

IN TI



COUNTY, NEBRASKA

GREAT WESTERN BANK,)
)
 Plaintiff,)
)
 Vs.)
)
 CENTURY-OMAHA LAND, LLC, et al.,)
)
 Defendants.)

CASE NO. CI 18-6705

ORDER APPOINTING RECEIVER

#6
FILED
 IN DISTRICT COURT
 DOUGLAS COUNTY NEBRASKA
 AUG 13 2018
 JOHN M. FRIEND
 CLERK DISTRICT COURT

THIS MATTER came before the Court on the 13 day of August, 2018, on the Plaintiff's

Verified Application for Appointment of a receiver pursuant to Neb. Rev. Stat. § 25-1081, et seq., Craig A. Knickrehm of Valentine O'Toole, LLP, appeared for Plaintiff, Great Western Bank ("Plaintiff"). Michael L. Sholes of Cline Williams Wright Johnson & Oldfather, LLP, appeared for Defendant, Century-Omaha Land, LLC. ("Borrower"). Gerald L. Friedrichsen appeared for defendant Airtech Service, Inc. Borrower does not contest the appointment of Regency Hotel Management, LLC as Receiver herein. Although duly served with notice of Plaintiff's Application more than five (5) days prior to the date of this hearing, no other defendant appeared in person or through counsel.

Borrower is engaged in the business of operating a hotel and water park at 3321 South 72nd Street, Omaha, Nebraska 68124 (the "Operation").

Upon review of the Verified Application for Appointment of a Receiver and Exhibits attached thereto and the Consent of Borrower and the Court's file, the Court being fully advised in the premises, finds that the Application for Appointment of Receiver should be granted effective as of August 13, 2018 at 9:00 A. m. (the "Effective Date").

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

A. Plaintiff Application for Appointment of a Receiver is GRANTED; and

Acting

B. Regency Hotel Management, LLC is hereby appointed as Receiver for Borrower, including for both the Operation and all of Borrower's property (the "Property"), which Property includes all property in which Plaintiff has a security interest, including but not limited to:

Parcel 1: Lot 3, in Lawnfield Replat No. 3, an Administrative Subdivision of the City of Omaha, in Douglas County, Nebraska

AND

Parcel 2: Lot 1, Lawnfield Replat 4, an Administrative Subdivision in the City of Omaha, in Douglas County, Nebraska

AND

Parcel 3: Easement for Access as more particularly described in Declaration of Reciprocal Easement filed January 26, 2006, as Instrument No. 2006-009302 ("Real Property");

AND

All Fixtures located on the Real Property

AND

All inventory, equipment, accounts (including but not limited to all health-care-insurance receivables), chattel, paper, instruments (including but not limited to all promissory notes), letter-of-credit rights, letters of credits, documents, deposit accounts, investment property, money, other rights to payment and performance, and general intangibles (including but not limited to all software and all payment intangibles); all oil, gas and other minerals before extraction; all oil, gas, other minerals and accounts constituting as-extracted collateral; all fixtures; all timber to be cut; all attachments, accessions, accessories, fittings, increases, tools, parts, repairs, supplies, and commingled goods relating to the foregoing property, and all additions, replacements of and substitutions for all or any part of the foregoing property; all insurance refunds relating to the foregoing property; all good will relating to the foregoing property; all records and data and embedded software relating to the foregoing property and all equipment, inventory and software to utilize, create, maintain and process any such records and data on electronic media; and all supporting obligations relating to the foregoing property; all whether now existing or hereafter arising, whether now owned or hereafter acquired or whether now or hereafter subject to any rights in the foregoing property; and all products and proceeds (including but not limited to all insurance payments) of or relating to the foregoing property.

arising before the date of this Order or pay any amounts due. For the duration of his appointment, Receiver shall comply with all applicable laws relating to tax reporting requirements. Receiver shall furnish Borrower with such accounts, books and records within Receiver's custody or control as reasonably may be necessary for Borrower to complete and file tax returns;

eee. Receiver may at any time file a motion requesting that he be exonerated, discharged and released from his appointment as receiver. If for any reason Receiver is discharged prior to the Trustee's full and complete exercise of the power of sale under the Deed of Trust, Plaintiff shall be entitled to designate a successor receiver;

fff. On a bi-monthly basis, Receiver shall file a report (the "Receiver Report") with this Court accounting for all sums received and expenditures made (including payment of the Property Management Fee) during the prior calendar month in connection with the receivership and the Property and provide copies of such reports to counsel of record in this action;

ggg. Receiver shall be relieved of his powers and obligations upon entry of an order of this Court following: (a) a default by Receiver under any of his obligations hereunder; (b) a trustee's sale of the Property; (c) the entry of an order dismissing the Application; (d) the written request of Plaintiff; or (e) the written request of Receiver. Upon Receiver being relieved of its powers and obligations, the Court may enter an order *ex parte* appointing a replacement receiver nominated by Plaintiff subject to the Court's right to confirm the qualifications of such nominee and subject to such order containing substantially the same terms and conditions of this Order;

hhh. Upon termination of the receivership, Receiver shall wind up receivership affairs and distribute all funds as required in the final accounting and report. Within forty-five (45) days of the termination of the receivership, Receiver shall file a final accounting report with the Court and submit a copy to all parties who have entered their appearance in this action. If no objections to the final accounting and report have been delivered to the Court within fifteen (15) days after filed with the Court, the final accounting and report will be accepted by the Court, and the Court will enter an order discharging Receiver;

iii. In the event of the expiration or termination of the receivership, including by trustee's sale, Receiver shall execute and deliver such assignments, reassignments, conveyances, releases and other documents as may be reasonably required to transfer the assets, liabilities and operation of the Property and to divest himself of all incidents of ownership thereof, to such person(s) or enti(ties) as Plaintiff shall designate or, in the event of a trustee's sale, to the purchaser(s) at such sale;

jjj. Upon the failure of Borrower, its agents, employees and any management companies engaged by Borrower to abide by any term or condition of this Order, Receiver may petition this Court for further action to compel and enforce this Order.

D. FURTHER ORDERED that the interests of all parties hereto will be promoted by the appointment of a receiver and no substantial rights of any party hereto will be unduly infringed upon the appointment of a receiver.

Dated this 13 day of August, 2018.