

NOTICE OF LIEN

TO:

Michael A. Pannos and Margaret T. Pannos
3810 W. 90th Court
Merrillville, IN 46410

RETURN TO:

Marcellus M. Lebbin, #25674-71
May Oberfell Lorber
4100 Edison Lakes Parkway, Suite 100
Mishawaka, IN 46545



2010 060797

THE UNDERSIGNED INTENDS TO HOLD A LIEN UPON THE FOLLOWING DESCRIBED PROPERTY:

Lot 19 in Marian Woods, Unit 2, as per plat thereof, recorded in Plat Book 36, Page 58, in the Office of the Recorder of Lake County, Indiana.

Parcel No.: 45-12-30-401-005.000-030

SAID PROPERTY IS COMMONLY KNOWN AS 3810 W. 90TH COURT, MERRILLVILLE, INDIANA 46410.

For all sums asserted by the Judgment and Decree Foreclosing Mortgage entered on June 30, 2010 by the Marshall Circuit Court in favor of Mellon Trust of New England, N.A. f/k/a Boston Safe Deposit and Trust Company, n/k/a BNY Mellon, National Association and against Michael A. Pannos and Margaret Pannos in the amount of \$1,664,274.77, plus pre-judgment interest of \$13,099.50 from 4/16/10 through June 30, 2010, plus attorney fees and expenses of \$31,197.13, court costs, expenses, and post-judgment interest, a certified copy of the Judgment and Decree Foreclosing Mortgage is attached hereto, marked Exhibit "A" and made a part hereof.

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
2010 OCT 20 AM 8:43
NOT RECORDED

MELLON TRUST OF NEW ENGLAND, N.A.,
F/K/A BOSTON SAFE DEPOSIT AND TRUST
COMPANY, N/K/A BNY MELLON, NATIONAL
ASSOCIATION

By: Robert J. DeChristofaro
Robert J. DeChristofaro

Its: Vice President

AMOUNT \$ 30⁰⁰
CASH _____ CHARGE _____
CHECK # 30336
OVERAGE 2⁰⁰
COPY _____
NON-COM 1⁰⁰ ✓
CLERK Rm

STATE OF INDIANA)
) SS:
COUNTY OF MARSHALL)

MARSHALL CIRCUIT COURT
CAUSE NO. 50C01-0908-PL-39

MELLON TRUST OF NEW)
ENGLAND, N.A. f/k/a BOSTON SAFE)
DEPOSIT AND TRUST COMPANY,)
n/k/a BNY MELLON,)
NATIONAL ASSOCIATION)

Plaintiff,)

v.)

MICHAEL A. PANNOS, MARGARET)
PANNOS, THE MARGARET LOUISE)
PANNOS CULVER QUALIFIED)
PERSONAL RESIDENCE TRUST, THE)
MICHAEL A. PANNOS CULVER)
QUALIFIED PERSONAL RESIDENCE)
TRUST, SALIN BANK AND TRUST)
COMPANY and MARSHALL COUNTY)
TREASURER)

Defendants.)

FILED
IN OPEN COURT
JUN 30 2010
Julie A. Ford
CLERK OF MARSHALL CIRCUIT COURT
MARSHALL COUNTY, STATE OF INDIANA

JUDGMENT AND DECREE FORECLOSING MORTGAGE

This matter came before the Court upon Plaintiff, Mellon Trust of New England, N.A., f/k/a Boston Safe Deposit and Trust Company, n/k/a BNY Mellon, National Association (hereinafter "BNYM"), and Defendant/Cross-Plaintiff, Salin Bank and Trust Company's, ("Salin") Motion for Summary Judgment and evidence presented in support thereof. The Court, after considering all of the evidence relevant to the claims made in this lawsuit makes the following findings of fact and conclusions of law:

1. This Court has jurisdiction of the parties and subject matter of this action.

EXHIBIT A

2. The Court finds that on March 29, 2010, after sending the Letters and Notice from the Indiana Housing and Community Development Authority pursuant to I.C. §32-30-10.5-8, Plaintiff BNYM filed its Second Amended Complaint for Foreclosure and Other Relief (“Amended Complaint”) as Cause Number 50C01-0908-PL-39 in the Marshall Circuit Court, Marshall County, Indiana.

3. The Amended Complaint sought to foreclose upon BNYM’s mortgage from mortgagor’s Michael A. Pannos and Margaret Pannos’ on real property commonly known as 124 South Shore Drive, Culver, Marshall County, Indiana 46511 and more particularly described as Lots Number Fifteen (15) and Sixteen (16) in the Daugherty-Farrar Second Addition to Lake Maxinkuckee in Section Twenty-eight (28), Township Thirty-two (32) North, Range One (1) East, situated in Union Township, Marshall County, Indiana (the “Real Property”);

4. Named in the Amended Complaint were Michael A. Pannos, Margaret Pannos, the Margaret Louise Pannos Culver Qualified Personal Residence Trust, the Michael A. Pannos Culver Qualified Personal Residence Trust, the Marshall County Treasurer, and Salin, another lien holder, to assert any interests they have in the Real Property.

5. Salin filed its Amended Crossclaim on or about March 29, 2010.

6. Defendants Michael A. Pannos, Margaret Pannos, the Margaret Louise Pannos Culver Qualified Personal Residence Trust, the Michael A. Pannos Culver Qualified Personal Residence Trust filed their answers to the prior Complaint on or about September 23, 2009, but never responded to the Letters and Notice from the Indiana Housing and Community Development Authority pursuant to I.C. §32-30-10.5-8.

6. On or about April 20, 2010, BNYM and Salin filed a joint Motion for Summary Judgment.

7. In October 2009, BNYM paid property taxes on the Real Property to the Marshall County Treasurer in the amount of \$78,713.20.

8. As of April 16, 2010, Michael A. Pannos and Margaret Pannos, by virtue of a promissory note executed on May 9, 2003, and their default thereon, were indebted to BNYM in the amount of \$1,664,274.77. In addition, Michael A. Pannos and Margaret Pannos are indebted to BNYM for pre-judgment interest at the rate of \$174.66 per diem from April 16, 2010 through the date of judgment, attorneys' fees, costs, and expenses accruing from the date of entry of this Judgment.

9. As of October 19, 2009, Michael A. Pannos and Margaret Pannos, by virtue of a promissory note executed on May 1, 2007, and their defaults thereon, were indebted to Salin in the amount of \$708,912.45 plus court costs, pre-judgment interest at the rate of \$110.25 per diem from October 19, 2009 through the date of judgment, and any additional expenses accruing from the date of entry of this Judgment.

10. Michael A. Pannos and Margaret Pannos' obligations to the Marshall County Treasurer for unpaid real estate taxes, interest and penalties are a first priority lien on the Real Property, in favor of the Marshall County Treasurer.

11. Michael A. Pannos and Margaret Pannos' obligations to BNYM are secured by a first priority mortgage lien on the Real Property by virtue of a May 9, 2003 Mortgage and recorded on May 27, 2003 as Document No. 200305570 with the Marshall County Recorder's Office.

12. Michael A. Pannos and Margaret Pannos' obligations to Salin are secured by a second priority mortgage lien on the Real Property by virtue of a Mortgage recorded on September 5, 2000 as Document No. 200006233 with the Marshall County Recorder's Office.

13. Though Salin's mortgage lien in the Real Property has priority ahead of BNYM's mortgage lien in the Real Property by virtue of its earlier recording, Salin had previously agreed to subordinate its mortgage liens in the Real Property to BNYM as memorialized by a Subordination Agreement recorded on May 27, 2003 as Document No. 200305571 with the Marshall County Recorder's Office.

14. That on February 5, 2010 Defendants Michael A. Pannos, Margaret Pannos, the Michael A. Pannos Culver Qualified Personal Residence Trust, and the Margaret Pannos Culver Qualified Personal Residence Trust were given additional notice pursuant to I.C. §32-30-10.5-8 via certified mail, to which no response was given.

15. That on March 23, 2010 a Second Amended Complaint was filed satisfying the notice requirements of I.C. §32-30-10.5-8.

IT IS THEREFORE AGREED, ORDERED, ADJUDGED AND DECREED by the parties and by this Court that the Third-Party Defendant Marshall County Treasurer shall have and recover of and from Defendants Michael A. Pannos and Margaret Pannos the amount of any unpaid taxes plus prejudgment interest, court costs and post-judgment interest and any additional expenses and fees accruing from the date of entry of this Judgment.

IT IS THEREFORE AGREED, ORDERED, ADJUDGED AND DECREED by the parties and by this Court that Plaintiff Mellon Trust of New England, N.A., f/k/a Boston Safe Deposit and Trust Company, n/k/a BNY Mellon, National Association shall have and recover of and from Defendants Michael A. Pannos and Margaret Pannos the amount of \$1,664,274.77, plus pre-judgment interest in the amount of \$174.66 per day from April 16, 2010 to the date of this Judgment, attorneys' fees, court costs, expenses, post-judgment interest, and any additional expenses and fees accruing from the date of entry of this Judgment. BNYM shall submit

evidence of the amount of the attorney fees, costs, and expenses incurred in collection of the indebtedness within ten (10) days of this Order and such amount, as the Court finds reasonable, will be added to BNYM's judgment;

IT IS THEREFORE AGREED, ORDERED, ADJUDGED AND DECREED by the parties and by this Court that Defendant/Cross-claimant Salin Bank and Trust Company shall have and recover of and from Defendants Michael A. Pannos and Margaret Pannos the amount of \$708,912.45, plus pre-judgment interest in the amount of \$110.25 per day from October 19, 2009 to the date of this Judgment, attorneys' fees, court costs, post-judgment interest, and any additional expenses and fees accruing from the date of entry of this Judgment. Salin shall submit evidence of the amount of the attorney fees and expenses incurred in collection of the indebtedness within ten (10) days of this Order and such amount, as the Court finds reasonable, will be added to Salin's judgment;

IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED that based on the foregoing, that an **in rem judgment** is hereby entered in favor of the Marshall County Treasurer for any unpaid taxes on the Real Property, plus prejudgment interest, court costs and post-judgment interest and any additional expenses and fees accruing from the date of entry of this Judgment.

IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED that based on the foregoing, that an **in rem judgment** and an **in personam judgment** is hereby entered in favor of BNYM and against Defendants Michael A. Pannos and Margaret Pannos, jointly and severally, in the sum of \$1,664,274.77, plus pre-judgment interest in the amount of \$174.66 per day from April 16, 2010 to the date of this Judgment, attorneys' fees, costs, expenses, post-

judgment interest, and any additional expenses and fees accruing from the date of entry of this Judgment.

IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED that based on the foregoing, that an **in rem judgment** and an **in personam judgment** is hereby entered in favor of Salin and against Defendants Michael A. Pannos and Margaret Pannos, jointly and severally, in the amount of \$708,912.45, plus pre-judgment interest in the amount of \$110.25 per day from October 19, 2009 to the date of this Judgment court costs and post-judgment interest and any additional expenses and fees accruing from the date of entry of this Judgment.

IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED by the parties and this Court that the tax lien of the Marshall County Treasurer and the mortgage liens of BNYM and Salin are, and the same be, hereby foreclosed against Michael A. Pannos and Margaret Pannos, and all persons claiming by, under or through them, in and to the Real Property, including the Margaret Louise Pannos Culver Qualified Personal Residence Trust and the Michael A. Pannos Culver Qualified Personal Residence Trust, and that the equity of redemption of said Defendants be, and the same are, hereby forever barred and foreclosed, and that said described Real Property and all right, title, estate, interest and claims of said Defendants, and all persons claiming by, under or through them, in and to such Real Property or so much thereof as may be necessary for that purpose, be sold by the Sheriff of Marshall County as lands are sold on execution and in accordance with the Acts of the General Assembly of Indiana for 1931, as amended, as a sale on foreclosure, and that said sale is to be made without any relief whatsoever from valuation and appraisal laws.

IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED by the parties and this Court that the Real Property shall be sold by the Sheriff of Marshall County to

satisfy the sums found to be due to the Marshall County Treasurer, BNYM and Salin, as soon as said sale can be had under the laws of this jurisdiction governing the sale of mortgaged property, a proper deed or deeds shall be issued according to law, to the purchaser at said sale, and BNYM be and is hereby empowered to bid for the Real Property or any part thereof with the indebtedness due to it, and Salin is hereby empowered to bid for the Real Property or any part thereof with the indebtedness due to it, after BNYM's liens and/or judgment are satisfied, said sale to be made without relief from valuation and appraisal laws.

The proceeds arising from the sale of said Real Property shall be applied as follows: **First**, to Marshall County Treasurer in an amount sufficient to satisfy its judgment and all real estate taxes due and owing at the time of sale under I.C. 32-30-10-14; **second**, the payment of the sheriff's costs and accruing costs of sale herein, **third**, toward the payment of the amounts found due to Plaintiff, Mellon Trust of New England, N.A., f/k/a Boston Safe Deposit and Trust Company, n/k/a BNY Mellon, National Association, in this Judgment, **fourth**, toward the payment of the amounts found due to Defendant Salin Bank and Trust Company in this Judgment; **then** to the Clerk of the Court for distribution to the parties as their interests appear on application of this Court, subject to a judicial determination of the priority of all claims and liens of the parties herein to such overplus, if such determination is necessary.


IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED by the parties and this Court that the sale of the Real Property herein ordered by the Court shall be made without the rights of tenants or any persons in possession thereof and the right in and to possession of said Real Property shall be given concurrently with the conveyance of title by the Sheriff of Marshall County, Indiana; and then upon said sale and delivery by such Sheriff of any deed to any purchaser hereunder and refusal of any Defendant or other person in possession to

relinquish possession of said Real Property to such purchaser, the Clerk of this Court is directed to issue writs of assistance to the Sheriff of Marshall County directing him to immediately dispossess all Defendants, or other persons from said Real Property, including the removal from the Real Property of any personal property of said Defendants or other persons occupying or in possession of the Real Property.

IT IS FURTHER AGREED, ORDERED, ADJUDGED AND DECREED by the parties and this Court that the Clerk of this Court may issue a certified copy of this Decree to the Sheriff of Marshall County, Indiana, forthwith, inasmuch as the Mortgages of BNYM and Salin, foreclosed herein, were each executed after July 1, 1975, and more than three (3) months have expired from the date of the filing of the Amended Complaint (the "Redemption Period"). The expiration of the Redemption Period, and such certified copy of this Decree under the hand of the Clerk shall be sufficient authority for the Sheriff of Marshall County, Indiana, to execute the same.

ALL OF WHICH IS FINALLY AGREED, ORDERED, ADJUDGED AND DECREED.

DATED: 6-30-10



JUDGE, Marshall Circuit Court

STATE OF INDIANA }
MARSHALL COUNTY } ss

I, Julie A. Fox, Clerk of Marshall Circuit and Superior Courts, do hereby certify that the above and foregoing is a full, true, complete and correct copy of the original Judgment and Decree Foreclosing Mortgage as the same appears upon the record of said Court and in my custody as Clerk.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the Seal of said Court. This 5 day of August, 20 10.
JULIE A. FOX, Clerk