence South 0° 03' 32" East, a distance of 452.70 feet; thence South 89° 04' 00" East, a distance of 50.0 feet; thence North 0° 03' 32" West, a distance of 452.70 feet to the South line of the E. J. and E. Railroad Company; thence West along said South right-of-way line, a distance of 50.0 feet to the place of beginning, all in Lake County, Indiana. Key No. 31-39-13.

5. No partner, associate or employee of ENSLEN, ENSLEN & MATTHEWS maintains any position as officer or director of FAMILY COMMERCE CORPORATION at the present time, nor has anyone in the past maintained such position.

6. On and prior to July 16, 1986, FAMILY COMMERCE CORPORATION was the owner of the real estate and improvements located in East Chicago, Indiana, and described as follows:

SEE ATTACHED LEGAL DESCRIPTION ON PAGE 1-A.

7. That on July 16, 1986, FAMILY COMMERCE CORPORATION executed a deed to the subject property described herein in favor of ENSLEN, ENSLEN & MATTHEWS as security for attorney's fees incurred by it to ENSLEN, ENSLEN & MATTHEWS and for fees to be incurred as a result of ENSLEN, ENSLEN & MATTHEWS's continuing representation of FAMILY COMMERCE CORPORATION.

8. That ENSLEN, ENSLEN & MATTHEWS accepted the said deed as such security, and for no other purpose.

9. That ENSLEN, ENSLEN & MATTHEWS, as further evidence of said deed standing as security for attorney's fees and for no other purpose, performed no act of control over the subject real estate, nor exercised any act of dominion over the said real estate, nor paid any taxes, assessments or other consideration normally and customarily associated with the purchase of real property.

10. That Defendant, FAMILY COMMERCE CORPORATION, has admitted in its Response to Requests for Admissions of Fact that the purpose of the subject deed was as a mortgage evidencing security for legal services rendered and to be rendered by ENSLEN, ENSLEN & MATTHEWS to FAMILY COMMERCE CORPORATION.

Upon the facts so found, the Court concludes the law to be as follows:

1. Whether a deed, absolute on its face, is taken to be a mortgage depends upon the intent of the parties at the time of the document's execution.

2. The law will recognize and regard a deed to be a mortgage when the parties intended the deed to be merely security for the payment of a debt and/or the performance of services yet to be performed.

3. The intent of the parties may be shown by their express statements, as well as their actions and conduct in dealing with the subject property and the circumstances of the parties at the time of the transaction.

IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED that the Corporate Deed dated July 16, 1986, and recorded as Document No. 866070 in the Recorder's Office of Lake County, wherein the Grantor is FAMILY COMMERCE CORPORATION and the Grantee is ENSLEN, ENSLEN & MATTHEWS (with legal description as stated in Finding No. 6 above), be, and the same is, hereby declared to be a mortgage evidencing security for the payment of legal services in favor of ENSLEN, ENSLEN & MATTHEWS, a partnership, and no more, and that said Corporate Deed did not convey title in and to the subject premises to ENSLEN, ENSLEN & MATTHEWS, an Indiana Partnership.

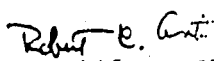
IT IS FURTHER ORDERED AND DECREED that a copy of this Judgment filed with the Recorder's Office of Lake County, Indiana, shall reform said Deed to the status of a Mortgage as a matter of public record.

ALL OF WHICH IS SO ORDERED, ADJUDGED AND DECREED this 9<sup>th</sup> day of August, 1988.

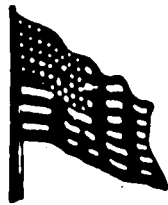
  
JUDGE, LAKE SUPERIOR COURT ROOM ONE

**FILED IN OPEN COURT**

AUG 09 1988

  
CLERK LAKE SUPERIOR COURT

The United States of America



STATE OF INDIANA, COUNTY OF LAKE, ss:

I, the undersigned, Clerk of the Lake SUPERIOR Court of Lake County, and the keeper of the records and files thereof, in the State aforesaid, do hereby certify, that the above and foregoing is a full, true, correct and complete copy of the Order of Court dated August 9, 1988 in Cause No. 45-D01-8807-CP-00623-0 entitled Enslin, Enslin & Matthews vs. Family Commerce Corp., as fully as the same appears of record in my office as such Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at my office in Hammond, Indiana in the said County, this 9th day of August, A. D., 1988

Robert C. Antich

Clerk Lake SUPERIOR Court

By Cynthia Bardine Deputy