

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

U.S. BANK NATIONAL ASSOCIATION

CIVIL ACTION

VERSUS

BON CARRE' BUSINESS CENTER II,
LLC.

NO: 18-00280-BAJ-RLB

ORDER

CONSIDERING THE FOREGOING Joint Motion for Entry of Consent Judgment (Doc. 8) filed by Plaintiff, U.S. Bank National Association, as Trustee for the registered holders of ML-CFC Commercial Mortgage Trust 2007-9, Commercial Mortgage Pass-Through Certificates, Series 2007-9 ("Plaintiff"), acting by and through its Special Servicer, LNR Partners, LLC, and Defendant, Bon Carre' Business Center II, LLC ("Bon Carre");

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Joint Motion for Entry of Consent Judgment (Doc. 8) is hereby **GRANTED**;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a money judgment be and is hereby issued herein in favor of Plaintiff and against Bon Carre in the amount of \$39,478,092.20, with interest continuing to accrue from December 1, 2017 until paid-in-full at the rates set forth on the Note, plus reasonable attorneys' fees, all costs of these proceedings, and all other reasonable costs incurred by Plaintiff

in the collection thereof, all subject to the exculpation provisions of Section 17 of the Note identified in Paragraph 9 of the Complaint (Doc. 1);

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's Multiple Indebtedness Mortgage, Assignment of Leases and Rents, and Security Agreement executed by Bon Carre on March 30, 2007, on that certain immovable property described as:

One (1) certain lot or parcel of ground situated in Sections 71 and 72, Township 7 South, Range 2 East, Greensburg Land District, Parish of East Baton Rouge, State of Louisiana, designated as **TRACT "N-1-A-1-A"** according to that map of subdivision entitled "Map Showing Subdivision of Tract "N-1-A-1" Being a Portion of the Bahlinger, Inc. Property into Tracts N-1-A-1-A, N-1-A-1-B, N-1-A-1-C and N-1-A-1-D, Located in Sections 71 & 72, T7S-R1E, G.L.D., East Baton Rouge Parish, Louisiana" prepared by C. Mistic Surveyors, Inc., Russel L. Mistic, RPL S, a copy of which map is recorded at Original 433, Bundle 11933, official records of East Baton Rouge Parish, Louisiana, being more particularly described as follows:

Commence at the point of intersection of the north right-of-way line of Florida Boulevard and the west right-of-way line of Lobdell Boulevard (which is also the Point of Commencement of Tract N-1-A-2); then proceed along the north right-of-way line of Florida Boulevard S 87°52'00" W a distance of 476.86 feet to a point, which is the POINT OF BEGINNING;

Then continue along the north right-of-way line of Florida Boulevard, S 87°52'00" W a distance of 170.01 feet to a point and corner; then proceed N 01°31'00" W a distance of 174.00 feet to a point and corner; then proceed S 87°52'00" W a distance of 316.00 feet to a point and corner; then proceed S 01°31'00" E a distance of 174.00 feet to a point and corner on the north right-of-way line of Florida Boulevard; then proceed along said north right-of-way line S 87°52'00" W a distance of 119.00 feet to a point and corner; then leaving said north right-of-way line proceed N 01°31'00" W a distance of 144.00 feet to a point and corner; then proceed S 87°52'00" W a distance of 193.00 feet to a point and corner; then proceed S 01°31'00" E a distance of 144.00 feet to a point and corner on the north right-of-way line of Florida Boulevard; then

proceed along said north right-of-way line S 87°52'00" W a distance of 53.00' to a point and corner marked by a 1/2" iron pipe; then proceed N 01°31'00" W a distance of 1918.23 feet to a point and corner marked by a 1/2" iron pipe located on the south right-of-way line of Harry Drive; then proceed along the south right-of-way line of Harry Drive N 83°15'07" E a distance of 64.05 feet to a point marked by an "x-mark"; then continue along the south right-of-way line of Harry Drive along a curve to the left having a radius of 694.81 feet and a distance of 121.60 feet to a point marked by an "x"; then continue along the south right-of-way line of Harry Drive N 73°13'30" E a distance of 334.39 feet to a point marked by an "x"; then continue along the south right-of-way line of Harry Drive along a curve to the right having a radius of 676.20 feet and a distance of 172.80 feet to a point marked by an iron rod; then continue along the south right-of-way line of Harry Drive N 87°52'00" E a distance of 333.16 feet to a point marked by an iron rod and corner; then proceed S 01°31'00" E a distance of 1060.29 feet to a point and corner; then proceed S 88°29'00" W a distance of 10.72 feet to a point and corner; then proceed S 01°31'00" E a distance of 181.36 feet to a point; then proceed S 36°22'19" W a distance of 45.91 feet to a point and corner marked by an "x" on a sidewalk; then proceed S 01°31'00" E a distance of 480.22 feet to a point and corner marked by an iron rod; then proceed S 88°47'40" W a distance of 97.59 feet to a point and corner; then proceed S 01°29'24" E a distance of 294.08 feet back to the POINT OF BEGINNING;

Being the same property as shown on that map of survey (the "Survey") entitled "ALTA/ACSM Land Title Survey of Tract N-1-A-1-A Being a Portion of the Bahlinger, Inc. Property Located in Section 71 & 72, T7S-R1E, Greensburg Land District, Parish of East Baton Rouge, LA" by C. Mistic Surveyors, Inc., Russel L. Mistic, R P L S , dated March 21, 2007.

and that other certain property described as:

This financing statement covers all right, title and interest of the debtor described in the financing statement ("Debtor") in and to the following described property, together with all substitutions for and all replacements, reversions and remainders of such property and all appurtenances and additions thereto, whether now owned or hereafter acquired by Debtor (collectively, the "Property"):

(i) the land located in the Parish and State identified on Schedule 1 attached hereto, as more particularly described on such Schedule 1 (the

"Land"), (ii) the Accounts, (iii) the Account Collateral, (iv) the Appurtenant Rights, (v) the Contracts, (vi) the Equipment, (vii) the Improvements, (viii) the Instruments, (ix) the Inventory, (x) the General Intangibles, (xi) the Leases, (xii) the Permits (to the fullest extent assignable), (xiii) the Rents, (xiv) the Proceeds, (xv) the Chattel Paper (including Electronic Chattel Paper and Tangible Chattel Paper), Commercial Tort Claims, Deposit Accounts, Documents, Goods, Investment Property, Letter of Credit Rights, Payment Intangibles and Supporting Obligations (as all such terms in this clause (xv) are defined in the UCC) and (xvi) any and all other rights of Debtor in and to the items set forth in clauses (i) through (xv) above, all whether now owned or hereafter acquired, and all other property which is or hereafter may become subject to a Lien in favor of the secured party described in the financing statement ("Secured Party") pursuant to any Loan Document.

For purposes of this financing Statement, all capitalized terms shall have the meaning ascribed thereto in the Loan Agreement or the Note, as applicable, unless defined below:

"Account Collateral" means the Reserve Accounts (as defined in the Loan Agreement), together with all cash, checks, drafts, certificates and instruments, if any, from time to time deposited or held in the Reserve Accounts, all interest, dividends, cash, instruments, investment property and other property from time to time received, receivable or otherwise payable in respect of, or in exchange for, any or all of the foregoing.

"Accounts" means all of Debtor's "accounts," as such term is defined in the UCC.

"Appurtenant Rights" means all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights, air rights, development rights and powers, and, to the extent now or hereafter owned by Debtor, all minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter appurtenant to, or used in connection with, or located on, under or above the Land or any part or parcel thereof, and all "as extracted collateral" (as defined in the UCC), and all ground leases, subleases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions; and remainders whatsoever, in any way belonging, relating or appertaining to the Land or any part thereof.

"Contracts" means, collectively, (a) all contracts between Debtor and third parties in connection with the management, construction, repair,

renovation, use, operation or maintenance of the Property, in each case as the same may thereafter from time to time be amended or modified; and (b) all warranties, guarantees, and other rights of Debtor or Manager, direct and indirect, against manufacturers, dealers, suppliers, and others in connection with the above contracts and agreements or the work done or to be done and the materials supplied or to be supplied to or for the Property.

"Equipment" means all of Debtor's "equipment," as such term is defined in the UCC, and, to the extent not included in such definition, all fixtures, appliances, machinery, "software" (as defined in the UCC), furniture, furnishings, decorations, tools and supplies, now owned or hereafter acquired by Debtor, including without limitation, all beds, linens, radios, televisions, carpeting, telephones, cash registers, computers, electronic data-processing or other office equipment, lamps, glassware, restaurant and kitchen equipment, and building equipment, including, without limitation, all heating, lighting, incinerating, waste removal and power equipment, engines, pipes, tanks, motors, conduits, switchboards, security and alarm systems, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigeration, washing machines, dryers, stoves, refrigerators, ventilating, and communications apparatus, air cooling and air conditioning apparatus, escalators, elevators, ducts, and compressors, materials and supplies, and all other machinery, apparatus, equipment, fixtures and fittings now owned or hereafter acquired by Debtor wherever located, any portion thereof or any appurtenances thereto, together with all additions, replacements, parts, fittings, accessions, attachments, accessories, modifications and alterations of any of the foregoing.

"General Intangibles" means all of Debtor's "general intangibles," as such term is

defined in the UCC, and, to the extent not included in such definition, all intangible personal property of Debtor (other than Accounts, Rents, Instruments, Inventory, money and Permits), including, without limitation, choses in action, settlements, judgments, contract rights, rights to performance (including, without limitation, rights under warranties) refunds of real estate taxes and assessments and other rights to payment of money, copyrights, trademarks, trade names, service marks, trade secrets, and patents, the goodwill associated with any of the foregoing, and all applications for any of the foregoing, in each case whether now existing or hereafter in existence.

"Improvements" means all buildings, structures and improvements of every nature whatsoever situated on the Land on the Closing Date or thereafter, including, without limitation, to the extent of Debtor's right, title or interest therein or thereto, all gas and electric fixtures, radiators, heaters, washing machines, dryers, refrigerators, ovens, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, antennas, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to the Land or said buildings, structures or improvements.

"Instruments" means all of Debtor's "instruments," as such term is defined in the UCC, and, to the extent not included in such definition, all instruments, chattel paper, documents or other writings obtained by Debtor from or in connection with the ownership or operation of the Property evidencing a right to the payment of money, including, without limitation, all notes, drafts, acceptances, documents of title, and policies and certificates of insurance, including but not limited to, liability, hazard, rental and credit insurance, guarantees and securities, now or hereafter received by Debtor or in which Debtor has or acquires an interest pertaining to the foregoing.

"Inventory" means all of Debtor's "inventory," as such term is defined in the UCC.

"Loan Agreement" means the Loan Agreement between Debtor and Secured Party secured by, among other things, the Mortgage (as modified from time to time).

"Mortgage" means the Multiple Indebtedness, Assignment of Leases and Rents and Security Agreement by Debtor in and in favor of Secured Party, as mortgagee (as modified from time to time).

"Note" the Promissory Note executed by Debtor to the order of Secured Party secured by, among other things, the Mortgage (as modified from time to time).

"Permits" means all licenses, registrations, permits, allocations, filings, authorizations, approvals and certificates used in connection with the ownership, operation, construction, renovation, use or occupancy of the Property, including, without limitation, building permits, business licenses, state health department licenses, food service licenses, liquor licenses, licenses to conduct business and all such other permits, licenses and rights, obtained from any Governmental Authority or private

Person concerning the ownership, construction, operation, renovation, use or occupancy of the Property.

"Proceeds" means all of Debtor's "proceeds" as such term is defined in the UCC and, to the extent not included in such definition, all proceeds, whether cash or non-cash, movable or immovable, tangible or intangible (including Insurance Proceeds, Condemnation Proceeds, and proceeds of proceeds), from the Security Interest Property, including, without limitation, those from the sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the Security Interest Property and all income, gain, credit, distributions and similar items from or with respect to the Security Interest Property.

"Rents" means, with respect to the Property, all rents (whether denoted as advance rent, minimum rent, percentage rent, additional rent or otherwise), receipts, issues, income, royalties, profits, revenues, proceeds, bonuses, deposits (whether denoted as security deposits or otherwise), lease termination fees or payments, rejection damages, buy-out fees and any other fees made or to be made in lieu of rent, any award made hereafter to Debtor in any court proceeding involving any tenant, lessee, licensee or concessionaire under any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court, and all other payments, rights and benefits of whatever nature from time to time due under the Leases.

"Security Interest Property" means the portion of the Property which is or may be subject to the provisions of the UCC which are applicable to secured transactions, and in any property as to which a security interest can be created or perfected, now existing or hereafter coming into existence, and all substitutions replacements, renewals and additions to and all products and Proceeds of the foregoing.

"UCC" means the Uniform Commercial Code in effect in the jurisdiction in which the Property or any of the Security Interest Property is located, as applicable.

which said mortgage was recorded on March 30, 2007, as Original 851, Bundle 11936 of the official mortgage records of East Baton Rouge Parish, Louisiana, is a perfected, valid and enforceable mortgage, that the full amount of the indebtedness described herein is secured by this mortgage, and that Plaintiff is authorized to fully enforce this mortgage against the movable and immovable property described therein to collect on this judgment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a writ of execution and a writ of Fieri Facias issue herein and that Beau Box Property Management, L.L.C., through any of its agents or employees (the “Keeper”), shall be appointed as keeper and custodian, without bond, of any of the immovable or movable property described herein which may be seized pursuant to any writ issued in this matter.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Keeper is hereby empowered to perform all powers and duties as charged by law, including, but not limited to, the collection of rents, managing the property, and acting on behalf of the owner as a prudent administrator.

JUDGMENT RENDERED AND SIGNED

Baton Rouge, Louisiana, this 3rd day of May, 2018.



**BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**