

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WELLS FARGO BANK, N.A., as
Indenture Trustee for the benefit of the
United States Small Business
Administration and the holders of the
Hana Small Business Lending Loan Trust
2012-1, Unguaranteed SBA 7(a) Loan-
Backed Notes, Series 2012-1,

Plaintiff,

v.

EBENAL GENERAL, INC., a
Washington corporation; et al.,

Defendants.

CASE NO. C14-0520-JCC

ORDER GRANTING SUMMARY
JUDGMENT AND DECREE OF
FORECLOSURE

JUDGMENT SUMMARY

PRINCIPAL JUDGMENT AMOUNT: \$1,233,037.14

PRE-JUDGMENT INTEREST: \$ 105,878.12

JUDGMENT INTEREST RATE: 6% on principal

JUDGMENT DEBTORS: EBENAL GENERAL, INC., a Washington corporation; FAIRHAVEN INVESTMENTS, LLC, a Washington limited liability company; VILLAGE BOOKS DEVELOPMENT, LLC, a Washington limited liability company; DAVID EBENAL, individually, BONITA EBENAL, individually, and the marital community composed of DAVID

1 EBENAL and BONITA EBENAL, husband and
2 wife

3 JUDGMENT CREDITOR: WELLS FARGO BANK, N.A.
4 ATTORNEY FOR JUDG. CREDITOR: Brian M. Born, WSBA #25334

5 ATTORNEY FOR JUDG. DEBTORS: R. Bruce Johnson, WSBA #4646

6 SUBJECT PROPERTY: Units C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8,
7 Waldron/Young Condominium, according to the
8 declaration thereof, recorded November 7, 2007,
9 under Auditor's File No. 2071100825, and any
10 amendments thereto, records of Whatcom County,
11 Washington.

12 Situate in Whatcom County, Washington

13 (Assessor's Tax Parcel Numbers
14 15852/370201129074 0001; 15853/370201129074
15 0002; 15854/370201129074 0003;
16 15855/370201129074 0004; 15856/370201129074
17 0005; 15857/370201129074 0006;
18 15872/370201129074 0021 and
19 15873/370201129074 0022.)

20 Units 101, 102, 103, 104, 309, 310, 311, Fairhaven
21 Gardens, a condominium, according to the
22 declaration thereof, recorded under Auditor's File
23 No. 2051000901, and any amendments thereto,
24 records of Whatcom County, Washington.

25 Situate in Whatcom County, Washington

26 Assessor's Tax Parcel Numbers
15788/370201123135 0004; 15787/370201123135
0003; 15786/370201123135 0002;
15785/370201123135 0001; 15800/370201123135
0016; 15801/370201123135 0017 and
15802/370201123135 0018.

ORDER

THIS MATTER comes before the Court on plaintiff's motion for summary judgment and
decree of foreclosure on its deed of trust foreclosure complaint. (Dkt. No. 27.)

1 The Court, having thoroughly considered the motion and the remainder of the record,
2 finds that the allegations contained in the plaintiff's deed of trust foreclosure complaint are true,
3 that there is no genuine issue as to any material fact and that plaintiff is entitled to summary
4 judgment as a matter of law. NOW, THEREFORE, it is HEREBY

5 ORDERED, ADJUDGED and DECREED as follows:

6 1. That plaintiff shall have judgment against defendants EBENAL GENERAL,
7 INC., a Washington corporation, FAIRHAVEN INVESTMENTS, LLC, a Washington limited
8 liability company, VILLAGE BOOKS DEVELOPMENT, LLC, a Washington limited liability
9 company, DAVID EBENAL, individually, BONITA EBENAL, individually, and the marital
10 community composed of DAVID EBENAL and BONITA EBENAL, husband and wife, jointly
11 and severally (collectively, the "Judgment Debtors"), for the principal amount of \$1,233,037.14,
12 plus prejudgment interest of \$105,878.12;

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14 2. That the judgment herein, except prejudgment interest, shall bear interest at
15 the rate of 6% per annum;

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17 3. That plaintiff's deed of trust (the "1176 Deed of Trust"), recorded on October 13,
18 2011, under Whatcom County Auditor's File No. 2111001176, and covering the real property
19 located in Whatcom County, Washington, and legally described as:

20 Units C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8, Waldron/Young
21 Condominium, according to the declaration thereof, recorded November 7,
22 2007, under Auditor's File No. 2071100825, and any amendments thereto,
records of Whatcom County, Washington.

23 Situate in Whatcom County, Washington

24 (Assessor's Tax Parcel Numbers 15852/370201129074 0001;
25 15853/370201129074 0002; 15854/370201129074 0003;
26 15855/370201129074 0004; 15856/370201129074 0005;

1 15857/370201129074 0006; 15872/370201129074 0021 and
2 15873/370201129074 0022.)

3 (the "1176 Property") is hereby adjudged and decreed to be a first and paramount lien upon the
4 Property as to the Judgment Debtors and the whole thereof as security for the payment of the
5 judgment and principal balance of the 1176 Deed of Trust, and that the 1176 Deed of Trust be,
6 and is hereby, foreclosed and the 1176 Property is ordered sold by the United States Marshal in
7 the manner provided by law, and the proceeds therefrom shall be applied to the payment of the
8 judgment, interest and such additional amounts as plaintiff may advance for taxes, assessments,
9 municipal charges and such other items as may constitute liens upon the property, together with
10 insurance and repairs necessary to prevent the impairment of the security;

11 4. That plaintiff's deed of trust (the "1179 Deed of Trust"), recorded on October 13,
12 2011, under Whatcom County Auditor's File No. 2111001179, and covering the real property
13 located in Whatcom County, Washington, and legally described as:

14 Units 101, 102, 103, 104, 309, 310, 311, Fairhaven Gardens, a
15 condominium, according to the declaration thereof, recorded under
16 Auditor's File No. 2051000901, and any amendments thereto, records of
17 Whatcom County, Washington.

18 Situate in Whatcom County, Washington

19 Assessor's Tax Parcel Numbers 15788/370201123135 0004;
20 15787/370201123135 0003; 15786/370201123135 0002;
21 15785/370201123135 0001; 15800/370201123135 0016;
22 15801/370201123135 0017 and 15802/370201123135 0018.

23 (the "1179 Property") is hereby adjudged and decreed to be a first and paramount lien upon the
24 Property as to the Judgment Debtors and the whole thereof as security for the payment of the
25 judgment and principal balance of the 1179 Deed of Trust, and that the 1179 Deed of Trust be,
26 and is hereby, foreclosed and the 1179 Property is ordered sold by the United States Marshal in

1 the manner provided by law, and the proceeds therefrom shall be applied to the payment of the
2 judgment, interest and such additional amounts as plaintiff may advance for taxes, assessments,
3 municipal charges and such other items as may constitute liens upon the property, together with
4 insurance and repairs necessary to prevent the impairment of the security;

5 5. That the United States Marshal may sell the 1176 Property and 1179 Property
6 together, separately, or in smaller units by parcel(s), as the United States Marshal deems most
7 advantageous;

8 6. That for convenience only, the 1176 Property and the 1179 Property may be
9 collectively referred to herein as the "Property" and the 1176 Deed of Trust and 1179 Deed of
10 Trust may be collectively referred to herein as the "Deed of Trust";

11 7. That the rights of each of the defendants EBENAL GENERAL, INC., a
12 Washington corporation, FAIRHAVEN INVESTMENTS, LLC, a Washington limited liability
13 company, VILLAGE BOOKS DEVELOPMENT, LLC, a Washington limited liability company,
14 DAVID EBENAL, individually, BONITA EBENAL, individually, and the marital community
15 composed of DAVID EBENAL and BONITA EBENAL, husband and wife, and SAFECO
16 INSURANCE COMPANY OF AMERICA (as to its subordinate deeds of trust recorded on or
17 about April 10, 2012 under Auditor's File Nos. 2120401046, 2120401049, 2120401050,
18 2120401051, 2120401055, 2120401065, 2120401056, 2120401066, 2120401067, 2120401068,
19 2120401070, 2120401071, 2120401073 and 2120401074), and persons claiming by, through or
20 under any of them or any and all persons acquiring any right, title, estate, lien or interest in or to
21 the Property subsequent to the recording of the Deed of Trust be, are hereby adjudged inferior
22 and subordinate to the plaintiff's lien and are forever foreclosed except for the statutory right of
23 redemption and any right to excess proceeds;

1 8. That if any deficiency remains after application of the proceeds of such sale,
2 execution shall be issued for said deficiency against the Judgment Debtors jointly and severally
3 and enforced against any other property of any of them not exempt from execution; and

4 9. That plaintiff be, and it is hereby, permitted to become a bidder and purchaser at
5 the sale and may credit bid some or all of the indebtedness, and that the purchaser shall be given
6 immediate possession of the Property and all right, title, and interest in any rents and profits
7 generated by or arising from the Property during the statutory redemption period.
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9 DATED this 10th day of December 2014.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE