

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

MJK Clearing, Inc.,

Bky. No. 01-4257 (RJK)

Debtor.

James P. Stephenson, Trustee for MJK
Clearing, Inc.,

Plaintiff,

v.

Adv. No. 03-4053 (RJK)

Leon A. Greenblatt, Banco Panamericano,
Inc., Loop Corp., Nola L.L.C., and
Repurchase Corp.,

Defendants.

**NOTICE OF HEARING AND MOTION OF JAMES P. STEPHENSON, TRUSTEE
OF MJK CLEARING, INC. FOR AN ORDER FOR SANCTIONS AND
AWARDING FEES AND COSTS INCURRED IN BRINGING THIS MOTION**

To: The Court, Defendants, and SIPC

1. James P. Stephenson, in his capacity as trustee for the estate of MJK Clearing, Inc. (the "Trustee"), by and through his undersigned attorneys, moves the Court for the relief requested below and gives notice of hearing.

NOTICE OF HEARING

2. The Court will hold a hearing on this motion at 2:30 p.m. on Wednesday, November 3, 2004, in Courtroom No. 8 West at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota.

3. Pursuant to Local Rule 9006-1(b), any response to this motion must be filed and delivered not later than Friday, October 29, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than Monday, October 25, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

MOTION

4. This Court has jurisdiction over this motion pursuant to 15 U.S.C. §§ 78eee(b)(2) and 78eee(b)(4), 28 U.S.C. §§ 157 and 1334, Fed R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The Complaint commencing this adversary proceeding was filed on February 24, 2003. This case is now pending in this Court.

5. On September 25, 2001, the Debtor notified federal regulators that it lacked sufficient net capital under applicable federal and self-regulatory rules to continue operations. On September 27, 2001, the United States District Court for the District of Minnesota entered a protective decree (the "Protective Decree") against the Debtor under 15 U.S.C. § 78eee(b). By order of the District Court dated September 27, 2001, the Trustee was appointed as trustee of the estate of the Debtor, pursuant to the Securities Investor Protection

Act, 15 U.S.C. §§ 78aaa-lll. Pursuant to the Protective Decree and 15 U.S.C. §§ 78eee(b)(2) and 78eee(b)(4), this Court has jurisdiction over the Debtor, its property, and any action brought by or against the Trustee.¹

6. This motion arises under Fed. R. Civ. P. 37(b)(2), which is made applicable by Fed. R. Bankr. P. 7037. The Trustee requests that the Court grant his motion for contempt and award him attorneys' fees and costs incurred in bringing this motion.

7. The Trustee filed his Complaint against Defendants on February 24, 2003, commencing Adversary Proceeding No. 03-4053, through which the Trustee sought to recover amounts relating to certain margin loan accounts.

8. On September 11, 2003, this Court: (i) granted summary judgment to the Trustee; (ii) awarded the Trustee approximately \$4.5 million in damages; (iii) awarded the Trustee \$114,986.93 in attorneys' fees and costs; (iv) and instructed Defendants Banco, Loop, Nola, and Repurchase to transfer \$3,000,000 worth of tax credits to the Trustee. The Bankruptcy Clerk entered final judgment on October 9, 2003.

9. Defendants appealed this Court's Order and the Judgment. United States District Judge David S. Doty affirmed the grant of summary judgment, but reduced the Trustee's award by \$3 million, finding that the Trustee's award should be offset by the amount paid pursuant to the Guaranty of Jack Feltl.² This Court entered an amended

¹ Jurisdiction of this action also arises under 28 U.S.C. §§ 1331, 1332.

² The Trustee filed a Notice of Appeal with the United States Court of Appeals for the Eighth Circuit on the issue of whether the District Court erred in allocating the \$3 million credit to the cash portion of the judgment. Defendants filed a Notice of Cross Appeal on the issue of whether the District Court erred in affirming this Court's determination that there were no questions of fact on the issue of "failure of consideration" relating to the agreements at issue.

judgment based on Judge Doty's Order on April 28, 2004. The judgment was again amended by this Court on June 4, 2004.

10. On October 27, 2003, the Trustee served Defendants with document requests to assist the Trustee in enforcing the Judgment. The Trustee was ultimately forced to file a motion to compel discovery. The Court granted the motion on March 18, 2004. The Court's Order required Defendants to "produce to the Trustee all documents responsive to Plaintiff's Request for Documents in Aid of Execution of Judgment on or before March 31, 2004."

11. Despite this Court's clear and direct order, Defendants admittedly only produced a portion of the documents responsive to the Trustee's discovery requests.

12. As a result, on June 4, 2004, this Court issued an Order finding Defendants in contempt of the March 18, 2004 Order. The Court awarded the Trustee \$500 in sanctions and ordered Defendants "to comply in full with the Court's March 18, 2004 Order by June 9, 2004, or incur additional sanctions in the amount of \$500 per day until the Order is complied with."

13. Consistent with the June 4, 2004 Order, on June 9, 2004, the Trustee informed the Court by letter that Defendants still have not produced all documents responsive to the Trustee's document requests. Defendants responded that they would be providing information to the Trustee that would resolve the question of whether outstanding documents remain. Defendants also indicated that they were going to post a bond, thereby obviating their need to comply with the Trustee's discovery requests and this Court's March 18 and June 4 Orders.

The Trustee has dismissed his appeal to focus efforts on collecting the Second Amended Judgment. Defendants' cross-appeal is still pending.

14. To date, Defendants have not posted a bond. Furthermore, counsel for Defendants has admitted that Defendants have not produced all documents within their control.

RELIEF REQUESTED

15. WHEREFORE, the Trustee respectfully requests that the Court enter an order in substantially the form attached hereto ordering: (i) Defendants to pay \$500 per day in sanctions, dating from November 3, 2004, until the Order is complied with, (ii) the parties to attend an in-person status conference with the Court two weeks following the date of the hearing on this motion to inform the Court as to whether Defendants have produced all documents responsive to the Trustee's document requests; and (iii) Defendants to pay the Trustee's reasonable costs, including attorneys' fees, incurred in making this motion, along with any other sanctions the Court deems appropriate.

Dated: October 19, 2004

FAEGRE & BENSON LLP

/e/ Jesseca R.F. Grassley

Robert L. Schnell, Jr., # 97329

James L. Volling, # 113128

Stephen M. Mertz, # 212131

Jason K. Walbourn, # 297604

Jesseca R.F. Grassley, # 294329

Ted R. Cheesebrough, #293489

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Facsimile: (612) 766-1600

Attorneys for Plaintiff James P. Stephenson,
in his capacity as trustee for the estate of
MJK Clearing, Inc.

M2:20639099.04

captioned case. This Affidavit is made in support of Plaintiff's Motion for Sanctions Pursuant to This Court's Order Dated June 4, 2004. The information contained in this Affidavit is based on my review of the files and records in this case, as well as my personal knowledge of this case.

2. In response to the Trustee's 34 document requests, the Trustee has received a total of 210 pages of documents, only 66 of which are actually responsive to the Trustee's requests—the remaining 144 pages of documents consist of brokerage statements from an irrelevant time period.

3. The few responsive documents produced are only partially responsive to *one* of the Trustee's 34 requests, Request No. 2, which calls for the production of bank statements. Although the request seeks records from January 2002 to the present, the only bank statements produced for Loop Corp. are from December 2002 through March 2003 and May 2004, and no other time period. The bank statements for Banco Panamericano are likewise incomplete as they only reflect balances for October and December 2003 and January 2004. Noticeably absent are any bank statements relating to Mr. Greenblatt.

4. Upon information and belief, Defendant Leon A. Greenblatt owns a two-floor condominium near Lake Shore Drive in Chicago, which appears to be subject to various mortgages and a construction loan.

5. Defendants have not produced any documentation regarding the condominium or the mortgages.

6. Defendants have not produced any documentation regarding two parcels of commercial real estate in Chicago (407 South Dearborn Street and 401 South LaSalle Street),

which, according to the promissory notes central to the underlying suit, are owned by Mr. Greenblatt, Banco Panamericano, and Loop.

7. Attached as Exhibit A is a true and correct copy of the Trustee's Request for Documents in Aid of Execution of Judgment dated October 27, 2003.

8. Attached as Exhibit B are true and correct copies of documents reflecting information retrieved from the Cook County Recorder of Deeds.

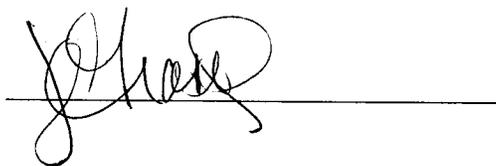
9. Attached as Exhibit C is a true and correct copy of a letter from C. Philip Curley to Jesseca R.F. Grassley dated July 7, 2004.

10. Attached as Exhibit D is a true and correct copy of the Promissory Note executed by Defendant Loop Corp. on August 22, 2001.

11. Attached as Exhibit E is a true and correct copy of the Promissory Note executed by Defendant Banco Panamericano, Inc. on August 22, 2001.

12. Attached as Exhibit F is a true and correct copy of the Promissory Note executed by Defendant Leon A. Greenblatt on August 22, 2001.

Further Affiant sayeth naught.



Subscribed and sworn to before me this
19th day of October, 2004.

Cheryl A. Rowles

Notary Public

M2:20639037.03



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

MJK Clearing, Inc.,

Debtor.

BKY. No. 01-4257 (RJK)

James P. Stephenson, Trustee, for MJK
Clearing, Inc.,

**PLAINTIFF'S REQUEST FOR
DOCUMENTS IN AID OF
EXECUTION OF JUDGMENT**

Plaintiff,

v.

Adv. No. 03-4053

Leon A. Greenblatt, Banco Panamericano,
Inc., Loop Corp., Nola L.L.C., and
Repurchase Corp.,

Defendants.

TO: Defendants Leon A. Greenblatt, Banco Panamericano, Inc., Loop Corp., and their attorneys, Philip R. Schenkenberg, Briggs and Morgan, P.A., 2200 First National Building, 332 Minnesota Street, St. Paul, Minnesota 55101 and C. Philip Curley, Robinson Curley & Clayton, Suite 1700, 300 South Wacker Drive, Chicago, Illinois 60606.

PLEASE TAKE NOTICE that, pursuant to Rules 26, 34, and 69 of the Federal Rules of Civil Procedure, Judgment Creditor James P. Stephenson, Trustee, for MJK Clearing, Inc., requires Judgment Debtors Leon A. Greenblatt, Banco Panamericano, Inc. and Loop Corp. to respond to the following requests for documents within thirty days of the date of service hereof.

Exhibit A

These document requests are continuing in nature. If Judgment Debtors Leon A. Greenblatt, Banco Panamericano, Inc., Loop Corp. or their counsel become aware of any additional information relating to matters into which these document requests inquire, Rule 26(e) of the Federal Rules of Civil Procedure requires supplementation of their responses.

DEFINITIONS

1. "You," and "your" refers (individually rather than collectively) to Defendant Leon A. Greenblatt, Defendant Banco Panamericano, Inc., and Defendant Loop Corp.
2. The word "and" includes the word "or" and vice versa.
3. "All" includes the word "any" and vice versa.
4. "Document" means the original (or an identical duplicate if the original is not available), and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of writings of every kind and description that are fixed in any form of physical media. Physical media include, but are not limited to, paper media, phonographic media, photographic film media (including pictures, films, slides and microfilm), magnetic media (including but not limited to hard disks, floppy disks, compact disks, and magnetic tapes of any kind), computer memory, optical media, magneto-optical, and other physical media on which notations or marking of any kind can be affixed. Documents include, by way of example only, any memorandum, request envelope, correspondence, electronic mail including attachment(s), report, note, Post-It, message, telephone message, telephone log, diary, journal, appointment calendar, calendar, group scheduler calendar, drawing, painting, accounting paper, minutes, working paper, financial report, accounting report, work papers, drafts, facsimile, facsimile transmission, report, contract, invoice, directory, computer disk,

computer tape, or any other written, printed, typed, punched, taped, filmed, or graphic matter however produced or reproduced. Documents also include the file, folder tabs, and labels appended to or containing any documents.

5. "Relate to" means to have a relationship to or connection with and includes in its definition without limitation, "regarding," "linked," "associated with," "joined," "attached to," "regarding," and "concerning."

6. "Negotiation" means the process of arranging for or bringing about through conference, discussion, and compromise and includes within its definition without limitation "cooperation," "conciliation," "concession," and "give and take."

7. "Communication" means an act or instance of transmitting and includes within its definition without limitation "message," "announcement," "statement," "letter," "telephone call," "e-mail message including attachments," "contact," "interaction," "transfer," "consultation," "meeting," "conference,"

8. "Discussion" means the process of oral or written discourse to reach conclusions or convince and includes within its definition without limitation "argue," "debate," and "converse."

INSTRUCTIONS

1. In producing any documents or electronic data requested herein, you should furnish all documents and electronic data in the possession or control of or which are accessible to any servant, employee, representative, or agent of yours, including attorneys and investigators, unless any document or electronic data is claimed to be privileged from discovery, in which instance it should be listed on a privilege log.

2. Your written response to this request should respond separately to each numbered demand for inspection below by: a) providing a statement that you will comply with the particular demand; or b) providing a statement that you lack the ability to comply with the particular demand; or c) providing any objection to the particular demand.

3. If your response to a particular demand is a statement that you will comply with that demand, you should state in your response whether the production will be allowed in whole or in part, and you should state that all documents or things in the demanded category that are in your possession, custody or control in and to which no objection is being made will be included in the production.

4. If your response to a particular demand is a statement that you lack the ability to comply with that demand, you should affirm in your response that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement should also specify whether the inability to comply is because the particular item or category never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in your possession, custody or control, in which case the name and address of any person or entity known or believed by you to have possession, custody or control of that document or category of documents should be identified.

5. If you know of any specific document(s) or electronic data falling within this request that has been destroyed or lost, or is unavailable for any other reason, you should provide a written list of any document(s) or electronic data so unavailable, identifying each document or piece of electronic data as follows: the request the document or electronic data pertains to; the date of the document or electronic data; the addresser's name, title and address; the date and address of each person to whom the document or electronic data was

shown or sent; the general character of the document or electronic data; the reason for its present unavailability and its present location and/or custodian.

6. If your response to a particular demand is an objection, you should set forth in your response the extent of, and the specific ground for, the objection. In your response, you should also identify with particularity any document or electronic data responsive to the particular demand that is being withheld from production based upon a claim of privilege or other protection and state the particular privilege or protection being invoked. To identify with particularity documents or electronic data withheld from production, you should provide, for each document or piece of electronic data withheld, the following information if known or available to you:

- a. The title or subject matter of the document or electronic data;
- b. The date composed or date appearing on the document or electronic data;
- c. The author and addressee;
- d. The number of pages or other relevant size information;
- e. The identity of all persons or entities who saw or received a copy of such document or electronic data, including the job titles of each such person;
- f. The present location of the document or electronic data;
- g. The identity of the person or persons who have custody, control, or possession thereof.

7. This request requires the production of documents and electronic data as they are kept in the usual course of business or organized and labeled to correspond with the particular demands set forth below. If you choose the former method, the documents should be produced in the boxes, file folders, bindings or other containers in which the documents are found, and the titles, labels, or other descriptions on the boxes, file folders, bindings or other containers should be left intact. Whichever method you choose, electronic data should be produced intact in electronic form, together with the identity and version of its host application and all file names, directory listings, indexes, schemas, data dictionaries and

diagrams, table relationships, notes from data conversions, documentation and technical manuals (in electronic or paper form as long as complete), and any delimiters, column headings, or other information that would be necessary to understand the data's form and content.

8. You are hereby put on notice that you have an obligation to preserve responsive information, including information stored in electronic media. This obligation to preserve relevant information is not obviated by routine maintenance, standard tape rotation policies or storage concerns.

REQUESTS FOR DOCUMENTS

1. Each federal and state tax return that you have filed on or after January 1, 2001 and all schedules filed with the returns.
2. Each statement or other record from any bank in which you hold an account or have deposited any money on or after January 1, 2002.
3. Each book, document, or thing that constitutes or otherwise evidences or shows any account receivable or any money or other debt or obligation that anyone owes, may owe, or will owe to you on or after January 1, 2002.
4. Each book, document, or thing that shows your revenue or expenses on or after January 1, 2002.
5. Each check or other book, document, or thing that evidences or shows any distribution, dividend, or other payment or transfer of property that you have made or received on or after January 1, 2002.
6. All financial statements prepared by or for you on or after January 1, 2002.
7. All cash receipts, cash disbursement ledgers, and cash account journals kept by or for you on or after January 1, 2002.
8. All documents reflecting or relating to your income earned on or after January 1, 2002, including but not limited to salary and bonus.
9. All documents referring or relating to all purchases or sales of stocks, bonds, mutual funds, commodities, options, and other securities on or after January 1, 2002.
10. All monthly and annual brokerage account statements.

11. All deeds, bills of sale, certificates of title, mortgages, leases, contracts, and other documents referring and relating to any interests in real or personal property owned by you on or after January 1, 2002.

12. All documents referring or relating to the market value of any real property owned by you whether individually, jointly, or beneficially on or after January 1, 2002, including but not limited to any appraisals, tax assessments, or otherwise.

13. All documents referring or relating to the market value of any personal property owned by you, whether individually, jointly, or beneficially on or after January 1, 2002, including but not limited to any appraisals, tax assessments, or otherwise.

14. All certificates of title, registration certificates, bills of sale, and other documents referring or relating to any interests in any motor vehicles, watercraft, aircraft, or commercial equipment owned by you, whether individually, jointly, or beneficially, on or after January 1, 2002.

15. All documents referring or relating to any furniture owned by you, whether individually, jointly, or beneficially, on or after January 1, 2002. This request includes, but is not limited to, all appraisals of any kind.

16. All documents referring or relating to materials stored in any safe deposit box by you on or after January 1, 2002.

17. All documents referring or relating to materials stored in any storage facility by you on or after January 1, 2002.

18. All insurance policies insuring loss of any real or personal property owned by you, whether individually, jointly, or beneficially, on or after January 1, 2002.

19. All life insurance policies in which you have had an individual, joint, or beneficial interest on or after January 1, 2002.
20. All documents referring or relating to the cash surrender value of the insurance policies responsive to the preceding paragraph.
21. All insurance policies in which you have been a named insured on or after January 1, 2002.
22. All annuities in which you have had an individual, joint, or beneficial interest on or after January 1, 2002.
23. All documents referring or relating to the cash surrender value of the annuities responsive to the preceding paragraph.
24. All documents of any kind referring or relating to the existence of any legal obligation owed or granted to you, whether individually, jointly, or beneficially, on or after January 1, 2002. This request includes, but is not limited to, all contracts, notes, deeds, title certificates, mortgages, or security interests.
25. All documents referring or relating to any investment, or other income received by you, whether individually, jointly, or beneficially, on or after January 1, 2002.
26. All documents referring or relating to any dividends, revenues, profits, proceeds, and the like received by you, whether individually, jointly, or beneficially, on or after January 1, 2002, from any entity in which either of you was a shareholder or owner, whether individually, jointly, or beneficially.
27. All documents referring or relating to any income received by you, whether individually, jointly, or beneficially, from any trust account or from the proceeds of any trust account on or after January 1, 2002.

28. All documents referring or relating to any loans made to you, whether individually, jointly, or beneficially, which loans are outstanding, in whole or in part, on or after January 1, 2002.

29. All promissory notes naming you, either individually, jointly, or beneficially, as maker, which notes are outstanding, in whole or in part, on or after January 1, 2002.

30. All documents referring or relating to any security interest, mortgage, or lien granted by you, whether individually, jointly, or beneficially, which security interest, mortgage, or lien was in effect on or after January 1, 2002.

31. All documents referring to any debts of you, whether individually, jointly, or beneficially, which were paid with monies on or after January 1, 2002.

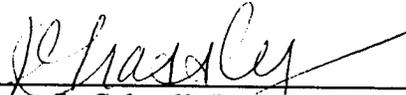
32. Copies of all contracts, agreements, or understandings to which you have been a party on or after January 1, 2002, whether individually, jointly, or beneficially. This request includes, but is not limited to, all purchase or sale contracts, and leases.

33. All pleadings in any litigation to which you have been a party on or after January 1, 2002, excluding the above-entitled action. This request includes, but is not limited to, all complaints, judgments, releases, satisfactions of judgments, and settlement agreements.

34. Copies of all unpaid judgments owed by you.

Dated: October 27, 2003

FAEGRE & BENSON LLP



Robert L. Schnell, Jr., #97329

James L. Volling, #113128

Stephen M. Mertz, # 212131

Jason K. Walbourn, # 297604

Sonya A. Royston, # 323330

Jessica R.F. Grassley, # 294329

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90 South Seventh Street
Minneapolis, MN 55402-3901
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Facsimile: (612) 766-1600

Attorneys for Plaintiff James P. Stephenson,
liquidating trustee of MJK Clearing, Inc.

M2:20577792.01

REAL PROPERTY TRANSACTION RECORD

Filings Collected Through:04-13-2004
County Last Updated:05-29-2004
Frequency of Update:WEEKLY
Current Date:06/09/2004
Source:RECORDER OF DEEDS,
COOK, ILLINOIS

OWNER INFORMATION

Owner(s):GREENBELT LEON A
Ownership Rights:TENANTS BY ENTIRETY
Owner Rights:TENANTS BY ENTIRETY
Property Address:2350 N LINCOLN PARK W UNIT 2S
CHICAGO IL 60614-3415
Mailing Address:2350 N LINCOLN PARK W UNIT 2S
CHICAGO IL 60614-3415

PROPERTY INFORMATION

County:COOK
Assessor's Parcel Number:14 33 201 015 1002
Property Type:RESIDENTIAL CONDOMINIUM
Land Use:CONDOMINIUM

TRANSACTION INFORMATION

Transaction Date:05/11/2001
Deed Type:DEED OF TRUST
Type of Transaction:CONSTRUCTION LOAN
Mortgage Amount:\$200,000.00
Mortgage Term:1 YEARS
Mortgage Deed Type:MORTGAGE DEED
Mortgage Date:05/11/2001
Mortgage Due Date:09/11/2001
Lender Name: MARINE BK
Lender Address: PEWAUKEE, WI 53072
Recording Date:05/16/2001
Document Number:10411822
Construction Loan:YES
Refinance Loan:LOAN TO VALUE IS MORE THAN 50%

TO ORDER ORIGINAL FILINGS OR OTHER RELATED DOCUMENTS, CALL 1-877-DOC-RETR (1-877-362-7387).

END OF DOCUMENT

Copr. (C) West 2004 No Claim to Orig. U.S. Govt. Works

Exhibit B

REAL PROPERTY TRANSACTION RECORD

Filings Collected Through:04-13-2004
County Last Updated:05-29-2004
Frequency of Update:WEEKLY
Current Date:06/09/2004
Source:RECORDER OF DEEDS,
COOK, ILLINOIS

OWNER INFORMATION

Owner(s):GREENBLATT LEON A AND WIFE
Owner Relationship:HUSBAND/WIFE
Property Address:2350 N LINCOLN PARK W
CHICAGO IL 60614-3415
Mailing Address:2350 N LINCOLN PARK W UNIT 2S
CHICAGO IL 60614-3415

PROPERTY INFORMATION

County:COOK
Assessor's Parcel Number:14332010151002
Property Type:RESIDENTIAL CONDOMINIUM

TRANSACTION INFORMATION

Transaction Date:06/11/1998
Seller Name:GREENBLATT LEON
Consideration:ESTIMATED
Type of Transaction:NOMINAL
Recording Date:06/18/1998
Document Number:520756
Construction Type:RESALE
Purchase Payment:CASH

TO ORDER ORIGINAL FILINGS OR OTHER RELATED DOCUMENTS, CALL 1-877-DOC-RETR (1-877-362-7387).

END OF DOCUMENT

REAL PROPERTY TRANSACTION RECORD

Filings Collected Through:04-13-2004
County Last Updated:05-29-2004
Frequency of Update:WEEKLY
Current Date:06/09/2004
Source:RECORDER OF DEEDS,
COOK, ILLINOIS

OWNER INFORMATION

Owner(s):GREENBLATT LEON A
Owner Relationship:SINGLE MAN
Property Address:2350 N LINCOLN PARK W UNIT 3-S
CHICAGO IL 60614-3415
Mailing Address:2350 N LINCOLN PARK W UNIT 3-S
CHICAGO IL 60614-3415

PROPERTY INFORMATION

County:COOK
Assessor's Parcel Number:14 33 201 015 1003
Property Type:RESIDENTIAL CONDOMINIUM
Land Use:CONDOMINIUM

TRANSACTION INFORMATION

Deed Type:DEED OF TRUST
Type of Transaction:CONSTRUCTION LOAN
Mortgage Amount:\$300,000.00
Mortgage Type:CONVENTIONAL
Mortgage Term:1 YEARS
Mortgage Deed Type:MORTGAGE FORECLOSURE DEED
Mortgage Due Date:2000
Lender Name:BANCO PANAMERICANO PSP
Lender Address: CHICAGO, IL 60606
Recording Date:05/11/1999
Document Number:452993
Title Company:ATTORNEY ONLY
Private Party Lender:YES
Construction Loan:YES
Refinance Loan:YES

TO ORDER ORIGINAL FILINGS OR OTHER RELATED DOCUMENTS, CALL 1-877-DOC-RETR (1-877-362-7387) .

END OF DOCUMENT



Cook County Recorder of Deeds Eugene "Gene" Moore

[Help](#) [Document Container](#) [Search Menu](#)

[Grantor / Grantee Search Results >](#)

Documents for GREENBLATT LEON A

To refine your search, you can specify document types and/or a date range. When finished, press "Search".

Optional Criteria

Date Range (mm/dd/yyyy) To / / Tax Lien Search

Select Document Type(s) Selected:

Click on a document in the list below to view its details.

Select Document	Document No.	Details
<input type="checkbox"/>	0010411823	<p>Document Type: ASSIGNMENT Grantor: GREENBLATT LEON A Date Recorded: 05-16-2001 PIN: 14-33-201-015-1002 Grantee: MARLINE BK Prior Documents:</p>
<input type="checkbox"/>	00371874	<p>Document Type: MORTGAGE Grantor: GREENBLATT LEON A Date Recorded: 05-23-2000 PIN: 14-33-201-015-1003 Grantee: WASHINGTON MUTU BK Prior Documents:</p>
<input type="checkbox"/>	9862290Z	<p>Document Type: MORTGAGE Grantor: GREENBLATT LEON A Date Recorded: 07-17-1998 PIN: 14-33-201-015-1003 Grantee: CORUS BK Prior Documents:</p>



Cook County Recorder of Deeds Eugene "Gene" Moore

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[Grantor / Grantee Search Results >](#)

Documents for GREENBLATT LEON A

To refine your search, you can specify document types and/or a date range. When finished, press "Search".

Optional Criteria

Select Document Type(s) Selected:

Date Range
(mm/dd/yyyy)

To /

Tax Lien

Click on a document in the list below to view its details.

Select Document Document No. Details

00562293

Document Type: RELEASE
Grantor: CORUS BK
Date Recorded: 07-26-2000

PTN: 14-33-201-015-1003
Grantee: GREENBLATT LEON A
Prior Documents: 98622907

00562293	RELEASE	CORUS BK	07-26-2000	PTN: 14-33-201-015-1003	Grantee: GREENBLATT LEON A	Prior Documents: 98622907
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[Special Requests](#)

[FAQ](#)

[Remote Form](#)

[What's New](#)

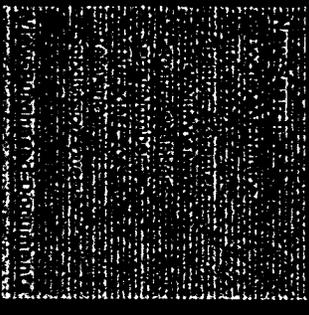
[Fees](#)

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Cook County Recorder of Deeds Eugene "Gene" Moore

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Documents for GREENBLATT LEON

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Optional Criteria

Select Document Type(s) **Selected:**

Date Range
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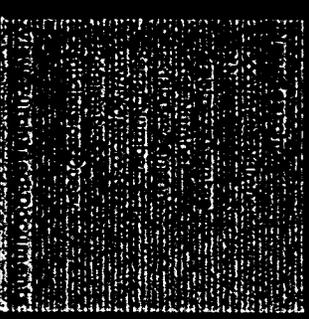
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Click on a document in the list below to view its details.

Select Document **Document No.** **Details**

Select Document	Document No.	Details	Document Type:	Grantor:	Date Recorded:	PN:	Grantee:	Prior Documents:
<input type="checkbox"/>	98520756		WARRANTY DEED	GREENBLATT LEON	06-18-1998	14-33-201-015-1002	GREENBLATT LEON A	



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ELYSSA BALINGIT WINSLOW

July 7, 2004

Jessica R.F. Grassley
Faegre & Benson LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

Re: James P. Stephenson, trustee for MJK Clearing, Inc.
vs. Greenblatt, et al., Court File Adv. No. 03-4053

Dear Jessica:

This is with regard to your letter to Judge Kressel dated June 9, 2004. After the hearing on June 2, 2004, while still in the Courtroom, I asked you to let me know by the end of that week whether you believed there might be documents that had not been produced so that I would have sufficient time in advance of the June 9th date to discuss any such documents with my clients. You told me you would give me adequate time before June 9th to make such an inquiry if you believed there might be additional documents that had not been produced.

I was out of town on June 7th and you called me and left a message that day that you wanted to discuss the document production. I returned your call on June 8th and asked you what documents you believed had not been produced, if any. You mentioned only bank statements, and noted that while statements had been produced for two accounts, statements were missing for those accounts for several months. I told you that my clients had searched for bank statements and produced those statements in their possession. You then told me that my clients had an obligation in response to the document request to contact the banks and procure copies of the "gap" statements. This was the first time you advised me that you felt my clients had any such obligation, even though bank statements had been produced to you at the end of March at which time you first became aware of the gaps. Nor had you made the contention that my clients had any such obligation in your motion to compel or motion for sanctions. In any event, I told you on the phone on June 8th that even though I disagreed that my clients had an obligation to procure

Exhibit C

ROBINSON CURLEY & CLAYTON, P.C.

Jessica R.F. Grassley
July 7, 2004
Page 2

documents not in their possession from third parties, that if you wished I would relay to my clients your request that they contact the banks to obtain the "gap" statements. You told me, however, that you would rather address it in a letter to the Judge.

With regard to your letter to Judge Kressel, first, you are incorrect when you advised that the brokerage statements produced by Loop Corp, Banco Panamericano, Inc., and Mr. Greenblatt ("Defendants") are from an "irrelevant time period." Your Document Request Number 10 sought "All monthly and annual brokerage account statements" without any limitation as to time period. Only after some documents had already been produced did you advise that your Requests only sought documents generated after January 1, 2002.

Second, again with respect to the "gap" bank statements, you note in your letter to Judge Kressel that Instructions included in your Document Request specified that documents "in the possession or control of or which are accessible to any servant, employee, representative, or agent" should be produced. The banks certainly do not fall within these categories. Even in the unlikely event that your Instruction could otherwise be construed to be germane to this situation, it seems clear under the discovery rules that the recipient of a document request does not have an obligation to obtain documents not in his or her possession from third parties. In that regard, you failed to note in your letter to Judge Kressel that objection was made by Defendants to your Instructions "to the extent they purport to impose obligations beyond those set out in the applicable Rules."

Finally, you refer in your letter to Judge Kressel to two Chicago condominium properties. I do not know why you chose *not* to discuss them with me when we spoke on June 8th since the sole purpose of the phone call was for you to advise me if you believed there were any documents that had not been produced. Instead, you chose as a matter of litigation strategy to go immediately to Judge Kressel. I am told that as your attachment to Judge Kressel reflects, Unit 2S is owned in a tenancy in the entirety by Mr. Greenblatt and his wife, that whatever documents Mr. Greenblatt may have had relating to the ownership of the unit were destroyed by a fire in the unit several years ago, and that, in any event, there are no documents relating to the ownership of

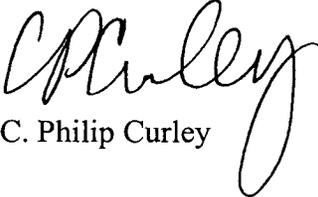
ROBINSON CURLEY & CLAYTON, P.C.

Jesseca R.F. Grassley
July 7, 2004
Page 3

the unit after January 1, 2002. I am told Unit 3S is owned by a Trust as to which Mr. Greenblatt is neither the Trustee nor a beneficiary. As indicated by the attachments in your letter to Judge Kressel, however, there are encumbrances in the approximate amount of \$1,250,000 on the property.

Very truly yours,

ROBINSON CURLEY & CLAYTON, P.C.



C. Philip Curley

CPC/dsr

PROMISSORY NOTE

\$1,425,000

Chicago, Illinois
August 22, 2001

FOR VALUE RECEIVED, the undersigned, Loop Corp., which is a South Dakota corporation with its principal place of business located at 330 S. Wells Street, Suite #711, Chicago, Illinois 60606 (herein referred to collectively as the "Borrower"), promises to pay to the order of Miller Johnson Steichen Kinnard, Inc., a Minnesota corporation, ("Holder"), at its offices at 5500 Wayzata Boulevard, Suite 800, Minneapolis, Minnesota 55416, or such other place, as the Holder hereby shall specify in writing, the principal sum of One Million Four Hundred and Twenty Five Thousand Dollars (\$1,425,000) together with interest accrued on the unpaid principal, which from time to time exists, at the rate of eight percent (8%) per annum (annual compounding) on the earlier of either: (i) the date that is three (3) business days after the date that both the following commercial real estate properties are sold— 407 South Dearborn Street, Chicago, Illinois and 401 South LaSalle Street, Chicago, Illinois or (ii) August 1, 2002.

This Note may be prepaid in whole or in part without penalty.

This Note is secured by the personal guaranty of Leon A. Greenblatt, executed on even date herewith.

No delay or omission on the part of the Holder of this Note in exercising any right hereunder shall operate as a waiver of such right or of any other remedy under this Note. A waiver on any one occasion shall not be construed as a waiver of any such right or remedy on a future occasion. Borrower consents that the Holder hereof may extend the time of payment or otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note, and such consent, release or satisfaction shall not alter nor diminish the liability of any person liable or to become liable for the indebtedness evidenced hereby or any portion of such indebtedness; and hereby further consent that no act, omission or thing, except full payment of this Note, which but for this provision could act as a release or impairment of its liability, shall in any way release, impair or effect the liability of any of them.

Presentment and notice of demand for payment may be served upon Mr. Greenblatt, any officer, director or employee of Borrower, or upon Elizabeth D. Sharp as agent for Borrower. Payment will be made within 10 business days of presentment and notice of demand, in accordance with the terms of the Note.

The rights or remedies of the Holder as provided in this Note shall be cumulative and noncurrent, and may be pursued singly, successively, or together at the sole discretion of the Holder. The failure to exercise any such right or remedy shall in no

event be construed as a waiver or release of such rights or remedies or the right to exercise them at any later time.

Upon the failure to make payment of any amount due hereunder, the Borrower shall be in default of this Promissory Note and the whole sum of principal, interest and any other sums payable to the Holder under the terms of this Promissory Note may be declared by Holder to be immediately due and payable, with notice or demand to Borrower.

The Borrower agrees to pay or reimburse the Holder on demand for all costs and expenses of collection, including reasonable attorneys fees, incurred by the Holder in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Promissory Note.

This Promissory Note shall be construed, performed, and enforced in accordance with, and governed by, the internal laws of the State of Minnesota, without giving effect to the principles of conflict of laws thereof. Each party hereby consents to the personal jurisdiction and venue of the United States District Court for the Northern District of Illinois for any disputes that may arise hereunder.

IN WITNESS WHEREOF, Borrower has caused this Promissory Note to be executed and delivered by its duly authorized officers as of the day and year first above written.

LOOP CORP.

By: 
Its: 

PROMISSORY NOTE

\$1,425,000

Chicago, Illinois
August 22, 2001

FOR VALUE RECEIVED, the undersigned, Banco PanAmericano, which is a South Dakota corporation with its principal place of business located at 330 S. Wells Street, Suite #711, Chicago, Illinois 60606 (herein referred to collectively as the "Borrower"), promises to pay to the order of Miller Johnson-Steichen Kinnard, Inc., a Minnesota corporation, ("Holder"), at its offices at 5500 Wayzata Boulevard, Suite 800, Minneapolis, Minnesota 55416, or such other place, as the Holder hereby shall specify in writing, the principal sum of One Million Four Hundred and Twenty Five Thousand Dollars (\$1,425,000) together with interest accrued on the unpaid principal, which from time to time exists, at the rate of eight percent (8%) per annum (annual compounding) on the earlier of either: i) the date that is three (3) business days after the date that both the following commercial real estate properties are sold— 407 South Dearborn Street, Chicago, Illinois and 401 South LaSalle Street, Chicago, Illinois or (ii) August 1, 2002.

This Note may be prepaid in whole or in part without penalty.

This Note is secured by the personal guaranty of Leon A. Greenblatt, executed on even date herewith.

No delay or omission on the part of the Holder of this Note in exercising any right hereunder shall operate as a waiver of such right or of any other remedy under this Note. A waiver on any one occasion shall not be construed as a waiver of any such right or remedy on a future occasion. Borrower consents that the Holder hereof may extend the time of payment or otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note, and such consent, release or satisfaction shall not alter nor diminish the liability of any person liable or to become liable for the indebtedness evidenced hereby or any portion of such indebtedness; and hereby further consent that no act, omission or thing, except full payment of this Note, which but for this provision could act as a release or impairment of its liability, shall in any way release, impair or effect the liability of any of them.

Presentment and notice of demand for payment may be served upon Mr. Greenblatt, any officer, director or employee of Borrower, or upon Elizabeth D. Sharp as agent for Borrower. Payment will be made within 10 business days of presentment and notice of demand, in accordance with the terms of the Note.

The rights or remedies of the Holder as provided in this Note shall be cumulative and noncurrent, and may be pursued singly, successively, or together at the sole discretion of the Holder. The failure to exercise any such right or remedy shall in no

event be construed as a waiver or release of such rights or remedies or the right to exercise them at any later time.

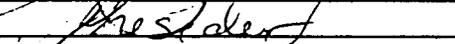
Upon the failure to make payment of any amount due hereunder, the Borrower shall be in default of this Promissory Note and the whole sum of principal, interest and any other sums payable to the Holder under the terms of this Promissory Note may be declared by Holder to be immediately due and payable, with notice or demand to Borrower.

The Borrower agrees to pay or reimburse the Holder on demand for all costs and expenses of collection, including reasonable attorneys fees, incurred by the Holder in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Promissory Note.

This Promissory Note shall be construed, performed, and enforced in accordance with, and governed by, the internal laws of the State of Minnesota, without giving effect to the principles of conflict of laws thereof. Each party hereby consents to the personal jurisdiction and venue of the United States District Court for the Northern District of Illinois for any disputes that may arise hereunder.

IN WITNESS WHEREOF, Borrower has caused this Promissory Note to be executed and delivered by its duly authorized officers as of the day and year first above written.

BANCO PANAMERICANO

By: 
Its: 

PROMISSORY NOTE

\$1,000,000

Chicago, Illinois
August 22, 2001

FOR VALUE RECEIVED, the undersigned, Leon A. Greenblatt, an individual with an address of 330 South Wells Street, Chicago, Illinois 60606 ("Borrower"), promises to pay to the order of Miller Johnson Steichen Kinnard, Inc., a Minnesota corporation, ("Holder"), at its offices at 5500 Wayzata Boulevard, Suite 800, Minneapolis, Minnesota 55416, or such other place, as the Holder hereby shall specify in writing, the principal sum of One Million Dollars (\$1,000,000) together with interest accrued on the unpaid principal, which from time to time exists, at the rate of eight percent (8%) per annum (annual compounding) on the earlier of: (i) August 1, 2002; or, (ii) the date that is three (3) business days after the date that both the following commercial real estate properties are sold— 407 South Dearborn Street, Chicago, Illinois and 401 South LaSalle Street, Chicago, Illinois.

This Note may be prepaid in whole or in part without penalty.

No delay or omission on the part of the Holder of this Note in exercising any right hereunder shall operate as a waiver of such right or of any other remedy under this Note. A waiver on any one occasion shall not be construed as a waiver of any such right or remedy on a future occasion. Borrower and all endorsers, sureties, guarantors or other accommodation parties, if any, hereof hereby severally waive presentment for payment, protest and demand notice of protest, demand, dishonor and nonpayment of this Note; and hereby further consent that the Holder hereof may extend the time of payment or otherwise modify the terms of payment of any part or the whole of the debt evidenced by this Note, and such consent, release or satisfaction shall not alter nor diminish the liability of any person liable or to become liable for the indebtedness evidenced hereby or any portion of such indebtedness; and hereby further consent that no act, omission or thing, except full payment of this Note, which but for this provision could act as a release or impairment of their liability, shall in any way release, impair or effect the liability of any of them.

The rights or remedies of the Holder as provided in this Note shall be cumulative and noncurrent, and may be pursued singly, successively, or together at the sole discretion of the Holder. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release of such rights or remedies or the right to exercise them at any later time.

Upon the failure to make payment of any amount due hereunder, the Borrower shall be in default of this Promissory Note and the whole sum of principal, interest and any other sums payable to the Holder under the terms of this Promissory Note may be

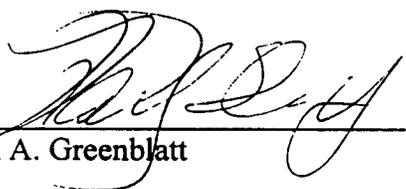
declared by holder to be immediately due and payable, with notice or demand to Borrower:

Presentment and notice of demand for payment may be served upon Mr. Greenblatt, any officer, director or employee of Borrower, or upon Elizabeth D. Sharp as agent for Borrower. Payment will be made within 10 business days of presentment and notice of demand, in accordance with the terms of the Note.

The Borrower agrees to pay or reimburse the Holder on demand for all costs and expenses of collection, including reasonable attorneys fees, incurred by the Holder in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Promissory Note.

This Promissory Note shall be construed, performed, and enforced in accordance with, and governed by, the internal laws of the State of Minnesota, without giving effect to the principles of conflict of laws thereof. Each party hereby consents to the personal jurisdiction and venue of the United States District Court for the Northern District Court of Illinois for any disputes hereunder.

IN WITNESS WHEREOF, Borrower has caused this Promissory Note to be executed and delivered as of the day and year first above written.



Leon A. Greenblatt

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

MJK Clearing, Inc.,

Bky. No. 01-4257 (RJK)

Debtor.

James P. Stephenson, Trustee for MJK
Clearing, Inc.,

Plaintiff,

v.

Adv. No. 03-4053 (RJK)

Leon A. Greenblatt, Banco Panamericano,
Inc., Loop Corp., Nola L.L.C., and
Repurchase Corp.,

Defendants.

**MEMORANDUM OF FACTS AND LAW IN SUPPORT
OF PLAINTIFF'S MOTION FOR SANCTIONS
PURSUANT TO THIS COURT'S ORDER DATED JUNE 4, 2004**

INTRODUCTION

1. James P. Stephenson, in his capacity as trustee ("Trustee") for the estate of MJK Clearing, Inc., moves the Court for the imposition of continuing sanctions against Defendants Leon A. Greenblatt ("Greenblatt"), Banco Panamericano, Inc. ("Banco"), and Loop Corp. ("Loop") (collectively "Defendants"), consistent with this Court's previous Order dated June 4, 2004.

2. On June 4, 2004, the Court issued an Order finding Defendants in contempt of this Court's previous Order dated March 18, 2004, which required Defendants to produce all documents responsive to the Trustee's post-judgment discovery requests. (*See* Court Docket Nos. 45-1, 55-1.) In addition to the finding of contempt, the June 4th Order awarded the Trustee \$500 in sanctions and required Defendants to comply in full with the March 18th Order by June 9, 2004, or incur additional sanctions in the amount of \$500 per day until the March 18th Order is complied with. (Court Docket No. 55-1.) Remarkably, Defendants still have not complied with the March 18th Order.

3. The Trustee was preparing to file a motion for continuing sanctions when the parties decided to attempt to negotiate a settlement. While in settlement negotiations, the Trustee agreed to put off the filing of this motion and to halt collection efforts. Since mid-July, the parties have attempted, without success, to negotiate the terms of a settlement agreement. Settlement negotiations have now irretrievably broken down. The Trustee therefore respectfully requests that, consistent with the June 4, 2004 Order, the Court (i) order Defendants to pay \$500 per day in sanctions, starting on November 3, 2004, until the Order is complied with, (ii) order the parties to attend an in-person status conference with the Court two weeks following the date of the hearing on this motion to inform the Court as to whether Defendants have produced all documents responsive to the Trustee's document requests; and (iii) order Defendants to pay the Trustee's reasonable costs, including attorneys' fees, incurred in making this motion, along with any other sanctions the Court deems appropriate.

STATEMENT OF FACTS

4. The Trustee filed his Complaint against Defendants on February 24, 2003, commencing Adversary Proceeding No. 03-4053, through which the Trustee sought to recover amounts relating to certain margin loan accounts. (*See* Court Docket No. 1-1.)

5. On August 20, 2003, immediately after hearing oral argument, this Court granted the Trustee's motion for summary judgment from the bench.

6. On September 11, 2003, this Court: (1) granted summary judgment to the Trustee on Counts III, IV, and V; (2) awarded the Trustee approximately \$4.5 million, including interest "until entry of judgment"; (3) awarded the Trustee \$114,986.93 in attorneys' fees and costs; and (4) instructed Defendants Banco, Loop, Nola, and Repurchase to transfer \$3,000,000 worth of tax credits to the Trustee. (*See* Court Docket No. 26-1.) The Bankruptcy Clerk entered final judgment on October 9, 2003. (Court Docket No. 31-1.)

7. Defendants appealed this Court's Order and the Judgment to the District Court. United States District Judge David S. Doty affirmed the grant of summary judgment, but reduced the Trustee's award by \$3 million, finding that the Trustee's award should be offset by the amount paid pursuant to the Guaranty of Jack Feltl. This Court entered an amended judgment based on Judge Doty's Order on April 28, 2004. (Clerk Docket No. 49-1.) The Court amended the judgment again on June 4, 2004, to correct a computational error in the previous judgment. (Clerk Docket No. 57-1.)

8. The Second Amended Judgment orders that the Trustee shall recover: (1) \$551,304 plus interest from Defendants Loop Corp. and Leon A. Greenblatt, jointly and severally; (2) \$551,304 plus interest from Defendants Banco Panamericano, Inc. and Leon A. Greenblatt, jointly and severally; (3) \$385,567 plus interest from Defendant Leon A.

Greenblatt; (4) \$114,986.93 in attorneys' fees and disbursements from Defendants Leon A. Greenblatt, Banco Panamericano, Inc., and Loop Corp., jointly and severally; and (5) \$3,000,000 in Tax Credits;

9. The Trustee has filed a Notice of Appeal with the United States Court of Appeals for the Eighth Circuit on the issue of whether the District Court erred in allocating the \$3 million credit to the cash portion of the judgment, rather than allowing the Trustee, as the beneficiary of the obligations at issue, to determine whether the credit should be applied to the cash portion of the judgment or the portion of the judgment requiring delivery of tax credits. Defendants filed a Notice of Cross Appeal on the issue of whether the District Court erred in affirming this Court's determination that there were no questions of fact on the issue of "failure of consideration" relating to the agreements at issue. On September 3, 2004, the Trustee filed a motion to dismiss his appeal in order to focus immediately on efforts to collect the Second Amended Judgment. Defendants' cross appeal remains pending.

9. Defendants have refused to pay any portion—even the undisputed portion—of the judgment, and have refused to post a bond pending appeal.

10. On October 27, 2003, the Trustee served Defendants with document requests to assist the Trustee in enforcing the Judgment. (*See* Affidavit of Jesseca R.F. Grassley ("Grassley Aff.") Ex. A.) As fully set forth in the Trustee's papers submitted in support of his Motion to Compel, (Clerk Docket No. 42-1, 44-1), Defendants refused to cooperate with the Trustee's efforts to engage in proper discovery. Accordingly, the Trustee was ultimately forced to file a motion to compel discovery. The Court granted the motion in its entirety on March 18, 2004. The Court's Order required Defendants to "produce to the Trustee all

documents responsive to Plaintiff's Request for Documents in Aid of Execution of Judgment on or before March 31, 2004." (Clerk Docket No. 45-1.)

11. Despite the Court's clear and direct order, Defendants only produced a portion of the documents responsive to the Trustee's document requests.

12. As a result, on June 4, 2004, this Court issued an Order finding Defendants in contempt of the March 18th Order. The Court awarded the Trustee \$500 in sanctions and ordered Defendants "to comply in full with the Court's March 18, 2004 Order by June 9, 2004, or incur additional sanctions in the amount of \$500 per day until the Order is complied with." (Court Docket No. 55-1.)

13. Consistent with the June 4th Order, on June 9, 2004, the Trustee informed the Court by letter that Defendants still have not produced all documents responsive to the Trustee's document requests. (Court Docket No. 58-1.) Defendants responded that they would be providing information to the Trustee that would resolve the question of whether outstanding documents remain. (Court Docket No. 59-1.) Defendants also indicated that they were going to post a bond, thereby obviating the need to comply with the Trustee's discovery requests and this Court's March 18th and June 4th Orders. (*Id.*)

14. To date, Defendants have not posted a bond. Furthermore, based on the following information, it is clear that Defendants continue to withhold documents responsive to the Trustee's document requests in direct violation of this Court's March 18th Order.

15. In response to the Trustee's 34 document requests, the Trustee has received a total of 210 pages of documents, only 66 of which are actually responsive to the Trustee's requests—the remaining 144 pages of documents consist of brokerage statements from an irrelevant time period. (Grassley Aff. ¶ 2.) The few responsive documents produced are

only partially responsive to *one* of the Trustee's 34 requests, Request No. 2, which calls for the production of bank statements. (Grassley Aff. ¶ 3.) Although that request seeks records from January 2002 to the present, the only bank statements produced for Loop Corp. are from December 2002 through March 2003 and from May 2004. (*Id.*) The bank statements for Banco Panamericano are likewise incomplete as they only reflect balances for October and December 2003 and January 2004. (*Id.*) Noticeably absent are any bank statements relating to Mr. Greenblatt. (*Id.*) To be clear, Defendants have produced responsive documents to only one of the Trustee's document requests, and even that production is incomplete.

16. The document requests specifically instruct Defendants to “furnish all documents and electronic data in the possession or control of or which are accessible to any servant, employee, representative, or agent of yours.” (Grassley Aff. Ex. A at 3.) Despite this clear instruction, Defendants admit they have not requested records from any bank, brokerage house, or other third party which may possess responsive documents within Defendants' control. (Grassley Aff. Ex. C.) In other words, there are responsive documents within Defendants' control that have not yet been produced to the Trustee. Thus, Defendants are still in violation of this Court's March 18th Order.

17. Moreover, the Trustee has discovered that Defendant Greenblatt owns a two-floor condominium near Lake Shore Drive in Chicago, which appears to be subject to various mortgages and a construction loan. (Grassley Aff. ¶ 4; *see also* Clerk Docket No. 58-1.) Yet, in response to the Trustee's request for information regarding real estate holdings and financing, Defendants have failed to produce any documentation regarding the condominium or the mortgages. (Grassley Aff. ¶ 5.) Counsel for Defendants admits that Mr.

Greenblatt owns the aforementioned condominium. (*See* Grassley Aff. Ex. C.) Nevertheless, Mr. Greenblatt still has not provided any documentation relating to that ownership, as required by the Trustee's document requests and this Court's March 18, 2004 Order. Counsel has explained that documents relating to one of the condominium units were destroyed in a fire. (Grassley Aff. Ex. C.) Counsel also explains, however, that the condominium is subject to a \$1.2 million mortgage. (*See id.*) As directed by the Trustee's document requests, Mr. Greenblatt should be required to produce copies of the mortgage documents, which he should be able to retrieve from any mortgagor with an encumbrance on the condominium. Mr. Greenblatt is not relieved of his obligation to retrieve such copies simply because his personal copies may have been destroyed.

18. Defendants have further failed to produce any documentation regarding two parcels of commercial real estate in Chicago, which, according to the promissory notes central to the underlying suit, are owned by Mr. Greenblatt, Banco Panamericano, and Loop. (Grassley Aff. ¶ 6; Grassley Aff. Exs. D, E, and F.)

19. In sum, Defendants have not produced all documents responsive to the Trustee's post-judgment document requests. Thus, Defendants are still in contempt of this Court's March 18th Order.

ARGUMENT

20. The facts set forth above demonstrate that Defendants are still not in compliance with this Court's March 18th Order because they have failed to produce all documents responsive to the Trustee's post-judgment discovery requests.

20. The June 4th Order requires Defendants to comply in full with this Court's March 18th Order, which orders Defendants to produce "all documents responsive to

Plaintiff's Request for Documents in Aid of Execution of Judgment," by June 9, 2004 or incur sanctions in the amount of \$500 per day until the March 18th Order is complied with. (Clerk Docket No. 55-1.) As described fully above and in the Affidavit of Jesseca R.F. Grassley, Defendants are still withholding documents responsive to the Trustee's document requests.

21. As a result, consistent with this Court's June 4, 2004 Order, the Trustee respectfully requests that the Court order Defendants to pay additional sanctions in the amount of \$500 per day, beginning on November 3, 2004¹, until they produce all documents responsive to the Trustee's requests.

CONCLUSION

22. The Trustee has attempted to conduct legitimate discovery in aid of his judgment since October 2003. Now, more than ten months later, the Trustee has only received documents partially responsive to one of the Trustee's 34 document requests. Defendants' document production is demonstrably inadequate and in direct violation of this Court's March 18th and June 4th Orders.

23. The Trustee therefore respectfully requests that, consistent with the June 4, 2004 Order, the Court (i) order Defendants to pay \$500 per day in sanctions, dating from November 3, 2004, until the Order is complied with, (ii) order the parties to attend an in-person status conference with the Court two weeks following the date of the hearing on this motion to inform the Court as to whether Defendants have produced all documents responsive to the Trustee's document requests; and (iii) order Defendants to pay the

Trustee's reasonable costs, including attorneys' fees, incurred in making this motion, along with any other sanctions the Court deems appropriate.

Respectfully submitted,

Dated: October 19, 2004

FAEGRE & BENSON LLP

/e/ Jesseca R.F. Grassley

Robert L. Schnell, Jr., # 97329

James L. Volling, # 113128

Stephen M. Mertz, # 212131

Jason K. Walbourn, # 297604

Jesseca R.F. Grassley, # 294329

Ted R. Cheesebrough, #293489

2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Telephone: (612) 766-7000
Facsimile: (612) 766-1600

Attorneys for Plaintiff James P. Stephenson,
in his capacity as trustee for the estate of
MJK Clearing, Inc.

M2:20639036.02

¹ Because the parties had attempted to settle this matter, the Trustee believes that the sanctions should begin running from the date of the hearing on this motion rather than the June 9, 2004, date set forth in the Court's June 4th Order.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

MJK Clearing, Inc.,

Bky. No. 01-4257 (RJK)

Debtor.

James P. Stephenson, Trustee for MJK
Clearing, Inc.,

Plaintiff,

v.

Adv. No. 03-4053 (RJK)

Leon A. Greenblatt, Banco Panamericano,
Inc., Loop Corp., Nola L.L.C., and
Repurchase Corp.,

Defendants.

ORDER

This matter came on for hearing on November 3, 2004, on the Motion for Sanctions Pursuant to the Court's Order dated June 4, 2004, brought by James P. Stephenson, as trustee for the liquidation of MJK Clearing, Inc. (the "Trustee"). Appearances were noted on the record. Based upon the Motion for Sanctions, the arguments of counsel, and the record in this case, the Court being fully advised in the premises,

IT IS HEREBY ORDERED:

1. The Motion for Sanctions is **GRANTED**.
2. Defendants are ordered to pay \$500 per day in sanctions, dating from November 3, 2004, until the Order is complied with.
3. The parties are ordered to attend an in-person status conference with the Court two weeks following the date of the hearing on this motion to inform the Court as to whether Defendants have produced all documents responsive to the Trustee's document requests.
4. Defendants are ordered to pay the Trustee's reasonable costs, including attorneys' fees, incurred in making this motion.

Dated _____, 2004

Robert J. Kressel
United States Bankruptcy Judge

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