

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JEFFERSON-PILOT INVESTMENTS, INC., a North Carolina corporation, Plaintiff, v. CAPITAL FIRST REALTY, INC., an Illinois corporation, SUNSET VILLAGE LIMITED PARTNERSHIP, an Illinois limited partnership; TCF NATIONAL BANK, a national banking association; L H BLOCK ELECTRIC COMPANY, INC., an Illinois corporation, DOHERTY, GIANNINI, REITZ CONSTRUCTION, INC., an Illinois Corporation, and EAGLE HEATING & COOLING INC., and Illinois Corporation Defendants. Case No. 10-cv-07633 Judge Matthew F. Kennelly Magistrate Judge Jeffrey N. Cole

PLAINTIFF'S MOTION FOR ENTRY OF FINAL JUDGMENT PURSUANT TO FED. R. CIV. P. RULE 54(b)

Jefferson-Pilot Investments, Inc., by its attorneys, Leonard S. Shifflett, Faye B. Feinstein, and Michael S. Rhinehart, request that this Court enter a final judgment pursuant to Fed. Civ. P. Rule 54(b) and in accordance with the Court's Order granting summary judgment in favor of Plaintiff and against Defendant, Capital First Realty, Inc. ("Capital First"). In support of its Motion, Plaintiff states as follows:

- 1. On July 18, 2011, the Court entered an Order granting summary judgment in favor of Plaintiff and against Capital First [Doc. 95].
2. Under the Court's Order, Capital First is liable for all amounts due and owing under the Mortgage and the Leasehold Mortgage as those terms are defined in the Complaint.

3. During the course of submission of the briefs on the Motion for Summary Judgment, the amount of principal, then accrued interest, and the prepayment premium were calculated and submitted to the Court.

4. With the passage of time, those amounts have increased and, therefore, attached to this Motion as Exhibit A is the Affidavit of Richard C. Millard setting forth the amounts of principal, interest and prepayment premium presently due and owing and to become due and owing in the future.

5. Also, under the Mortgage, Capital First, as guarantor, is responsible for the payment of attorneys' fees and costs incurred in prosecuting this action. To date those fees and expenses for purposes of seeking judgment on the Guaranty are set forth in the attached Affidavit of counsel of record for the Plaintiff attached hereto as Exhibit B.

6. While an Amended Complaint has been filed in this proceeding seeking to foreclose the Mortgage Loan and the Leasehold Loan and other actions have been filed seeking to avoid fraudulent conveyance were made by Sunset Village and by Capital First, all those claims are separate and apart from the claim of the suit on the Guaranty and, therefore, judgment is appropriate in this case pursuant to Fed. R. Civ. P. Rule 54(b).

7. Plaintiff requests that the judgment on the matters raised in the summary judgment be entered as a final judgment as it disposes of one but fewer than all claims as against Capital First or the other parties and because there is no just reason for delay. Plaintiff requests that the Court make a finding in that regard pursuant to Fed. R. Civ. P. Rule 54(b).

WHEREFORE, Plaintiff, Jefferson-Pilot Investments, Inc., requests that an entry of final judgment against Capital First Realty, Inc. on the Motion for Summary Judgment be entered as prayed for in this Motion. Plaintiff further requests that this Court enter a final judgment for a sum

certain in accordance with Fed. R. Civ. P. RULE 79 on a judgment based on Fed. R. Civ. P. Rule 58(b)(1)(B).

Dated: August 25, 2011

Respectfully submitted,

**JEFFERSON-PILOT INVESTMENTS,  
INC.**

By:           /s/ Leonard S. Shifflett            
One of Its Attorneys

Leonard S. Shifflett, Esq. (ARDC No. 2587432)  
[leonard.shifflett@quarles.com](mailto:leonard.shifflett@quarles.com)  
Faye B. Feinstein, Esq. (ARDC No. 6186627)  
[faye.feinstein@quarles.com](mailto:faye.feinstein@quarles.com)  
Michael S. Rhinehart, Esq. (ARDC No. 6302834)  
[michael.rhinehart@quarles.com](mailto:michael.rhinehart@quarles.com)  
QUARLES & BRADY LLP  
300 North LaSalle Street, Suite 4000  
Chicago, Illinois 60654  
(312) 715-5000 (Telephone)  
(312) 715-5155 (Facsimile)