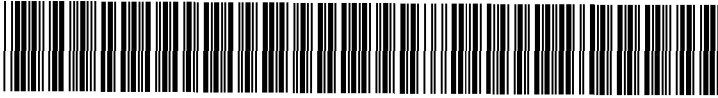




MTG 2014067896



AUG 29 2014 14:58 P 7

Fee amount: 46.00  
FB: 42-07880  
COMP: BW

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
08/29/2014 14:58:59.00



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**DEED OF TRUST**

THIS DEED OF TRUST ("Deed of Trust"), dated the 29 day of August, 2014, by MSM Petroleum, LLC, a Nebraska limited liability company ("Trustor"), with an address of 2305 R Street, Lincoln, Nebraska 68503, Attn: Nabila Arshad, to Shaun M. James, an attorney licensed in the State of Nebraska ("Trustee") for the use and benefit of Howell Properties, LLC, a Nebraska limited liability company, whose mailing address is 215 North 161 Avenue, Omaha, Nebraska 68118, Attn: Craig Howell ("Beneficiary").

**WHEREAS**, Trustor has executed and delivered to the Beneficiary a Promissory Note, dated of even date herewith, in the principal amount of Two Hundred Seventy-nine Thousand and No/100 Dollars (\$279,000.00) (the "Note"); and

**WHEREAS**, Trustor has agreed to provide this Deed of Trust to Beneficiary as security for the Note;

NOW THEREFORE, FOR VALUABLE CONSIDERATION, Trustor irrevocably transfers, conveys and assigns to Trustee, **IN TRUST, WITH POWER OF SALE**, for the benefit and security of Beneficiary, under and subject to the terms and conditions of this Deed of Trust, the real property, located in the County of Douglas, State of Nebraska, described as follows:

**Lot 2, Block 1, Country Club District excluding the West 35 feet of said Lot 2, and all of Lot 1, Block 1, Country Club District, Douglas County, Nebraska (commonly known as 5203 Northwest Radial Highway, Omaha, Nebraska) (the "Real Estate")**

TOGETHER WITH, all buildings, fixtures and improvements upon the Real Estate, whether now or hereafter existing, all rights-of-way, easements, rents, issues, profits, income, leases, tenements, hereditaments, privileges and appurtenances belonging, used or enjoyed in connection with the Real Estate, or any part thereof (subject, however, to the right, power and authority of Trustor to collect and apply such rents, issues, profits and income as they become due and payable, so long as no event of Default exists hereunder) and all proceeds of conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including without limitation, proceeds of insurance and condemnation awards, all of which collectively is hereunder referred to as the "Trust Estate".

FOR THE PURPOSE OF SECURING:

(a) Payment of indebtedness in the principal amount of Two Hundred Seventy-nine Thousand and No/100 Dollars (\$279,000.00), with interest thereon, as evidenced by the Note executed by Trustor, which has been delivered and is payable to the order of Beneficiary, and which by this reference is made part of this Deed of Trust.

(b) Payment of all sums advanced by Beneficiary to protect the Trust Estate, with interest thereon as provided in the Note.

This Deed of Trust, the Note, and any other instrument given to evidence or further secure the payment and performance of any past, current or future obligations secured hereby are referred to collectively as the "Note".

TO PROTECT THE SECURITY OF THIS DEED OF TRUST:

**1. PAYMENT OF INDEBTEDNESS.** This Deed of Trust secures the Note given by Trustor to secure payment by the Trustor to Beneficiary of the principal of, and the interest on, the indebtedness evidenced by the Note and all charges, fees and all other sums as provided in the Note, as and when due.

**2. TAXES AND ASSESSMENTS.** Trustor shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Trust Estate or any part thereof, before delinquency, without notice or demand. Trustor shall provide proof of payment of all taxes and special assessments to Beneficiary within ten (10) days of payment to the country treasurer.

**3. INSURANCE.** Trustor, at its expense, will maintain casualty insurance with respect to any improvements and personal property constituting the Trust Estate insuring against loss by fire, lightning, and other perils and casualties covered by the standard all risk endorsement, in an amount equal to at least 100% of the full replacement value thereof, with no deduction for depreciation, and shall maintain insurance against such other hazards and in such amount as is customarily carried by owners and operators of similar properties. Trustor shall also maintain general liability insurance protecting against claims for damages to persons or property and pertaining to the Trust Estate or any portion thereof. Beneficiary shall be named as a co-insured on all policies of casualty or general liability insurance maintained by Trustor as required herein. All policies of insurance shall require no less than thirty (30) days prior notice of expiration or cancellation. At the time of each renewal or change of policy, Trustor shall provide to Beneficiary a current certificate of insurance of each policy, showing Beneficiary as a named insured.

**4. DESTRUCTION.** In case of any damage to or destruction or taking or condemnation of all or any portion of the Trust Estate, including any buildings, improvements or personal property constituting part of the Trust Estate, whether such loss is covered by insurance, condemnation proceeds, or otherwise, Beneficiary shall have the right to receive and apply any insurance proceeds or other recovery related to said loss to a reduction in the indebtedness hereby

secured or to require Trustor, at its sole cost and expense, to promptly restore, repair, replace and rebuild the same as nearly as practicable to its condition immediately prior to such damage or destruction or with such changes and alterations as Trustor and Beneficiary mutually agree upon, provided such changes and alterations do not diminish in any way the value and utility of such buildings, improvements and personality from that existing immediately prior to such damage or destruction. All funds received by Trustor for loss or destruction shall be duly endorsed and delivered to Beneficiary to apply toward the reduction of the indebtedness or to hold in escrow for application toward the costs of repair, replacement or restoration of the Trust Estate. Beneficiary's decision regarding the application of the funds received shall be in Beneficiary's sole and absolute discretion.

**5. MAINTENANCE.** Trustor will not commit any waste upon the Trust Estate and will, at all times, maintain all parts of the Trust Estate in good order and condition and will make, from time to time, all repairs, renewals, replacements, additions and improvements which are necessary to such end. No building or improvement now or hereafter erected upon the Real Estate shall be altered, moved or demolished without the prior written consent of Beneficiary. If Trustor fails to maintain the Trust Estate, Beneficiary may, but is not obligated to, make such repairs and perform such maintenance as Beneficiary deems necessary to preserve and protect the Trust Estate and Beneficiary's interests therein.

**6. ACTIONS AFFECTING TRUST ESTATE.** Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges imposed upon the Trust Estate, or any part thereof or interest therein. If Trustor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond in the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law. Any such payment shall accrue interest as provided in the Note and shall be payable, together with accrued interest at the Note interest rate, immediately upon written demand.

The Trustor will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Trust Estate or any part thereof. This shall apply to any construction upon the Trust Estate as well as the operation of any business upon the Trust Estate.

**7. EMINENT DOMAIN.** Should the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any taking by right of eminent domain, condemnation proceeding ("Condemnation"), or in any other manner including deed in lieu of Condemnation, or should Trustor receive any notice or other information regarding such proceeding, Trustor shall give prompt written notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards and other payments or relief thereof to the extent released or forwarded to Trustor by Beneficiary. All such compensation, awards, damages, rights or action and proceeds released or forwarded to Trustor by Beneficiary (the "Proceeds") are hereby assigned to Beneficiary, and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require. The Proceeds shall, at the option of the Beneficiary, be applied against the costs of restoring the Trust Estate or against the unpaid principal balance of the Note.

**8. REPRESENTATIONS.** Trustor covenants and warrants with Beneficiary, its successors and assigns, that Trustor owns the Trust Estate free from any prior lien or encumbrance, that this Deed of Trust is and will remain a valid and enforceable first lien on the Trust Estate, that Trustor will preserve such title and will forever warrant and defend the same to the Beneficiary and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and claimants other than Beneficiary. The foregoing warranties shall survive the exercise of the power of sale as herein conferred, as well as the foreclosure of this Deed of Trust, and shall run with the land.

**9. TRUSTEE'S DUTIES.** Trustor acknowledges that: (a) the duties and obligations of Trustee shall be determined solely by the express provisions of this Deed of Trust and Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be imposed upon Trustee; (b) no provision of this Deed of Trust shall require Trustee to expend or risk its own funds, or otherwise incur any financial obligation in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it; (c) Trustee may consult with counsel of its own choosing and the advice of such counsel shall be full and complete authorization and protection in the respect of any action taken or suffered by it hereunder in good faith and in reliance thereon; (d) Trustee shall not be liable for any action taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights of powers conferred upon it by this Deed of Trust.

**10. APPOINTMENT OF SUCCESSOR TRUSTEE.** Beneficiary may, from time to time, substitute a successor or successors to the Trustee named herein, or acting hereunder to execute this Deed of Trust. Upon such appointment and without conveyance to the successor Trustee, the latter shall be vested with all title, powers and duties conferred upon the Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument by Beneficiary, containing reference to this Trust Deed and its place of record which, when recorded in the office of the Register of Deeds of Douglas County, Nebraska, shall be conclusive proof of proper appointment of the successor Trustee. The foregoing power of substitution and the procedure therefor shall not be exclusive of the power and procedure provided for by law for the substitution of a trustee or trustees in the place of the Trustee named herein.

**11. SUCCESSORS AND ASSIGNS.** This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, personal representatives, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the Note, whether or not specifically named as Beneficiary herein.

**12. DEFAULT.** Trustor shall be deemed in default if Trustor fails to make any payment when due or fails to comply with any other obligation under the Note, or within the cure period, (if any), provided under the Note, or if Trustor fails to perform any obligation of Trustor under this Deed of Trust or any other instrument securing the Note when and as required.

**13. ACCELERATION UPON DEFAULT, ADDITIONAL REMEDIES.** Should the Default occur as described in Section 12 above, Beneficiary may declare all indebtedness secured hereby to be immediately due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Beneficiary may pursue any one or more of the following remedies:

(a) Commence an action to foreclose this Deed of Trust as a mortgage, to seek deficiency on the indebtedness after the foreclosure without any limitation otherwise applicable under the applicable law of the State of Nebraska, to appoint a receiver, and to otherwise specifically enforce any of the covenants or provisions hereof;

(b) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold under the Power of Sale contained herein, which notice Trustee shall cause to be duly filed for record in the Register of Deeds of Douglas County Nebraska, all to the extent required by applicable law;

(c) Pursue performance of Trustor's obligations by the individual guarantors;

(d) Exercise all rights and remedies available to it at law, in equity or under the applicable law of the State of Nebraska.

**14. FORECLOSURE BY POWER OF SALE.** Should Beneficiary elect to foreclose by exercise of the Power of Sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts or other evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in such Notice of Sale, either as a whole, or in separate lots, parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, or certified check, payable at the time of sale or at such time as set forth in the Notice of Sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient trustee's deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale. Trustor hereby covenants to forever warrant and defend the title of such purchaser or purchasers of any of the Trust Estate so conveyed as if Trustor had conveyed the same to such purchaser(s) by general warranty deed.

- (b) As may be permitted by law, after deducting all costs, fees and expenses of Trustee and of this Trust incurred in connection with any such default or sale or foreclosure or all of them, including attorney's fees and costs of evidence of title in connection with sale, and a Trustee's fee. Trustee shall apply the proceeds of sale to payment of (i) all sums expended under the terms hereof, not then repaid, with accrued interest as provided in the Note, (ii) all other sums then secured hereby, and (iii) the remainder, if any, to the person or persons legally entitled thereto
- (c) Trustee may in the manner provided by law postpone sale of all or any portion of the Trust Estate.

**15. REQUEST FOR NOTICE.** Trustor hereby requests a copy of any notice of default or notice of sale hereunder be mailed to it at the address set forth in the first paragraph of this Deed of Trust.

**16. GOVERNING LAW AND NON-WAIVER.** This Deed of Trust shall be governed by the laws of the State of Nebraska. The acceptance by Beneficiary of any sum after the same is due shall not constitute a waiver of the right either to request prompt payment, when due, of all other sums hereby secured or to declare the Default as herein provided.

**17. RIGHT OF INSPECTION.** Beneficiary or Trustee shall have the absolute right, upon no less than two business days prior notice to Trustor, to inspect the Trust Estate including all real and personal property. Except in the Event of Default under this Deed of Trust, the Note or any other instrument securing the Note, Beneficiary and Trustee shall limit such inspections to no more than once in any six (6) consecutive month period. Upon the occurrence of an Event of Default, Beneficiary and Trustee shall each have unlimited access to the inspect the Trust Estate and to take such further action as may be deemed appropriate in Beneficiary's sole and absolute discretion, to protect Beneficiary's rights.

**18. RECONVEYANCE BY TRUSTEE.** Upon satisfaction of all of Trustor's obligations under the Note, and upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

**19. NOTICES.** Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by certified mail, postage prepaid, addressed to the address set forth at the beginning of this Deed of Trust or at such other address as a party may designate for itself by notice to the other parties hereto given in like manner.

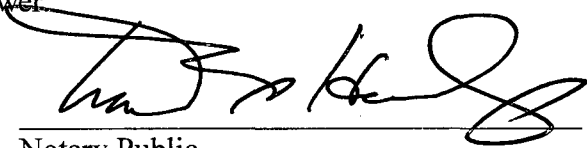
EXECUTED and dated as of the year and day first written above.

**MSM Petroleum, LLC, a Nebraska limited liability company, Trustor**

By: Nabila Arshad  
Nabila Arshad, Member

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this 29 day of August, 2014, by Nabila Arshad, in her authorized capacity as a member of MSM Petroleum, LLC, a Nebraska limited liability company, Borrower, and who is personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in his duly authorized capacity on behalf of Borrower, and she acknowledged, signed and delivered the instrument as her free and voluntary act, for the uses and purposes therein set forth, and that such act is binding upon the Borrower.

  
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Notary Public

