

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

LINCOLNWAY COMMUNITY BANK,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:16-cv-8281
)	
M/V EMC 507, M/V LISA E,)	Hon. Elaine E. Bucklo
M/V DAVID E, M/V DANIEL E, and)	Mag. Judge Maria Valdez
M/V SWS 510, and each vessel's engines,)	
tackle, appurtenances, etc., <i>in rem</i> , and)	In Admiralty
SERVICE WELDING & SHIPBUILDING,)	
LLC, <i>in personam</i> ,)	
)	
Defendants.)	

**LINCOLNWAY COMMUNITY BANK'S
MOTION FOR DEFICIENCY JUDGMENT AND TERMINATION OF CASE**

Plaintiff, LincolnWay Community Bank (the "Bank"), by its undersigned attorneys, and for its Motion for Deficiency Judgment and Termination of Case, states as follows:

1. On March 10, 2017, the Court entered an Order for Consent Judgment of Foreclosure ("Foreclosure Order") as against Service Welding & Shipbuilding, LLC ("Service Welding") and the Vessels M/V EMC 507, M/V LISA E, M/V DAVID E, M/V DANIEL E, and M/V SWS 510 (collectively, "the Vessels") [Dkt. 66].

2. Pursuant to the terms of the Foreclosure Order, among others, (1) judgment for foreclosure of the First Preferred Mortgages of Vessel, as against Service Welding, *in personam*, was entered in the sum of \$2,719,366.41 (the "Judgment"), plus interest at the rate of 12.5% per annum [Dkt. 67]; (2) the Bank, at its option, was permitted to sell the subject at public auction by the United States Marshal, or, at a public sale or auction without involvement of the Marshal or the Court, and/or, include the Vessels in an Assignment for the

Benefit of Creditors; and (3) to the extent the net proceeds from the sale of the Vessels were insufficient to extinguish the Judgment in full, the Bank is entitled to a deficiency judgment as against Service Welding, *in personam*, including any accrued interest on the Judgment from the date of its entry, and additional fees, costs and expenses, including without limitation, attorney's fees and costs, incurred by the Bank relating to the foreclosure of the Mortgages and the sale of the Vessels [Dkt. 66, p. 8 (A), p. 9 (E, F)].

3. The Vessels were sold at public sale by order of the Bank, as secured party, and the assignee for the benefits of creditors of Service Welding. The sale included the Vessels, as well as other equipment and inventory of Service Welding upon which the Bank maintained a valid security interest. A copy of the Equipment Listing and Inventory of Service Welding as of March 11, 2017, is attached hereto as Exhibit 1. The Vessel SWS 510 is identified in the Listing as the Vessel 510 Hannah.

4. Notice of the sale was published in the Chicago Tribune on March 12, 2017. A copy of the Notice and Certification of Publication are attached hereto as Exhibits 1 and 2, respectively.

5. At the discretion of the Trustee- assignee for the Benefit of Creditors of Service Welding, the sale date was continued three (3) times. As of the final sale date, April 13, 2017, four (4) potential bidders were present and qualified to participate in the sale, in addition to the Bank. Several rounds of bidding took occurred. The equipment and inventory of Service Welding, including the subject Vessels were ultimately sold to Illinois & Michigan Oil, LLC, as highest bidder, for the sum of \$850,000.00. See Bill of Sale, attached hereto as Exhibit 4.

6. The amount received at the sale of the equipment and inventory of Service Welding, including the subject Vessels, is insufficient to pay the Judgment in full. Pursuant to

the Foreclosure Order, the Bank is entitled to a deficiency judgment after accounting for the sum received at the sale, and any additional fees and costs to which the Bank is entitled under the terms of the Foreclosure Order.

7. The Bank is entitled to a Deficiency Judgment in the sum of **\$1,854,437.04**. See Final Accounting and the Affidavit of George Alexenko, attached hereto as Exhibits 5 and 6, respectively.

8. To the extent permitted by law, the Deficiency Judgment shall supersede the Judgment, previously entered [Dkt. 67].

9. The Substitute Custodian, Illinois & Michigan Oil, has been paid in full for all services rendered as Substitute Custodian in this matter.

10. All matters of this action having been resolved, the Bank requests that the substitute custodianship be terminated and that the Substitute Custodian, Illinois & Michigan Oil, be released of its duties, and that this matter is hereby terminated.

WHEREFORE, Plaintiff, LincolnWay Community Bank, respectfully requests the following relief:

A. The entry of a Deficiency Judgment in its favor and against Service Welding & Shipbuilding, LLC in the sum of **\$1,854,437.04**, plus post judgment interest at the rate of 12.5% per annum until the Deficiency Judgment is paid in full;

B. The termination of the substitute custodianship and the release of the Substitute Custodian, Illinois & Michigan Oil;

C. The dismissal of this action; and

D. Such other and further relief as may be deemed just by this Court.

Respectfully submitted,

LINCOLNWAY COMMUNITY BANK

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