

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

FIRSTMERIT BANK, N.A. as successor )  
in interest to FEDERAL DEPOSIT )  
INSURANCE CORPORATION, as Receiver )  
For MIDWEST BANK AND TRUST )  
COMPANY )

Plaintiff,

v.

CHARLES J. FANARO, JR., )  
HI-TECH HOUSING, INC. AND DWG )  
CORPORATION )

Defendants. )

Case No. 13 cv 7504

District Judge: Edmond E. Chang

Magistrate Judge: Jeffrey T. Gilbert

**AGREED CONSENT JUDGMENT ORDER**

THIS CAUSE COMING TO BE HEARD for hearing on the merits of the Plaintiff’s Amended Complaint filed herein by Plaintiff and on the agreement and stipulation of the parties, this Court having found that it has jurisdiction over the parties and the subject matter and otherwise being fully advised in the premises, makes these FINDINGS BASED ON THE STIPULATION AND AGREEMENT OF THE PARTIES:

1. The Defendants, Charles J. Fanaro, Jr., Hi-Tech Housing, Inc. and DWG Corporation (hereinafter “Defendants”) each waived service of the Amended Complaint and voluntarily appeared through the undersigned counsel;

2. Counts I and II of the Amended Complaint, respectively, assert causes of action against Charles J. Fanaro, Jr. and Hi-Tech Housing, Inc. for breach of their respective Commercial Guaranties (“Guaranties”) of the indebtedness of DWG Corporation, which arises from a promissory note attached to the Amended Complaint as Exhibit A to the Amended Complaint (“Note”);

3. Count III asserts a cause of action against DWG Corporation arising from its indebtedness under the Note;

4. This Court has original jurisdiction over this civil action based on diversity of citizenship pursuant to 28 U.S.C. §1332, since Plaintiff and each defendant are citizens of different states (Ohio and Illinois and Indiana, respectively) and the amount in controversy in exceeds \$75,000.00.

5. The parties stipulate and agree that the allegations of Plaintiff's Amended Complaint are confessed against each of the Defendants and that final judgment shall be entered, jointly and severally, against each of the Defendants, to which each of the Defendants hereby consents, thereby adjudicating all claims in Plaintiff's Amended Complaint; subject to the terms of the 8<sup>th</sup> Modification to Forbearance Agreement ("Modification Agreement") between and among the parties, including, but not limited to the provision that the Bank will not record or execute on the Agreed Judgments during the Forbearance Period as extended under the Modification Agreement, which provides that the Forbearance Period shall be extended, until the earlier of: (i) April 30, 2014; (ii) the date of any breach by Borrower or Guarantor of any provision of the Modification Agreement, or the failure of any Forbearance Condition, as defined below, if not cured within three (3) business days after written notice of any breach by Bank to counsel for DWG; or (iii) closing of the Transaction and the failure to pay the Indebtedness.

6. This Court specifically finds, based on the consent and agreement of Defendants, that Plaintiff is entitled to judgment against Defendants pursuant to Counts I, II and III of Plaintiff's Amended Complaint.

7. The parties stipulate and agree that the amount due to Plaintiff under the Note, Guaranties, and the Modification Agreement, as of January 22, 2014, is as follows:

Principal	\$9,355,000.00
Interest	1,297,618.19
Deferred Forbearance Fee	100,000.00
Extension Fee	500,000.00
Late Fees	29,610.01
Appraisal Fees	16,800.00
Attorneys Fees	210,872.05

**Total: \$11,509,900.25** plus interest at the rate of **\$1,948.96** per diem for the period of January 22, 2014 through the date of the entry of the this Order, and thereafter, post-judgment interest at the rate of 7.5% per annum.

THEREFORE IT IS HEREBY ORDERED THAT:

1. Pursuant to Counts I, II and III of Plaintiff's Amended Complaint, judgment is entered in favor of FirstMerit Bank, N.A. and against Defendants Charles J. Fanaro, Jr., Hi-Tech Housing, Inc. and DWG Corporation, jointly and severally, in the amount of \$11,564,471.13, plus post-judgment interest at the rate of 7.5% per annum.

2. This order constitutes a final judgment with respect to all claims pleaded in Plaintiff's Amended Complaint against all Defendants and constitutes the final order of the Court.

DATED: \_\_\_\_\_

ENTER:

\_\_\_\_\_  
JUDGE

AGREED AND ACKNOWLEDGED:

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