

When Recorded Return to:

Yousef Arefi-Afshar
Cairncross & Hempelmann, P.S.
524 Second Avenue, Suite 500
Seattle, Washington 98104



201108310036

Skagit County Auditor

8/31/2011 Page 1 of 25 11:20AM

ORDER ON SHOW CAUSE RE: APPOINTMENT OF CUSTODIAL RECEIVER

RECORDING NOS. OF RELATED DOCUMENTS: None.

GRANTOR(s): HSJJ CO, L.L.C. d/b/a Fidalgo Country Inn, a Washington limited liability company

GRANTEE(s): The Chambers Group Receiverships, LLC, a Washington limited liability company

ABBREVIATED LEGAL DESCRIPTION(s): LOT 1, S/P NO. 90-45, A/F# 9101240023, PTN OF NE 1/4 OF SW 1/4 AND GOV LOT 3, 5-34N-2E; EXC PTNS LY S OF S LINE AND ITS WLY EXT, OF MOST NLY PTN OF SAID LOT 1, SKAGIT COUNTY, WASHINGTON.

Full legal description attached as "Exhibit A"

**ASSESSOR'S TAX ACCOUNT
PARCEL NUMBER(s):**

P19986, P96104

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SKAGIT COUNTY, WA

2011 AUG 12 AM 9:36

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF SKAGIT

WHIDBEY ISLAND BANK, a Washington
banking corporation,

Plaintiff,

vs.

HSJJ CO, L.L.C., a Washington limited
liability company,

Defendant.

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NO.

ORDER ON SHOW CAUSE
RE: APPOINTMENT OF
CUSTODIAL RECEIVER

This matter, having come before the undersigned Judge of the above entitled Court this 12th day of August, 2011, on an order directing the Defendant HSJJ CO, L.L.C. to appear and show cause why The Chambers Group Receiverships, LLC should not be appointed as a custodial receiver to assume control of the below described property of Defendant HSJJ CO, L.L.C. d/b/a Fidalgo Country Inn, located at 7645 State Route 20, Anacortes, Skagit County, Washington 98221 ("Property") during the pendency of the Plaintiff's foreclosure sale against said property, the Plaintiff Whidbey Island Bank appearing by and through its attorney R. Scott Hutchison, the Defendant (not) appearing by and through its attorney Hone and the

Order on Show Cause RE:
Appointment of Custodial Receiver

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HUTCHISON & FOSTER
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1 Court having considered Plaintiff's Motion and the Affidavit of Kai Nagamatsu and
2 Declaration of Andrew N. Olsen and the Nina of the Defendants
3 and otherwise being fully advised, now, therefore,
4

5 **BASED ON THE FOREGOING, the Court hereby orders as follows:**

6 1. The Chambers Group Receiverships, LLC ("Chambers") is hereby
7 appointed as the Custodial Receiver of the real and personal property of Defendant
8 HSJJ CO, L.L.C. d/b/a Fidalgo Country Inn, located at 7645 State Route 20, Anacortes,
9 Skagit County, Washington 98221 (the "Property") described as follows pending the
10 Plaintiff's non-judicial foreclosure sale of said property, which is not stayed by this
11 order, to-wit:
12

13 **PARCEL A:**

14 Lot 1 of Boundary Line Adjustment recorded August 29, 2005, under Auditor's
15 File No. 200508290248 and Survey recorded under Auditor's File No.
16 200508290249, records of Skagit County, Washington, and described as
follows:

17 Lot 1, Skagit County Short Plat No. 90-45, recorded January 24, 1991, in
18 Volume 9 of Short Plats, page 308, under Auditor's File No. 9101240033,
19 records of Skagit County, Washington; being a portion of the Northeast 1/4 of
20 the Southwest 1/4 and Government Lot 3, Section 5, Township 34 North, Range
2 East, W.M.;

21 EXCEPT those portions thereof lying South of the South line and its Westerly
22 extension, of the most Northerly portion of said Lot 1.

23 Situate in the City of Anacortes, County of Skagit, State of Washington.

24 **PARCEL B:**

25 Lot 2, of Boundary Line Adjustment recorded August 29, 2005, under Auditor's
26 File No. 200508290248 and Survey recorded under Auditor's File No.
27 200508290249, records of Skagit County, Washington, and described as
follows:

28 Order on Show Cause RE:

Appointment of Custodial Receiver

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Lot 2, Skagit County Short Plat No. 90-45, recorded January 24, 1991, in Volume 9 of Short Plats, Page 308, under Auditor's File No. 9101240033, records of Skagit County, Washington; being a portion of the Northeast 1/4 of the Southwest 1/4 and Government Lot 3, Section 5, Township 34 North, Range 2 East. W.M.;

EXCEPT all those portions thereof lying West of the West line and its Northerly extension of Lot 5 of said Skagit County Short Plat No. 90-45;

AND TOGETHER WITH all that portion of Lot 1, Skagit County Short Plat No. 90-45, recorded January 24, 1991, in Volume 9 of Short Plats, page 308, under Auditor's File No. 9101240033, records of Skagit County, Washington; being a portion of the Northeast 1/4 of the Southwest 1/4 and Government Lot 3, Section 5, Township 34 North, Range 2 East W.M., lying South of the South line and its Westerly extension, of the most Northerly portion of said Lot 1, and lying East of the West line and its Northerly extension of Lot 5 of said Skagit County Short Plat No. 90-45.

Situate in the City of Anacortes, County of Skagit, State of Washington.

PARCEL C:

An easement for ingress, egress and utilities over, under and across the following described tract of land:

All those portions of Lots 1, 2, 3 and 4, Skagit County Short Plat No. 90-45, recorded January 24, 1991, in Volume 9 of Short Plats, page 308, under Auditor's File No. 9101240033, records of Skagit County, Washington; being a portion of the Northeast 1/4 of the Southwest 1/4 and Government Lot 3, Section 5, Township 34 North, Range 2 East W.M., being more particularly described as follows:

Beginning at the Southeast corner of said Lot 4;
 thence North 87°33'28" West along the South line thereof and along the South line of said Lot 1, a distance of 284.94 feet;
 thence North 01°37' 58" East parallel with the East line of the most Southerly portion of said Lot 1, a distance of 100.09 feet to the beginning of a curve to the left, said curve having a radius of 225.00 feet;
 thence Northerly, following said curve to the left through a central angle of 52°00'00", an arc distance of 204.20 feet to the end of said curve;
 thence North 50°22'02" West, a distance of 93.21 feet to the beginning of a curve to the right, said curve having a radius of 125.00 feet;
 thence Northerly following said curve to the right through a central angle of

Order on Show Cause RE:

Appointment of Custodial Receiver

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52°00'00", an arc distance of 113.45 feet to a point on the East line of the most Northerly portion of said Lot 4;
thence North 01°37'58" East along the East line of said portion of Lot 4, a distance of 105.27 feet to the Northeast corner of said portion of Lot 4, said point lying on the Southerly line of a portion of Lot 2, said Skagit County Short Plat No. 90-45, said point also being the beginning of a curve to the left, said curve having a radius of 140.00 feet;
thence Northerly, following said curve to the left through a central angle of 08°16'17", an arc distance of 20.21 feet to a point on the South line of the most Northerly portion of Lot 3, said Skagit County Short Plat No. 90-45;
thence continuing Northerly following said curve to the left through a central angle of 85°49'37", an arc distance of 209.71 feet to a point on the West line of said Lot 3;
thence North 01°37'58" East along said West line, a distance of 60.11 feet to its intersection with a curve to the right, the center of which bears South 01°14'05" East and is 200.00 feet distant;
thence Southerly following said curve to the right through a central angle of 83°27'17", an arc distance of 291.31 feet to its intersection with said South line of the most Northerly portion of Lot 3;
thence continuing Southerly, following said curve to the right through a central angle of 05°45'31", an arc distance of 20.10 feet to a point on said Southerly line of a portion of Lot 2;
thence continuing Southerly, following said curve to the right through a central angle of 03°39'15", an arc distance of 12.76 feet to the end of said curve;
thence South 01°37'58" West, a distance of 105.27 feet to the beginning of a curve to the left, said curve having a radius of 65.00 feet;
thence Southerly, following said curve to the left through a central angle of 52°00'00", an arc distance of 58.99 feet to the end of said curve;
thence South 50°22' 02" East, a distance of 93.21 feet to the beginning of a curve to the right, said curve having a radius of 285.00 feet;
thence Southerly, following said curve to right through a central angle of 52°00'00", an arc distance of 258.66 feet to the end of said curve;
thence South 01°37'58" West, a distance of 61.35 feet to the beginning of a curve to the left, said curve having a radius of 30.00 feet;
thence Southerly and Easterly, following said curve to the left through a central angle of 89°11'26", an arc distance of 46.70 feet to the end of said curve, said point lying on a line parallel with and 10.00 feet North of, as measured at right angles to, the South line of said Lot 4;
thence South 87°33'28 "East along said parallel line, a distance of 169.99 feet to the beginning of a curve to the left, said curve having a radius of 25.00 feet;
thence Easterly and Northerly following said curve to the left through a central angle of 90°49'00", an arc distance of 39.63 feet to the East line of said Lot 4;
thence South 01°37'58" West along said East line, a distance of 35.36 feet to the point of beginning;

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EXCEPT any portion thereof lying within Lots 1, 2 and 3 of Boundary Line Adjustment recorded August 29, 2005, under Auditor's File No. 200508290248 and Survey recorded under Auditor's File No. 200508290249, records of Skagit County, Washington.

Situate in the City of Anacortes, County of Skagit, State of Washington.

including but not limited to all furniture, fixtures, equipment, inventory, deposits and accounts and other items of tangible and intangible personal property located therein, or used in conjunction with the above said Property, including the rents and profits thereof. Chambers shall act as a Custodial Receiver of the Property until the earlier of (a) the loan from Plaintiff to Defendants secured by the Property is paid in full, (b) the Property is sold at the pending nonjudicial foreclosure sale, (c) Chambers resigns or is terminated as Custodial Receiver pursuant to this Order Appointing Custodial Receiver (the "Order") or RCW 7.60, *et seq*, or (d) Chambers is otherwise discharged by order of this Court. Chambers shall act as Receiver primarily through its principals Andrew Olsen and John McCracken, however, Andrew Olsen and John McCracken may be assisted by other Chambers employees and agents when appropriate.

2. Chambers shall take charge of the Property; have exclusive possession and control over the Property; maintain, secure, and manage the Property; review the books and records of the Property; and collect the deposits, rents and income related thereto for payment of the costs and expenses associated with operating the Property and to pay Chambers' fees and costs, subject to Chambers taking the prescribed oath as a receiver and furnishing a bond in the amount of \$ N/A bonding Chambers to and further conditioned upon faithful discharge of its duties as receiver

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1 or in lieu thereof providing proof of errors and omissions insurance (aka "E & O"
2 insurance) with a policy limit of One Million Dollars (\$1,000,000).
3

4 3. The Defendants and their, managers, partners, officers, agents, employees,
5 representatives, trustees, beneficiaries, and attorneys are hereby directed to cooperate
6 fully with Chambers in carrying out its duties. Without limiting the foregoing, the these
7 parties are required to do the following:
8

9 (a) Assist and cooperate fully with Chambers in the administration of the
10 assets and the business operations of the Property and the discharge of Chambers'
11 duties;
12

13 (b) Immediately deliver to Chambers all of the Defendants' property in
14 their possession, custody, or control, including, but not limited to, all keys to the
15 Property, all personal property, as well as all past and present accounting, leasing, and
16 property records of the Property of any nature whatsoever, that as of the date of this
17 Order are in the custody or control of the Defendants or are available to the
18 Defendants, including any agent, employee, or affiliate of the Defendants;
19

20 (c) Immediately turn over to Chambers all bank accounts and funds in
21 the their possession, custody, or control on the date of this Order or coming into their
22 possession, custody, or control on or after the entry of this Order that arose from the
23 Property or are in any way related thereto, including any cash proceeds.
24

25 (d) Submit to examination by Chambers, or by any other person, upon
26 order of the Court, under oath, concerning the acts, conduct, property, liabilities, and
27 financial condition of the Property, or any matter relating to Chambers' administration
28

Order on Show Cause RE:
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of the assets and business operations of the Defendants; and

(e) To comply with all orders of the Court.

4. The Defendants and their, managers, partners, officers, agents, employees, representatives, trustees, beneficiaries, and attorneys are hereby prohibited from:

(a) Using, spending, concealing, destroying or otherwise depriving Chambers of any personal property located on or used in conjunction with, the Property or Cash Proceeds from the Property;

(b) Directly or indirectly interfering with Chambers' in the management and operation of the Property or the performance of any of Chambers' other duties hereunder;

(c) Expending, disbursing, transferring, assigning, selling, conveying, leasing, devising, pledging, mortgaging, creating a security interest in, or otherwise disposing of the Property or any income derived, directly or indirectly, therefrom; and/or

(d) Doing any act or refraining from taking any act that will tend to, directly or indirectly, impair, defeat, prevent, or prejudice the preservation of the Property or in any way negatively impact Chambers' ability to discharge its duties under the terms of this Order and RCW Chapter 7.60, *et seq.*

5. Defendants shall immediately deliver to Chambers all keys to the Property, all past and present accounting, leasing, business, and property records of the Property of any nature whatsoever, that as of the date of this Order are in the custody or control of Defendants including any agent, employee, or affiliate of said Defendants.

6. Defendants and their agents, employees and affiliates shall immediately turn

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over to Chambers all bank accounts and funds in their possession, custody, or control on the date of this Order or coming into their possession, custody, or control on or after the entry of this Order, which arose from the Property or are in any way related thereto, including the any cash proceeds (the "Cash Proceeds"). Chambers shall deposit all such funds into a segregated interest-bearing account ("Bank Account") at a federally-insured bank with branches in the State of Washington. The Receiver shall have the sole and exclusive authority to disburse funds from the Bank Account for the purposes set forth herein.

7. Chambers shall pay itself fees from the gross income collected from the Property follows: \$6,000 per month for the first two month-long periods of this receivership, and \$5,000 per month for each and every month-long period thereafter that Chambers is Receiver of the Property (the "Monthly Fees"). To the extent Chambers is the Receiver of the Property for only a portion of a month-long period, the fees for such period shall be paid on a pro rata basis. If there are insufficient funds for payment of fees and costs of Chambers under this order, then such fees and costs shall be paid directly by the Plaintiff to Chambers.

8. The Monthly Fees paid to Chambers shall not cover the following, all of which shall be paid separately by the Receiver from the gross income of the Property, or from amounts as are otherwise advanced by the Plaintiff to Chambers pursuant to the terms of this Order:

(a) Payment of all operating expenses for the Property accruing subsequent to the entry of the Order appointing the receiver, including any fees of the

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Appointment of Custodial Receiver

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General Manager (as defined below);

(b) Payment of overhead for any on-site office maintained by Chambers or its authorized management company at the Property, including without limitation, salaries of on-site employees, other than for employees of Chambers and any affiliated entity, and costs of on-site office equipment.

(c) Reimbursement of costs advanced by Chambers for postage, long distance telephone calls, photocopies, and mileage; and

(d) Payment of premiums on the bond required for receivership and payment of all reasonable professionals fees (including attorneys' fees, accountants' fees, and hourly fees of Andrew Olsen and John McCracken for any activities outside the ordinary scope of property management including but not limited to testimony and other court related activity) incurred by Chambers in connection with this receivership or the Property.

9. Chambers shall have no obligation to incur any liability or obligation with respect to the Property, and Chambers shall not be responsible for paying any obligation unless the gross income of the Property, together with those funds advanced by the Plaintiff in accordance with this Order, are sufficient to make such payments.

10. Chambers is hereby vested with all powers afforded a receiver under the laws of the State of Washington including, but not limited to, the power and authority to do the following, at the expense of the Property and the Defendants, without further order of the Court, unless otherwise provided herein:

(a) To incur expenses, and to use the Defendants' cash to pay expenses

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1 incidental to Chambers' preservation and use of the Property, and otherwise in the
2 performance of Chambers' duties, provided that the funds used for this purpose are not
3 subject to any lien or right of setoff in favor of a creditor who has not consented to the
4 payment and whose interest is not otherwise adequately protected;
5

6 (b) To do all things that the Defendants might do in the ordinary course
7 of the operation of the Property as a going concern, or in the use of the Property,
8 including, but not limited to, purchasing and selling goods or services in the ordinary
9 course of such business and incurring and paying expenses of the business in the
10 ordinary course;
11

12 (c) To assert any rights, claims, or interests of the Defendants or the
13 Property; to maintain in Chambers' name or in the name of the Defendants or the
14 Property any action to enforce any right, claim, or interests; and to intervene in actions
15 in which the Property or the Defendants are a party for the purpose of exercising the
16 powers under this subparagraph;
17

18 (d) To intervene in any action in which a claim is asserted against the
19 Property or Defendants for the purpose of prosecuting or defending the claim and
20 requesting the transfer of venue of the action to this Court;
21

22 (e) To assert rights, claims, or choses in action of Chambers arising out
23 of transactions in which Chambers is a participant;
24

25 (f) To pursue in the name of Chambers any claim under RCW 19.40
26 assertable by any creditor of the Defendants, if pursuit of the claim is determined by
27 Chambers to be appropriate;
28

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(g) To seek and obtain advice or instruction from the Court with respect to any course of action with respect to which Chambers is uncertain in the exercise of its powers, or the discharge of its duties;

(h) To obtain unsecured credit and incur unsecured debt in the ordinary course of business as an administrative expense of Chambers;

(i) To compel, by subpoena, any person to submit to an examination under oath in the manner of a deposition in a civil case with respect to estate property or any other matter that may affect the administration of the receivership;

(j) To exercise such rights and remedies of the Plaintiff as the Plaintiff may delegate to Chambers in writing;

(k) To modify or renew any existing contracts or agreements or enter into new contracts or agreements for all or some portion of the Property; provided, that it shall not modify or renew any existing contracts or agreements or enter into any new contracts or agreements for the Property for any period of time exceeding 60 days, unless such contract or agreement is terminable without penalty upon thirty (30) days notice, or less. All contract or agreement modifications or renewals and that would involve monthly payments in excess of \$5,000 shall be subject to the review and written approval of the Plaintiff, which may be given or withheld in the Plaintiff's sole discretion. All new contracts or agreements that would involve monthly payments in excess of \$1,000 shall be subject to Court approval or the review and written approval of the Plaintiff, which may be given or withheld in the Plaintiff's sole discretion. Any approval by the Plaintiff of a modified, renewed, or new contract or agreement shall not

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be construed as a covenant of non-disturbance by the Plaintiff except where such a covenant has been expressly made by the Plaintiff in a separate written instrument;

(l) To let rooms , establish appropriate rates for rooms and enforce leases and rental agreements related to the Property;

(m) To collect all rents, deposits, and other charges payable by guests, occupants, or users, with all such sums to be deposited into the Bank Account to be used for the purposes set forth herein;

(n) To identify, select, hire, retain, supervise, and fire such persons or entities as Chambers deems appropriate, including current employees of the Defendants, in connection with Chambers' management and operation of the Property. All such persons or entities shall be subject to the management and direction of Chambers in connection with their performance of any duties associated with such employment by Chambers. Chambers shall be free at all times to terminate the employment of any such person or entity. All such employees associated with the Property shall be employees of the Defendants and not Chambers;

(o) To pay all taxes, utilities, franchise fees, furnishing, furniture and equipment ("FFE") lease fees, wages, salaries, benefits, and other ordinary operating expenses of the Property accruing subsequent to entry of the Order appointing the receiver;

(p) To provide ordinary maintenance and repair services for the Property and extraordinary maintenance or repair services where required by emergency conditions;

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2 (q) To enter into, modify, or terminate in the name of the Property all
3 utility, employment or service contracts for the Property, including without limitation,
4 janitorial, security, landscaping, equipment maintenance, roof repair, paving repair, and
5 general maintenance contracts;

6 (r) To procure goods and services for the Property, as needed, including
7 legal services where necessary; and

8 (s) To bring legal actions for account collections in the name of the
9 Property or the Defendant, including, but not limited to actions for the pursuit of Cash
10 Proceeds and Personal Property not surrendered by Defendant upon the entry of this
11 Order. Chambers shall have the authority, but not the obligation, to appear in and
12 defend any litigation by any guest or occupant concerning the Property or any contract
13 or agreement.
14

15 11. Chambers' exercise of the powers set forth in this Order, unless otherwise
16 indicated, shall be in the name, and on behalf of, the Defendant.
17

18 12. Chambers shall arrange, at the Property's expense, for compliance with all
19 statutes, ordinances, laws, rules, regulations, orders, and determinations issued by any
20 governmental authority having jurisdiction over the Property or its operations.
21 Notwithstanding the foregoing, Chambers shall not make any alterations or repairs so
22 ordered by such governmental authority, until after having provided notice to the parties
23 at least ten (10) business days in advance of any such alterations or repairs. Further,
24 notwithstanding the foregoing, in case any emergency or a failure promptly to comply
25 with any order or to cure any violation shall, in Chambers' reasonable business
26

27 Order on Show Cause RE:
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judgment, expose the Property or Chambers to imminent danger of liability or criminal penalties, then Chambers shall cause such order or violation to be complied with or cured and need not provide notice prior to such compliance or cure without awaiting the Court's prior approval. Chambers may, at the Property's expense, and after obtaining the Plaintiff's consent, protest or litigate to final decision in any appropriate court or forum any violation, order, rule or regulation affecting the Property.

13. Chambers shall maintain and keep in force for the benefit of Chambers, and the benefit of the Property and the Plaintiff, at the Property's cost, all such forms of insurance as shall be required by the court and by the Deed of Trust and other security agreements and loan documents, or which Chambers, in its reasonable business judgment deems prudent under the circumstances, such as general public liability insurance against claims for personal injury, death, and property damage occurring in or about the premises or adjacent thereto, property, casualty, fire, and extended overage insurance, employment practices liability insurance, fidelity bonds and workers' compensation insurance, in such minimum amounts it deems prudent in its reasonable business judgment. Chambers is authorized to consult with insurance brokers and other insurance professionals regarding such insurance. Chambers shall, to the extent possible or permitted, be named as an additional named insured on all liability insurance coverage obtained in connection with the Property.

14. Any and all rights of subrogation against Chambers are hereby waived by the Property and Plaintiff, and Chambers shall, to the extent possible, obtain from the insurance companies providing the insurance required under this paragraph consent

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1 to such waiver.
2

3 15. Chambers may, after obtaining the consent of the Plaintiff, hire a general
4 manager for the Property who shall be responsible for the day-to-day operation of the
5 Property (the "General Manager"). Chambers may establish the terms and conditions
6 of employment for the General Manager, and shall be entitled to replace the General
7 Manager at any time, after obtaining the consent of the Plaintiff. The General Manager
8 will not be an employee of Chambers and shall be compensated as an employee of the
9 Property or Defendant from the gross proceeds of the Property (not from the
10 Receiver's Monthly Fees), and shall be subject to the supervision of Chambers.
11

12 16. Chambers and its owners, officers, directors, agents, and employees shall
13 be afforded the maximum protections available to receivers by applicable law, including
14 RCW 7.60, *et seq.*, and including but not limited to those specific limitations on
15 personal liability set forth in RCW 7.60.170. Without limiting the foregoing, Chambers
16 and its owners, officers, directors, agents, and employees shall be and hereby are,
17 relieved and released from any liability for loss or damage to the Property or to any
18 property in the Property caused by or resulting from any hazard, act or omission, to the
19 extent covered by insurance policies carried on the Property, whether due to the
20 negligence of Chambers, its agents, or employees or otherwise. The Property, the
21 Defendants, and Plaintiff shall defend, indemnify, and hold Chambers and its officers,
22 directors, agents, and employees harmless from all which arise during, or are
23 otherwise related to this receivership, the Property or its operations, except as
24 intentionally or willfully or recklessly caused by Chambers and its officers, directors,
25
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agents, and employees in breach of its duties under this Order.

17. Chambers shall account for the funds generated by operation from and after the effective date of its appointment as Custodial Receiver. Chambers shall have no responsibility for, or duty to account for, the operations of the Property or funds arising from operation of the Property occurring before the effective date of its appointment, except that Chambers shall account for any cash proceeds Defendants surrender to Chambers as required by this Order. Chambers shall have no duty to give notice of receivership or to report on the actions of Chambers to any creditors of the Property, other than to the Plaintiff. Chambers shall have no duty to examine any claims of any creditors of the Property, or to investigate or pursue any claims that the Property, its owners or secured creditors may have against any third parties, except as otherwise provided herein, Chambers shall have the first option to pursue collection of any accounts receivable related to the Property, provided that if Chambers elects not to pursue an account receivable, then the Plaintiff may pursue such accounts receivable.

18. Chambers shall not be required to complete or file any tax returns on behalf of the Defendants. Upon reasonable notice to Chambers, Chambers shall provide to the Defendants reasonable access to the financial information necessary to prepare Defendants' tax returns.

19. Chambers shall have a lien, superior to that of the Plaintiff, to secure the payment of all of Chambers' fees and expenses, including those of its attorneys and other professionals approved pursuant to this Order.

20. Plaintiff hereby stipulates to (1) the allowance of all reasonable fees and

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Appointment of Custodial Receiver - 16 -

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1 expenses of Chambers, including the Monthly Fees, as well as those of Chambers'
2 attorneys and other professionals; and (2) payment of such amounts from the gross
3 income of the Property. If the Property does not generate sufficient income following
4 the appointment of Chambers sufficient to pay the Monthly Fees, the operating
5 expenses and charges of Chambers relating to the Property, and any fees and
6 expenses of Chambers, and any attorneys, accountants, or other professionals
7 employed by Chambers, Chambers shall borrow money from the Plaintiff sufficient to
8 enable Chambers to pay such fees and expenses, and Plaintiff shall lend the amount
9 in question to the Defendant on the terms in this Order.
10
11

12 21. All funds borrowed by Chambers from the Plaintiff shall be deemed to be
13 borrowings by the Defendants. Chambers may execute and issue in favor of the
14 Plaintiff promissory notes or other instruments evidencing the indebtedness with
15 respect to all sums borrowed by Chambers from the Plaintiff on behalf of the
16 Defendants. All sums advanced by the Plaintiff to Chambers this Order, together with
17 interest thereon at the non-default contract rate, shall be secured by the Plaintiff's
18 existing lien and security interest in the assets of the Defendants, and otherwise shall
19 constitute a first lien against such assets, subject to the lien of Chambers and its
20 professionals described in this Order.
21

22 22. Chambers shall pay between the tenth day and the first day before the
23 Trustee's sale foreclosing Plaintiff's Deed of Trust, all funds collected from the Property
24 during the receivership in excess of the payments required under this Order and
25 reserves Chambers in its reasonable business judgment deems prudent; however, the
26

27 Order on Show Cause RE:

28 Appointment of Custodial Receiver

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1 Funds described in paragraph 6 hereof shall not be disbursed to Plaintiff until
2 termination of the Receivership, but shall be available as a reserve from which
3 payments contemplated by this Order may be made in the event such payments
4 cannot be fully paid from the ongoing income of Property.
5

6 23. The law firm of Cairncross & Hempelmann, P.S. is hereby appointed as
7 attorneys for Chambers and not further order or motion is necessary to approve such
8 employment under RCW 7.60.180. Chambers may pay out of the proceeds of the
9 operation of the Property the reasonable and necessary fees and costs of Cairncross
10 & Hempelmann, P.S. If Chambers employs other professional persons, such as
11 accountants, then Chambers may pay out of the proceeds of the operation of the
12 Property their reasonable and necessary fees and costs.
13

14 24. The appointment of Chambers as Custodial Receiver shall in no way prefer
15 or prejudice its ability to serve as manager of the Property upon termination of this
16 receivership.
17

18 25. Chambers shall make periodic reports to the Plaintiff of the steps taken to
19 further the above described activities and such other matters as are proper, and shall
20 make a final report and accounting upon discharge. Chambers' periodic reports shall
21 be made on at least a monthly basis, with each such report due on the 20th of each
22 month, with the first report due on September 20, 2011. Each monthly report shall
23 include a statement of income, expenses, and disbursements for the preceding
24 calendar month.
25

26 26. Chambers shall deliver to Plaintiff Whidbey Island Bank or of the successor
27

28 Order on Show Cause RE:
Appointment of Custodial Receiver

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beneficiary of the Deed of Trust, on the date immediately preceding the date the Property is set for foreclosure sale, any Net Income, including any and all reserves, collected by Chambers during the pendency of this action and then in the possession of Chambers. Said Net Income shall be applied to the balance due under Promissory Note which is the subject of this action. For purposes of this Order, "Net Income" shall mean revenues derived from the Property, less fees of Chambers, Chambers' reasonable out-of-pocket expenses, including the costs of its attorneys and other professionals, for which separate reimbursement is provided by this Order; and normal and customary operating expenses for the Property, including without limitation, utilities, payments due under service contracts, and any wages, salaries, and/or benefits of on-site employees.

27. Chambers shall file its final report upon the earlier of (a) all amounts due and owing to the Plaintiff are paid in full, or (b) the Plaintiff's currently pending nonjudicial foreclosure sale of the Property. Chambers may also be discharged or replaced by the Plaintiff upon the Plaintiff's motion made with at least ten (10) days notice to Chambers and all of the parties hereto, or upon the resignation of Chambers. Chambers shall give the Plaintiff not less than twenty (20) days advanced written notice of its intent to resign.

28. The automatic stay of RCW 7.60.110 shall be in effect upon entry of this Order, except as to Plaintiff and its trustee under its deed of trust, including without limitation the continuance of the above-captioned action. For good cause shown, the automatic stay of RCW 7.60.110(1) (a), (b), and (e) is hereby extended until the earlier

Order on Show Cause RE:
Appointment of Custodial Receiver - 19 -

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of the date: (a) the loan from Plaintiff to the Defendants secured by the Property is paid in full, (b) the Property is sold at the pending nonjudicial foreclosure sale, or (c) Chambers is otherwise discharged by order of this Court.

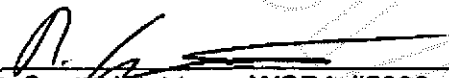
**VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS MAY
SUBJECT YOU TO PENALTY UNDER CHAPTER 7.21 RCW.**

DATED this 12 day of August, 2011.



Judge/Court Commissioner

Presented by:



R. Scott Hutchison, WSBA #5999
Attorney for Plaintiff

Order on Show Cause RE:
Appointment of Custodial Receiver

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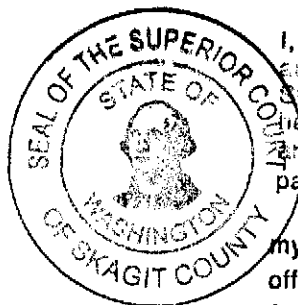
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ATTORNEYS AT LAW
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State of Washington, } ss.
County of Skagit



I, Nancy K. Scott, County Clerk of Skagit County and ex-officio Clerk of the Superior Court of the State of Washington, for the County of Skagit, do hereby certify that the foregoing instrument is a true and correct copy of the original, consisting of 20 pages, now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court at my office at Mount Vernon this 24 day of Aug, 2011 Nancy K. Scott, County Clerk.

By

Carol Cristall
Deputy Clerk



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EXHIBIT A

Legal Description

PARCEL A

LOT 1, SKAGIT COUNTY SHORT PLAT NO. 90-45, RECORDED JANUARY 24, 1991, UNDER AUDITORS FILE NO. 9101240023, RECORDS OF SKAGIT COUNTY, WASHINGTON, ACCORDING TO THE PLAT RECORDED IN VOLUME 9 OF SHORT PLATS, PAGE 308, BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 34 NORTH, RANGE 2 EAST, W.M.;
EXCEPT THOSE PORTIONS THEREOF LYING SOUTH OF THE SOUTH LINE AND ITS WESTERLY EXTENSION, OF THE MOST NORTHERLY PORTION OF SAID LOT 1.

THE ABOVE BEING SUBJECT TO AND TOGETHER WITH EASEMENTS, RESERVATIONS, RESTRICTIONS, COVENANTS, LIENS, LEASES, COURT CAUSES AND OTHER INSTRUMENTS OF RECORD.

ALL BEING SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

PARCEL B

LOT 2, SKAGIT COUNTY SHORT PLAT NO. 90-45, RECORDED JANUARY 24, 1991, UNDER AUDITORS FILE NO. 9101240023, RECORDS OF SKAGIT COUNTY, WASHINGTON, ACCORDING TO THE PLAT RECORDED IN VOLUME 9 OF SHORT PLATS, PAGE 308, BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 34 NORTH, RANGE 2 EAST, W.M.;
EXCEPT ALL THOSE PORTIONS THEREOF LYING WEST OF THE WEST LINE AND ITS NORTHERLY EXTENSION, OF LOT 5 OF SAID SKAGIT COUNTY SHORT PLAT NO. 90-45; AND TOGETHER WITH ALL THAT PORTION OF LOT 1, SKAGIT COUNTY SHORT PLAT NO. 90-45, RECORDED JANUARY 24, 1991, UNDER AUDITOR'S FILE NO. 9101240033, RECORDS OF SKAGIT COUNTY, WASHINGTON, ACCORDING TO THE PLAT RECORDED IN VOLUME 9 OF SHORT PLATS, PAGE 308; BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AND GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 34 NORTH, RANGE 2 EAST, W.M., LYING SOUTH OF THE SOUTH LINE AND ITS WESTERLY EXTENSION, OF THE MOST NORTHERLY PORTION OF SAID LOT 1, AND LYING EAST OF THE WEST LINE AND ITS NORTHERLY EXTENSION, OF LOT 5 OF SAID SKAGIT COUNTY SHORT PLAT NO. 90-45.

ALL OF THE ABOVE BEING SUBJECT TO AND TOGETHER WITH EASEMENTS, RESERVATIONS, RESTRICTIONS, COVENANTS, LIENS, LEASES, COURT CAUSES AND OTHER INSTRUMENTS OF RECORD.

ALL BEING SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.

PARCEL C

AN EASEMENT FOR INGRESS, EGRESS AND UTILITIES OVER, UNDER AND ACROSS THE FOLLOWING DESCRIBED TRACT OF LAND:

ALL THOSE PORTIONS OF LOTS 1, 2, 3 AND 4, SKAGIT COUNTY SHORT PLAT NO. 90-45, RECORDED JANUARY 24, 1991, UNDER AUDITOR'S FILE NO. 9101240033, RECORDS OF SKAGIT COUNTY, WASHINGTON, ACCORDING TO THE PLAT RECORDED IN VOLUME 9 OF SHORT PLATS, PAGE 308; BEING A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHWEST

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QUARTER AND GOVERNMENT LOT 3, SECTION 5, TOWNSHIP 34 NORTH, RANGE 2 EAST, W.M.,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTH 87°33'28" WEST
ALONG THE SOUTH LINE THEREOF AND ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE
OF 284.94 FEET; THENCE NORTH 01°37'58" EAST PARALLEL WITH THE EAST LINE OF THE MOST
SOUTHERLY PORTION OF SAID LOT 1, A DISTANCE OF 100.09 FEET TO THE BEGINNING OF A
CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 225.00 FEET; THENCE NORTHERLY,
FOLLOWING SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 52°00'00", AN ARC
DISTANCE OF 204.20 FEET TO THE END OF SAID CURVE; THENCE NORTH 50°22'02" WEST A
DISTANCE OF 93.21 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, SAID CURVE HAVING
A RADIUS OF 125.00 FEET; THENCE NORTHERLY, FOLLOWING SAID CURVE TO THE RIGHT
THROUGH A CENTRAL ANGLE OF 52°00'00", AN ARC DISTANCE OF 113.45 FEET TO A POINT ON
THE EAST LINE OF THE MOST NORTHERLY PORTION OF SAID LOT 4; THENCE NORTH 01°37'58"
EAST ALONG THE EAST LINE OF SAID PORTION OF LOT 4, A DISTANCE OF 105.27 FEET TO THE
NORTHEAST CORNER OF SAID PORTION OF LOT 4, SAID POINT LYING ON THE SOUTHERLY
LINE OF A PORTION OF LOT 2, SAID SKAGIT COUNTY SHORT PLAT NO. 90-45, SAID POINT ALSO
BEING THE BEGINNING OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 140.00
FEET; THENCE NORTHERLY, FOLLOWING SAID CURVE TO THE LEFT THROUGH A CENTRAL
ANGLE OF 08°16'17", AN ARC DISTANCE OF 20.21 FEET TO A POINT ON THE SOUTH LINE OF THE
MOST NORTHERLY PORTION OF LOT 3, SAID SKAGIT COUNTY SHORT PLAT NO. 90-45; THENCE
CONTINUING NORTHERLY, FOLLOWING SAID CURVE TO THE LEFT THROUGH A CENTRAL
ANGLE OF 85°49'37", AN ARC DISTANCE OF 209.71 FEET TO A POINT ON THE WEST LINE OF
SAID LOT 3; THENCE NORTH 01°37'58" EAST ALONG SAID WEST LINE, A DISTANCE OF 60.11
FEET TO ITS INTERSECTION WITH A CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS
SOUTH 01°14'05" EAST AND IS 200.00 FEET DISTANT; THENCE SOUTHERLY, FOLLOWING SAID
CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 83°27'17", AN ARC DISTANCE OF 291.31
FEET TO ITS INTERSECTION WITH SAID SOUTH LINE OF THE MOST NORTHERLY PORTION OF
LOT 3; THENCE CONTINUING SOUTHERLY, FOLLOWING SAID CURVE TO THE RIGHT THROUGH
A CENTRAL ANGLE OF 05°45'31", AN ARC DISTANCE OF 20.10 FEET TO A POINT ON SAID
SOUTHERLY LINE OF A PORTION OF LOT 2; THENCE CONTINUING SOUTHERLY, FOLLOWING
SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 03°39'15", AN ARC DISTANCE OF
12.76 FEET TO THE END OF SAID CURVE; THENCE SOUTH 01°37'58" WEST A DISTANCE OF
105.27 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF
65.00 FEET; THENCE SOUTHERLY, FOLLOWING SAID CURVE TO THE LEFT THROUGH A
CENTRAL ANGLE OF 52°00'00", AN ARC DISTANCE OF 58.99 FEET TO THE END OF SAID CURVE;
THENCE SOUTH 50°22'02" EAST A DISTANCE OF 93.21 FEET TO THE BEGINNING OF A CURVE TO
THE RIGHT, SAID CURVE HAVING A RADIUS OF 285.00 FEET; THENCE SOUTHERLY, FOLLOWING
SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 52°00'00", AN ARC DISTANCE OF
258.66 FEET TO THE END OF SAID CURVE; THENCE SOUTH 01°37'58" WEST A DISTANCE OF
61.35 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF
30.00 FEET; THENCE SOUTHERLY AND EASTERLY, FOLLOWING SAID CURVE TO THE LEFT
THROUGH A CENTRAL ANGLE OF 89°11'26", AN ARC DISTANCE OF 46.70 FEET TO THE END OF
SAID CURVE, SAID POINT LYING ON A LINE PARALLEL WITH AND 10.00 FEET NORTH OF, AS
MEASURED AT RIGHT ANGLES TO, THE SOUTH LINE OF SAID LOT 4; THENCE SOUTH 87°33'28"
EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 169.99 FEET TO THE BEGINNING OF A
CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 25.00 FEET; THENCE EASTERLY AND
NORTHERLY, FOLLOWING SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF
90°49'00", AN ARC DISTANCE OF 39.63 FEET TO THE EAST LINE OF SAID LOT 4, THENCE SOUTH
01°37'58" WEST ALONG SAID EAST LINE, A DISTANCE OF 35.36 FEET TO THE POINT OF
BEGINNING.

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ALL BEING SITUATE IN THE COUNTY OF SKAGIT, STATE OF WASHINGTON.



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