

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

APR -7 2015

TIM RHODES  
COURT CLERK

35

Oklahoma Department of Securities )  
ex rel. Irving L. Faught, Administrator, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Seabrooke Investments, LLC, et al., )  
 )  
Defendants. )

Case No. CJ-2014-4515

Hearing set on May 22  
2015; At 9:00 A. M before  
Judge Parrish

**MOTION TO DISBURSE INTERPLED FUNDS**

COMES NOW Intervenor, Wayne Doyle (“Movant” or “Doyle”), and moves this Court for an (i) Order disbursing interpled funds in the amount of \$187,858.90 and (ii) for an additional Order awarding \$11,733.74 from the Receivership assets as a secured claim with priority over the remaining unsecured claims, including that portion of both Movant’s unsecured portion of its claim and other unsecured creditors. In support hereof, Movant would state the following:

**BACKGROUND**

Movant is believed to be the largest investor and lender to the primary Defendants in this matter, Tom Seabrooke and his various entities. Beginning in approximately 2009 and continuing thereafter, Movant loaned or invested with Tom Seabrooke, Bricktown Capital, LLC d/b/a the Bricktown Hotel, or other Seabrooke businesses an amount in excess of \$2,000,000. With unpaid interest and other additional liabilities incurred or paid by the Movant, Movant’s claim to be filed in this Receivership likely will exceed \$3,000,000.

Movant’s primary investment consisted of loans provided to the Bricktown Hotel. Periodically, Mr. Seabrooke would approach Movant to request funding allegedly to operate the

Bricktown Hotel. Movant provided such funding in exchange for promissory notes, which were secured by certain membership interests in Bricktown Capital, LLC, and a third-priority Mortgage filed against the Bricktown Hotel in the original principal amount of \$2,759,120.25. Quail Creek Bank and the U.S. Small Business Administration held the first and second mortgages against the Bricktown Hotel.

Following the appointment of the Receiver in this matter, this Court released the Bricktown Hotel from the Receivership pursuant to an Order Modifying Relief, filed September 9, 2014. The sole condition on the release is that if the Bricktown Hotel ultimately sold for an amount in excess of the mortgages, the remaining funds would be used to pay investor restitution through the Receivership.

In December, the Bricktown Hotel was scheduled to be sold to an unrelated third party hotel investor for an amount sufficient to pay off the first two mortgages and provide Movant \$187,858.90 as partial payment against the mortgage indebtedness owing to Movant. The Receiver, despite having no legal or equitable claim to these funds, nor having ever alleged or sought to invalidate Movant's Mortgage, asserted a claim to these funds directly with the closing and escrow agent. The Receiver's actions threatened to "blow up" the sale. The Receiver admittedly knew that the Movant was a guarantor of the first and second mortgage against the Bricktown Hotel and sought to exert pressure on Movant to relinquish his legal claim to the funds in exchange for not "blowing up" the sale.

Movant sought out the undersigned counsel at this time and the Receiver and Movant shortly thereafter agreed to interplead \$187,858.90 into Court to be resolved at a later date while allowing the sale of the Bricktown Hotel to be completed. Despite request, the Movant has not been provided

any legal basis for Receiver's objection to payment of the excess proceeds to date. This Motion is Plaintiff's Request for the Court to disburse \$187,868.90 of interpled funds held by the Oklahoma County District Court, as well as additional excess proceeds from the sale of the Bricktown Hotel.

### STATEMENT OF FACTS

1. Movant provided various loans to Tom Seabrooke, Oak Brooke Homes LLC, Seabrooke Investments LLC, and Bricktown Capital, LLC, from 2009 until very recently. See Affidavit of Wayne Doyle, ¶ 1.

2. In early 2014, there existed four outstanding promissory notes, made payable to Movant from Bricktown Capital, LLC, in the combined original principal amount of \$1,694,500, plus accrued interest. See Affidavit of Doyle, ¶ 2 and Exhibit A, copies of previous promissory notes.

3. On or about April 9, 2014, Bricktown Capital, LLC, sought additional funding from Movant. The Movant and Bricktown Capital, LLC, agreed to roll the existing promissory notes, accrued interest, and up to an additional \$500,000 in new funding into a combined promissory note (hereinafter, the "Note"), executed April 9, 2014, made payable to the Movant from Bricktown Capital, LLC, in the principal amount of \$2,759,120.25. See Affidavit of Doyle, ¶ 3 and Exhibit B, Promissory Note.

4. As collateral for the Note, Bricktown Capital, LLC, executed and delivered a Real Estate Mortgage, dated April 9, 2014, in the original principal amount of \$2,759,120.25, filed on April 10, 2014, at Book #RE12507, Pages 1174-78, bearing Document #20140410010450860, in the records of the Oklahoma County Clerk. See Exhibit C, Mortgage.

5. Bricktown Capital, LLC, drew upon and utilized the additional funding to pay

expenses of the Bricktown Hotel. Mr. Doyle made the following payments pursuant to the request of Bricktown Capital, LLC: \$225,000 to Blackmon Mooring, \$30,000 for mortgage payments to prior mortgage holders, \$23,500.00 for air conditioning units, \$50,000 in payroll, \$100,000 in operating expenses/trade payables, \$2,170.60 to Pawnee Leasing and another \$50,000 to cover payroll. The total new money advanced pursuant to the combined Promissory Note was \$480,670.63 plus interest which accruing under the terms of the Promissory Note. See Affidavit of Doyle, ¶ 5.

6. The Receiver and the Oklahoma Department of Securities have been provided banking and other account records which evidence and establish the above described payments as well as the payments made directly to Mr. Seabrooke and his entities beginning in 2009. Such documentation contains confidential account numbers and information of the Movant and is subject to an Agreed Protective Order entered January 16, 2015. Should these documents be at issue or objected to in any way, Movant will file such documents under seal and/or present them to the Court at the hearing on this matter.

7. As of April, 2015, Movant is owed \$3,034,073.00 under the terms of the combined Promissory Note and Mortgage indebtedness. See Affidavit of Doyle, ¶ 6.

8. In December of 2014, Bricktown Capital, LLC, entered into a purchase agreement with Prominent Hotels, LLC, for the sale of the Bricktown Hotel. The sale was completed on December 19, 2014. As part and parcel to the transaction, the Movant and the Receiver entered into an Agreement on Instructions for Closing. See Exhibit D, Seller's Settlement Statement and Exhibit E, Agreement on Instruction for Closing.

9. The Agreement on Instructions for Closing provided that the amount of \$187,858.90 would be interpled into the Oklahoma County District Court Clerk pending resolution from this

Court. It was also agreed upon by the parties that all parties reserved their rights as existed at the time of Closing and Movant's mortgage (if ultimately determined to be valid) would attach to the interpled funds. See Exhibit E.

10. At Closing, a Settlement Statement was generated by the closing agent and apparently agreed to by all the parties that provided that all closing costs and customary fees were paid from the proceeds of the sale, Quail Creek Bank was to receive \$1,911,290.69, the U.S. Small Business Administration was to receive \$327,772.12 and the remaining proceeds of \$187,858.90 were to be interpled under the above Agreement. See Exhibit D.

11. Unbeknownst to Mr. Doyle, a side agreement not disclosed on the Settlement Statement was struck between the Receiver and Quail Creek Bank involving some \$17,797.94 in dispute in which Quail Creek Bank claimed was due under its Mortgage and the Receiver sought as excess proceeds. Ultimately, this Court determined that \$6,064.20 was subject to Quail Creek's mortgage and \$11,733.74 was to be disbursed to the Receiver pursuant to that Order entered February 18, 2015. See Affidavit of Doyle, ¶ 7, and Order, *Judicial Notice*.

12. However, as the third priority mortgage holder, the Movant's mortgage rights should entitle it to the \$11,733.74 in excess proceeds for which Quail Creek was not awarded, in addition to the \$187,858.90 interpled into this Court.

### **ARGUMENTS AND AUTHORITIES**

#### **I. ANY INTEREST RECEIVER CLAIMS IN THE BRICKTOWN HOTEL IS SUBJECT AND INFERIOR TO THE MORTGAGE LIEN OF WAYNE DOLYE PURSUANT TO OKLAHOMA LAW**

##### **A. WAYNE DOYLE'S INTEREST IN THE BICKTOWN HOTEL**

Wayne Doyle provided various loans to the Bricktown Hotel prior to 2014 in the approximate

sum of \$1,694,500.00. When the Bricktown Hotel requested additional funding in early 2014, Movant required and was granted a good and valid Mortgage against the Bricktown Hotel as security for the combined Promissory Note, dated April 9, 2014. The Mortgage was properly filed in the records of the Oklahoma County Clerk on April 10, 2014. The Mortgage granted to Movant was third in priority, filed in time later and after the filed mortgages of Quail Creek Bank and the U.S. Small Business Administration. Even so, Movant's Mortgage created an enforceable lien against the Bricktown Hotel, superior to any interest in the Bricktown Hotel which arose after April 10, 2014. See 42 O.S. §15 and 16 O.S. § 16. The general rule is that a recorded mortgage takes precedence over subsequent liens against the mortgaged property... See, Apex Siding & Roofing Co. v. First Federal Sav. & Loan Ass'n of Shawnee, 301 P.2d 352 (Okla. 1956) and Palmer v. Crews Lumber Co., Inc., 510 P.2d 269 (Okla. 1973).

#### **B. RECEIVER'S INTEREST IN THE BRICKTOWN HOTEL**

Ignoring the fact that the Receiver specifically released its interest in the Bricktown Hotel (discussed below), the Receiver's interest in the Bricktown Hotel is inferior and subject to the mortgage lien of Movant. Oklahoma courts have determined that a Receiver takes any property which comes into its possession subject to the liens or encumbrances existing at the time of the Receiver's appointment. See Ardmore Nat. Bank v. Briggs Machinery & Supply Co., 94 P. 533 (Okla. 1908). The Oklahoma Supreme Court stated the following in Ardmore Nat. Bank:

*The receiver of an insolvent, nongoing corporation takes the property of the company for the creditors, **subject to such equities, liens, or incumbrances, whether created by operation of law or by act of the corporation, which existed against the property at the time of his appointment.***

[emphasis added]. See also, Harn v. Smith et al., 204 P. 642, 647 (Okla. 1922) and Lively v.

Evans-Howard Fire Brick Co., et al., 242 P. 773, 774 (Okla. 1926).

It is without question that Movant perfected his Mortgage on April 10, 2014. This case was filed and the Receiver appointed on August 11, 2014, some four (4) months after the Movant's Mortgage was perfected. Accordingly, any interest the Receiver obtained in the Bricktown Hotel would be junior and inferior to the mortgage of the Movant. The Receiver's actions are thus perplexing and without authority under law. The Receiver acquiesced to the distribution of proceeds from the sale of the Bricktown Hotel to Quail Creek Bank and the U.S. Small Business Administration. However, the Receiver objects to the remaining proceeds of \$187,858.90 from being disbursed and credited against the Movant's Mortgage. Upon the payment of this secured portion of the indebtedness owing to Movant from the Defendants herein, the Movant will be left with an approximately \$3,000,000 unsecured claim in the Receivership.

**C. RELEASE OF BRICKTOWN HOTEL FROM RECEIVERSHIP**

On September 9, 2014, this Court entered an Order Modifying Relief, wherein the Receiver admitted the operations of the Bricktown Hotel took too much time and expense, and it was believed there was no equity therein. Accordingly, the Court ordered the Bricktown Hotel released from the receivership and asset freeze. The Order contained an additional provision that if the Bricktown Hotel was sold for an amount greater than those amounts owed on mortgages existing as of September 9, 2014, the remaining funds were subject to the receivership.

It takes no complicated argument or reasoning to persuade this Court that \$187,858.90 is insufficient to fully satisfy Movant's nearly \$3,000,000 mortgage. Movant's Mortgage was additionally in existence and all parties had constructive notice of the same at the time this Order was agreed to and entered by the Court.

Movant recognizes that a Court appointed receiver has broad powers. However, picking and choosing which mortgages to pay while defying the Order Modifying Relief is erroneous and unwarranted.

## II. RECEIVERS DUTY TO PROTECT ALL CREDITORS

The Movant would adopt the argument set forth by Alicia Holtslander-Petrone in her request for an Emergency Order, filed February 26, 2015 as being applicable to Movant's claim herein.

Subsection III of Ms. Holtslander-Petrone states the following:

A Receivership is intended to protect the rights of all persons or entities who participated in a business relationship with Defendants, whether by corporation, business venture or association. Dept. of Securities ex rel. Faught v. Blair, 2010 OK 16, ¶ 38. It is not intended nor permissible for commercial lenders to receive preferential treatment to the detriment of private lenders or investors. Though commercial lenders may receive seemingly preferential treatment due to properly secured and recorded liens with priority, here, the Holtslander Estates [similar to Movant] likewise have first and prior liens on the Mortgage Properties. This notwithstanding, the Receiver has advised Movant, by and through counsel, that he will seek to circumvent the priority position of the Holtslander Estates and request this Court provide for the Estate to recover on a pro rata basis along with other unsecured creditors. Such a position blatantly fails to protect the rights of the Holtslander Estates who are entitled to the same protection afforded all persons who participated in the business with Defendants.

The Receiver failed to provide the same treatment to the Holtslander Estates (as prior mortgage holders) that was provided to other commercial lenders with priority mortgage liens. For example, the Receiver agreed to Quail Creek Bank being paid the principal amount owing, together with unpaid accrued interest owing on Defendants' loan for the Bricktown Hotel and Convention Center. Having reached an agreement, Quail Creek Bank agreed to the sale of the hotel...By refusing to recognize and affirm the secured mortgage liens of the Holtslander Estates, the Receiver failed to protect those who have already been injured by Defendants' actions from further despoliation of their property rights. Esbitt v. Dutch American Mercantile Corp., 335 F.2d 141, 143 (2<sup>nd</sup> Cir. 1964). By requiring Movant to bring this Motion, the Receiver further caused avoidable dissipation of Defendants' asset in additional and unnecessary legal fees.

The Movant, Wayne Doyle, finds himself in a similar situation as Ms. Holtslander-Petrone.

Apparently, the Receiver believes it proper to pay secured claims if owed to a financial institution while ignoring or attempting to thwart the secured claims of individuals. There being no basis for such treatment under Oklahoma law, such actions reek of impropriety. Despite request, the Receiver has failed to identify any legal authority or reasoning underlying its objection. Accordingly, the Movant will likely object to any fees or costs sought by the Receiver relating to this dispute.

**III. ADDITIONAL PROCEEDS FROM SALE OF BRICKTOWN NOT PAID TO PRIOR MORTGAGE HOLDERS SHOULD BE AWARDED TO WAYNE DOYLE**

As has been set forth herein, Movant is the owner of a third mortgage encumbering the Bricktown Hotel which partially secured the indebtedness owing from the Defendants to the Movant. It has further been established that should this Court award Movant the \$187,858.90, such amount would not fully satisfy those amounts due and owing under the Note and Mortgage. Movant is still owed nearly \$3,000,000 under the Note and Mortgage.

Any and all excess proceeds from the sale of the Bricktown Hotel, no matter the source of such funds, are subject to Movant's Mortgage and should be payable to Movant on his secured claim. The Seller's Settlement Statement provided to Movant prior to closing of the sale made no mention of a dispute to any portion of Quail Creek Bank's mortgage amounts. It makes no difference who objected to Quail Creek Bank's claim. Any portion thereof ultimately determined as unsecured by Quail Creek Bank's mortgage are still subject to Movant's Mortgage.

Movant's rights to any excess proceeds are prior to, and superior to the Receivers. Accordingly, the \$11,733.74 originally intended for Quail Creek Bank and deemed unsecured by Order of this Court is properly payable to the Movant, Wayne Doyle.

WHEREFORE, premises considered, the Movant, Wayne Doyle, requests an Order from this

Court of distribution of \$187,858.90 of interpled funds held by the Oklahoma County District Court arising from the sale of the Bricktown Hotel and award Wayne Doyle an additional \$11,733.74 of additional proceeds obtained by the Receiver from the sale of the Bricktown Hotel as payment on the secured indebtedness owing to the Movant, and for such other and further relief as this Court deems just and proper.



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WILLIAM M. LEWIS, OBA #19862  
LEE, GOODWIN, LEE, LEWIS & DOBSON  
1300 E. 9<sup>th</sup> Street, Suite 1  
Edmond, OK 73034  
(405) 330-0118  
Attorney for Intervenor

**CERTIFICATE OF MAILING**

The undersigned certifies to the Court and to all parties that a true and correct copy of the above and foregoing pleading was deposited into the United States Mails, first-class postage pre-paid thereon this ~~T<sup>h</sup>~~ day of ~~March~~, 2015 and addressed to the following persons:  
*April*

Patricia Labarthe  
Jennifer Shaw  
120 N. Robinson, STE 860  
Oklahoma City, OK 73102

Rollin Nash, Jr.  
Nash, Cohenour  
4101 Perimeter Center Dr., STE 200  
Oklahoma City, OK 73112

Jim Lee  
One Broadway, Exec. PK. Ste 230  
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Claire C. Bailey  
David Poarch  
Bailey & Poarch  
PO Box 1521  
Norman, Oklahoma 73070



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William M. Lewis

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

Oklahoma Department of Securities )  
ex rel. Irving L. Faught, Administrator, )  
 )  
Plaintiff, )

vs. )

Case No. CJ-2014-4515

Seabrooke Investments, LLC, et al., )  
 )  
Defendants. )

STATE OF OKLAHOMA )  
 ) ss:  
OKLAHOMA COUNTY )

I, the undersigned, Wayne Doyle, being of lawful age and upon my oath do affirm and state the following:

1. That I personally, or through various entities I wholly own, provided various loans to Tom Seabrooke, Oak Brooke Homes LLC, Seabrook Investments LLC, and Bricktown Capital, LLC, beginning in 2009;

2. That as of the beginning of 2014, there remained four outstanding promissory notes due and payable from Bricktown Capital, LLC to me in the combined principal amount of \$1,694,500 plus accrued interest. I can no longer locate executed versions but the documents attached to the Motion are identical to the executed promissory notes that were then in existence;

3. In April of 2014, Bricktown Capital, LLC, requested additional loans. I agreed to roll the existing promissory notes, accrued interest and provide an additional \$500,000 in new funding into a combined promissory note, which was executed on April 9, 2014 and made payable to me from Bricktown Capital, LLC in the combined amount of \$2,759,120.25.

4. I required as a condition to making the loan described above, that Bricktown

Capital, LLC, execute and deliver a Real Estate Mortgage, as security for the loan. A true and correct copy of the Mortgage is attached to the Motion.

5. Upon the request of Mr. Seabrooke and Bricktown Capital, LLC, the following payments were made by me on behalf of Bricktown Capital, LLC, as promised under the provision for additional funding: \$225,000 to Blackmon Mooring, \$30,000 for mortgage payments, \$23,500 for air conditioning units, \$50,000 in payroll expenses, \$100,000 in operating expenses/trade payables, \$2,170.60 to Pawnee Leasing and another \$50,000 in additional payroll expenses. All such payments were made to Bricktown Capital, LLC or for the benefit of Bricktown Capital, LLC.

6. As of April 1, 2015, I am owed \$3,034,074.00 under the terms of the combined Promissory Note and mortgage indebtedness.

7. At Closing, I was unaware of any side agreement between Quail Creek Bank and the Receiver regarding any disputed amounts attributable to Quail Creek Bank's prior mortgage against the Bricktown Hotel. The settlement statement did not reflect that approximately \$18,000 was in dispute and possibly not subject to Quail Creek Bank's mortgage.

FURTHER, AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
WAYNE DOYLE

Subscribed and sworn to before me on this 3<sup>rd</sup> day of April, 2015.

My commission expires: \_\_\_\_\_



  
\_\_\_\_\_  
NOTARY PUBLIC

Promissory Note

\$295,000.00

Effective Date: December 23, 2012

FOR VALUE RECEIVED, TOM SEABROOKE with Bricktown Capital, LLC, an Oklahoma limited liability company (the "Borrower"), promises to pay to the order of WAYNE DOYLE, an individual (the "Lender"), at P.O. Box 6722, Edmond, OK 73083 or at such other place as may be designated in writing by the holder of this promissory note, the principal sum not to exceed TWO HUNDRED NINETY FIVE THOUSAND AND 00/100 DOLLARS (\$295,000.00), together with interest thereon at the rate hereinafter specified, and an additional 4% equity position in Bricktown Capital LLC.

INTEREST RATE Beginning with the first advance, all principal sums outstanding under this Note, \$295,000.00 shall bear interest at six percent (6%) per annum. Interest shall be calculated on a year of 360 days based upon the actual number of days elapsed.

PAYMENT TERMS The Borrower shall make consecutive monthly payments beginning December 23, 2012, and continuing each month up to and including January 23, 2015. On the maturity date, January 23, 2015, Borrower shall pay in full all of the outstanding principal and unpaid accrued interest, and any other charges then remaining due on this Note. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THIS NOTE WILL REQUIRE A BALLOON PAYMENT OF ALL UNPAID OUTSTANDING PRINCIPAL AND ACCRUED BUT UNPAID INTEREST AND ANY OTHER CHARGES ON THE MATURITY DATE.

COLLATERAL This Note is secured by the real and personal property described as The Bricktown Hotel & Convention Center, 2001 E. Reno Ave, Oklahoma City, Oklahoma, Assessor Account # R 133626030, of which Seabrooke is a managing partner of the LLC.

MISCELLANEOUS The Lender's records of advances and repayments will be prima facie evidence of the amount owed by the Borrower to the Lender with respect to this Note, in the absence of manifest error.

Borrower agrees that if, and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of the Lender's rights hereunder or under any instrument securing payment of this Note, Borrower shall pay the Lender reasonable attorney's fees, all court costs, and other reasonable expenses incurred in connection therewith.

It is expressly understood that time is of the essence of this Note, and if the Borrower shall fail to pay when due any amount payable under the provision of this Note, or upon the occurrence of any other default hereunder or under that certain loan agreement of even date herewith (the "Loan Agreement"), such event shall constitute a default hereunder (any of the foregoing being hereinafter referred to as "Default"). Upon Default (i) this Note and all other liabilities of Borrower to Lender together with all accrued but unpaid interest hereon and thereon, at the option of the Lender, and without notice, demand or presentment, or notice of intent to accelerate to the Borrower or any other person or party, may be declared, and thereupon immediately shall become, due and payable; and (ii) the Lender may exercise, from time to time, any and all other rights, remedies and recourses now or hereafter existing in equity, at law, herein or under the Loan Agreement by virtue of statute or otherwise, including but not limited to, all rights and remedies available to it under the Uniform Commercial Code as in effect from time to time in the State of Oklahoma as the Lender may elect, and the right to foreclose any and all liens and security interests securing this Note. Notwithstanding anything herein or in the Loan Documents to the contrary, this Note and all other liabilities of Borrower to Lender related to the loan evidenced hereby, at the option of Lender, may be accelerated, without notice or demand of any kind in the event Borrower fails to make when due any payments to Lender as required herein or in the Loan Documents.

This Note may be prepaid in whole or in part, at any time and from time to time without prepayment premium or penalty. No such prepayment shall, until all obligations hereunder are fully paid and satisfied, excuse the payment as it becomes due of any payment provided for herein. All prepayments made pursuant to this paragraph shall be applied first to accrued and unpaid interest and then to the principal balance.

The invalidity, or unenforceability in particular circumstances, of any provision of this Note shall not extend beyond such provision circumstances, and no other provision of this instrument shall be affected thereby.

Borrower expressly stipulates and agrees that it is the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this paragraph shall control every other covenant and agreement in this Note and the other Loan Documents. The Borrower acknowledges the interest rate set forth in this Note and, in consideration for the benefit of the Borrower is receiving for the loan contemplated by this Note and the Loan Documents, Borrower hereby consents to such interest rate and waives any claim that such amount of interest is usurious. Provided, however, if the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under the Note or under any other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Note, or if Lender's exercise of the option to accelerate the maturity of the Note, or if any

prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Borrower's and Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of the Note (or, if the Note has been or would thereby be paid in full, refunded to the Borrower), and the provisions of the Note and the other Loan

Documents immediately shall be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the loan proceeds evidenced by the Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Note until payment in full so that the rate or amount of interest on account of the Note does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the Note for so long as the Note is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

This Note, to the extent of the full face amount hereof, evidences indebtedness of Borrower to Lender. This Note is issued by the Borrower as part of a commercial transaction and not part of this loan is for personal use.

This Note and all other documents issued and executed in connection therewith shall be deemed to be a contract made under the law of the State of Oklahoma and shall be construed by and governed in accordance with the laws of the State of Oklahoma.

Borrower hereby consents to the jurisdiction and/or venue of the District Court of Oklahoma County, State of Oklahoma, with respect to any action involving this Note.

Borrower stipulates and agrees that the Lender may, at its sole discretion, assign this Note to any such person it may select, upon such terms and conditions as it may deem appropriate, and that such assignee shall thereafter become the holder of this Note and shall be entitled to enforce all rights, remedies, and other benefits which shall or may inure to the benefit of the Lender.

Borrower further stipulates, represents, and agrees that this instrument evidences the valid, enforceable, and binding obligation of the Borrower to the Lender in accordance with the terms and provisions hereof.

IN WITNESS WHEREOF, Borrower has executed this instrument this 20<sup>th</sup> day of December 2012 and made effective as of the date first above appearing.

"Borrower"

Tom Seabrooke with Bricktown Capital, LLC,  
an Oklahoma limited liability company

By: \_\_\_\_\_  
Tom Seabrooke, Managing Partner

Promissory Note

\$500,000.00

Effective Date: December 23, 2012

FOR VALUE RECEIVED, TOM SEABROOKE with Bricktown Capital, LLC, an Oklahoma limited liability company (the "Borrower"), promises to pay to the order of WAYNE DOYLE, an individual (the "Lender"), at P.O. Box 6722, Edmond, OK 73083 or at such other place as may be designated in writing by the holder of this promissory note, the principal sum not to exceed FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00), together with interest thereon at the rate hereinafter specified, and an additional 1% ownership interest in Bricktown Capital LLC.

INTEREST RATE Beginning with the first advance, all principal sums outstanding under this Note, \$500,000.00 shall bear interest at eighteen percent (18%) per annum. Interest shall be calculated on a year of 360 days based upon the actual number of days elapsed.

PAYMENT TERMS The Borrower shall make consecutive monthly payments beginning December 23, 2012, and continuing each month up to and including January 23, 2015. On the maturity date, January 23, 2015, Borrower shall pay in full all of the outstanding principal and unpaid accrued interest, and any other charges then remaining due on this Note. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THIS NOTE WILL REQUIRE A BALLOON PAYMENT OF ALL UNPAID OUTSTANDING PRINCIPAL AND ACCRUED BUT UNPAID INTEREST AND ANY OTHER CHARGES ON THE MATURITY DATE.

COLLATERAL This Note is secured by Seabrooke and a 20% Ownership Interest to WAYNE DOYLE, in Bricktown Capital, LLC, dba Bricktown Hotel & Convention Center, of which Seabrooke is a managing partner of the LLC. Upon successful repayment under the terms of this Note in the amount of \$500,000.00 on the Maturity Date, WAYNE DOYLE will release 20% Ownership Interest back to Seabrooke.

MISCELLANEOUS The Lender's records of advances and repayments will be prima facie evidence of the amount owed by the Borrower to the Lender with respect to this Note, in the absence of manifest error.

Borrower agrees that if and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of the Lender's rights hereunder or under any instrument securing payment of this Note, Borrower shall pay the Lender reasonable attorney's fees, all court costs, and other reasonable expenses incurred in connection therewith.

It is expressly understood that time is of the essence of this Note, and if the Borrower shall fail to pay when due any amount payable under the provision of this Note, or upon the occurrence of any other default hereunder or under that certain loan agreement of even date herewith (the "Loan Agreement"), such event shall constitute a default hereunder (any of the foregoing being hereinafter referred to as "Default"). Upon Default (i) this Note and all other liabilities of Borrower to Lender together with all accrued but unpaid interest hereon and thereon, at the option of the Lender, and without notice, demand or presentment, or notice of intent to accelerate to the Borrower or any other person or party, may be declared, and thereupon immediately shall become, due and payable; and (ii) the Lender may exercise, from time to time, any and all other rights, remedies and recourses now or hereafter existing in equity, at law, herein or under the Loan Agreement by virtue of statute or otherwise, including but not limited to, all rights and remedies available to it under the Uniform Commercial Code as in effect from time to time in the State of Oklahoma as the Lender may elect, and the right to foreclose any and all liens and security interests securing this Note. Notwithstanding anything herein or in the Loan Documents to the contrary, this Note and all other liabilities of Borrower to Lender related to the loan evidenced hereby, at the option of Lender, may be accelerated, without notice or demand of any kind in the event Borrower fails to make when due any payments to Lender as required herein or in the Loan Documents.

This Note may be prepaid in whole or in part, at any time and from time to time without prepayment premium or penalty. No such prepayment shall, until all obligations hereunder are fully paid and satisfied, excuse the payment as it becomes due of any payment provided for herein. All prepayments made pursuant to this paragraph shall be applied first to accrued and unpaid interest and then to the principal balance.

The invalidity, or unenforceability in particular circumstances, of any provision of this Note shall not extend beyond such provision circumstances, and no other provision of this instrument shall be affected thereby.

Borrower expressly stipulates and agrees that it is the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this paragraph shall control every other covenant and agreement in this Note and the other Loan Documents. The Borrower acknowledges the interest rate set forth in this Note and, in consideration for the benefit of the Borrower is receiving for the loan contemplated by this Note and the Loan Documents, Borrower hereby consents to such interest rate and waives any claim that such amount of interest is usurious. Provided, however, if the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under the Note or under any other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Note, or if Lender's exercise of the option to accelerate the maturity of the Note, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Borrower's

and Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of the Note (or, if the Note has been or would thereby be paid in full, refunded to the Borrower), and the provisions of the Note and the other Loan Documents immediately shall be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the loan proceeds evidenced by the Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Note until payment in full so that the rate or amount of interest on account of the Note does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the Note for so long as the Note is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

This Note, to the extent of the full face amount hereof, evidences indebtedness of Borrower to Lender. This Note is issued by the Borrower as part of a commercial transaction and not part of this loan is for personal use.

This Note and all other documents issued and executed in connection therewith shall be deemed to be a contract made under the law of the State of Oklahoma and shall be construed by and governed in accordance with the laws of the State of Oklahoma.

Borrower hereby consents to the jurisdiction and/or venue of the District Court of Oklahoma County, State of Oklahoma, with respect to any action involving this Note.

Borrower stipulates and agrees that the Lender may, at its sole discretion, assign this Note to any such person it may select, upon such terms and conditions as it may deem appropriate, and that such assignee shall thereafter become the holder of this Note and shall be entitled to enforce all rights, remedies, and other benefits which shall or may inure to the benefit of the Lender.

Borrower further stipulates, represents, and agrees that this instrument evidences the valid, enforceable, and binding obligation of the Borrower to the Lender in accordance with the terms and provisions hereof.

IN WITNESS WHEREOF, Borrower has executed this instrument this 20<sup>th</sup> day of December 2012 and made effective as of the date first above appearing.

"Borrower"

Tom Seabrooke with Bricktown Capital, LLC,  
an Oklahoma limited liability company

By: \_\_\_\_\_  
Tom Seabrooke, Managing Partner

Promissory Note

\$800,000.00

Effective Date: December 23, 2012

FOR VALUE RECEIVED, TOM SEABROOKE with Bricktown Capital, LLC, an Oklahoma limited liability company (the "Borrower"), promises to pay to the order of WAYNE DOYLE, an individual (the "Lender"), at P.O. Box 6722, Edmond, OK 73083 or at such other place as may be designated in writing by the holder of this promissory note, the principal sum not to exceed EIGHT HUNDRED THOUSAND AND 00/100 DOLLARS (\$800,000.00), together with interest thereon at the rate hereinafter specified.

INTEREST RATE Beginning with the first advance, all principal sums outstanding under this Note, \$800,000.00 shall bear interest at ten percent (10%) per annum. Interest shall be calculated on a year of 360 days based upon the actual number of days elapsed.

PAYMENT TERMS The Borrower shall make consecutive monthly payments beginning December 23, 2012, and continuing each month up to and including January 23, 2015. On the maturity date, January 23, 2015, Borrower shall pay in full all of the outstanding principal and unpaid accrued interest, and any other charges then remaining due on this Note. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THIS NOTE WILL REQUIRE A BALLOON PAYMENT OF ALL UNPAID OUTSTANDING PRINCIPAL AND ACCRUED BUT UNPAID INTEREST AND ANY OTHER CHARGES ON THE MATURITY DATE.

COLLATERAL This Note is secured by the real and personal property described as Cherry Hill Apartments 4708 SE 44<sup>th</sup> Street, Oklahoma City, Oklahoma 73135, owned by Tom Seabrooke, the real and personal property described as 425 NW 11<sup>th</sup> Street, Oklahoma City, Oklahoma, legal description is E14.8FT OF LOT 19 & W27.7FT OF LOT 20 & W5FT OF E79.7FT LOT 20, BLOCK 006, Assessor Account # R040751145, owned by Seabrooke Realty LLC, the real and personal property described as The Bricktown Hotel & Convention Center, 2001 E. Reno Ave, Oklahoma City, Oklahoma, Assessor Account # R 133626030, and a 45% Ownership Interest to WAYNE DOYLE, in Bricktown Capital, LLC, dba Bricktown Hotel & Convention Center, of which Seabrooke is a managing partner of the LLC. Upon successful repayment under the terms of this Note in the amount of \$500,000.00 on the Maturity Date, WAYNE DOYLE will release 20% Ownership Interest back to Seabrooke. Upon successful repayment under the terms of this Note in the amount of 75,000.00 on the Maturity Date, WAYNE DOYLE will release 25% Ownership Interest back to Seabrooke.

MISCELLANEOUS The Lender's records of advances and repayments will be prima facie evidence of the amount owed by the Borrower to the Lender with respect to this Note, in the absence of manifest error.

Borrower agrees that if and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of the Lender's rights hereunder or under any instrument securing payment of this Note, Borrower shall pay the Lender reasonable attorney's fees, all court costs, and other reasonable expenses incurred in connection therewith.

It is expressly understood that time is of the essence of this Note, and if the Borrower shall fail to pay when due any amount payable under the provision of this Note, or upon the occurrence of any other default hereunder or under that certain loan agreement of even date herewith (the "Loan Agreement"), such event shall constitute a default hereunder (any of the foregoing being hereinafter referred to as "Default"). Upon Default (i) this Note and all other liabilities of Borrower to Lender together with all accrued but unpaid interest hereon and thereon, at the option of the Lender, and without notice, demand or presentment, or notice of intent to accelerate to the Borrower or any other person or party, may be declared, and thereupon immediately shall become, due and payable; and (ii) the Lender may exercise, from time to time, any and all other rights, remedies and recourses now or hereafter existing in equity, at law, herein or under the Loan Agreement by virtue of statute or otherwise, including but not limited to, all rights and remedies available to it under the Uniform Commercial Code as in effect from time to time in the State of Oklahoma as the Lender may elect, and the right to foreclose any and all liens and security interests securing this Note. Notwithstanding anything herein or in the Loan Documents to the contrary, this Note and all other liabilities of Borrower to Lender related to the loan evidenced hereby, at the option of Lender, may be accelerated, without notice or demand of any kind in the event Borrower fails to make when due any payments to Lender as required herein or in the Loan Documents.

This Note may be prepaid in whole or in part, at any time and from time to time without prepayment premium or penalty. No such prepayment shall, until all obligations hereunder are fully paid and satisfied, excuse the payment as it becomes due of any payment provided for herein. All prepayments made pursuant to this paragraph shall be applied first to accrued and unpaid interest and then to the principal balance.

The invalidity, or unenforceability in particular circumstances, of any provision of this Note shall not extend beyond such provision circumstances, and no other provision of this instrument shall be affected thereby.

Borrower expressly stipulates and agrees that it is the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this paragraph shall control every other covenant and agreement in this Note and the other Loan Documents. The Borrower acknowledges the interest rate set forth in this Note and, in consideration for the benefit of the Borrower is receiving for the loan contemplated by this Note and the Loan Documents, Borrower hereby consents to such interest rate and waives any claim that such amount of interest is usurious. Provided, however, if the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under the Note or under any other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Note, or if Lender's exercise of the option to accelerate the maturity of the Note, or if any

prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Borrower's and Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of the Note (or, if the Note has been or would thereby be paid in full, refunded to the Borrower), and the provisions of the Note and the other Loan Documents immediately shall be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the loan proceeds evidenced by the Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Note until payment in full so that the rate or amount of interest on account of the Note does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the Note for so long as the Note is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

This Note, to the extent of the full face amount hereof, evidences indebtedness of Borrower to Lender. This Note is issued by the Borrower as part of a commercial transaction and not part of this loan is for personal use.

This Note and all other documents issued and executed in connection therewith shall be deemed to be a contract made under the law of the State of Oklahoma and shall be construed by and governed in accordance with the laws of the State of Oklahoma.

Borrower hereby consents to the jurisdiction and/or venue of the District Court of Oklahoma County, State of Oklahoma, with respect to any action involving this Note.

Borrower stipulates and agrees that the Lender may, at its sole discretion, assign this Note to any such person it may select, upon such terms and conditions as it may deem appropriate, and that such assignee shall thereafter become the holder of this Note and shall be entitled to enforce all rights, remedies, and other benefits which shall or may inure to the benefit of the Lender.

Borrower further stipulates, represents, and agrees that this instrument evidences the valid, enforceable, and binding obligation of the Borrower to the Lender in accordance with the terms and provisions hereof.

IN WITNESS WHEREOF, Borrower has executed this instrument this 20<sup>th</sup> day of December 2012 and made effective as of the date first above appearing.

"Borrower"

Tom Seabrooke with Bricktown Capital, LLC,  
an Oklahoma limited liability company

By: \_\_\_\_\_  
Tom Seabrooke, Managing Partner

**PROMISSORY NOTE**

Principal Amount: \$2,759,120.25      Interest Rate: 6.00%

Date: April 9<sup>th</sup>, 2014

**PROMISE TO PAY:** Bricktown Capital, LLC ("Maker"), promises to pay to Wayne Doyle ("Holder"), in lawful money of the United States of America, the original principal amount of Two Million Seven Hundred Fifty-Nine Thousand One Hundred Twenty and 25/100 Dollars (\$2,759,120.25), together with interest at the rate of Six Percent (6.00%) per annum on the unpaid principal balance from April 9<sup>th</sup>, 2014, until paid in full.

**PAYMENT:** Maker will pay this loan as follows: Accrued interest monthly for fifty-nine (59) months and one final payment of principal and accrued interest. Maker's first payment is due the 23<sup>rd</sup> day of April, 2014, and all subsequent payments are due on the same day of each month thereafter. This Promissory Note is the result of placing four (4) Promissory Notes due Holder into one Promissory Note, in addition to adding additional funding of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) from Holder. \$255,000.00 of the \$500,000.00 has been advanced by Holder to Maker. As a result, initially interest on this Promissory Note obligation shall be applicable to \$2,544,120.25. At Holder's option, the additional \$245,000.00 may be advanced. At such time as any portion of the remaining \$245,000.00 is advanced, interest shall accrue on the increased advanced amount. Maker's final payment will be due on the 23<sup>rd</sup> day of March, 2019, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Interest on this Note is computed on a simple interest basis. Maker will pay Holder, at Holder's address shown above or at such other place as Holder may designate in writing. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges.

**PREPAYMENT/WAIVER OF PAYMENT:** Maker may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Holder in writing, relieve Maker of Maker's obligation to continue to make payments under the payment schedule. Rather, they will reduce the principal balance due and may result in Maker's making fewer payments. Holder, at Holder's option, has the right to waive any monthly payment.

**DEFAULT:** Maker will be in default if any of the following happens: (a) Maker fails to make any payment when due; (b) Maker breaks any promise Maker has made to Holder, or Maker

EXHIBIT     B

fails to perform promptly at the time and strictly in the manner provided in this Note or any agreement related to this Note, including but not limited to that certain Real Estate Mortgage of even date herewith executed by Maker in favor of Holder; (c) any representation or statement made or furnished to Holder by Maker or on Maker's behalf is false or misleading in any material respect; (d) Maker becomes insolvent, a receiver is appointed for any part of Maker's property, Maker makes an assignment for the benefit of creditors, or any proceeding is commenced either by Maker or against Maker under any bankruptcy or insolvency laws; (e) any creditor tries to take any of Maker's property on or in which Holder has a lien or security interest; (f) any of the events described in this default section occurs with respect to any guarantor of this Note.

**DEFAULT RATE OF INTEREST:** While any default exists under the terms of this Note, the entire unpaid principal balance shall bear interest at the rate of Ten Percent (10.0%) per annum from the date of such default until paid.

**HOLDER'S RIGHTS:** Upon default, Holder may declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, without notice or demand, and then Maker will pay that amount. Holder may hire or pay someone else to help collect this Note if Maker does not pay. Maker also will pay Holder's legal expenses, whether or not there is a lawsuit, including attorney's fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. If not prohibited by applicable law, Maker also will pay any Court costs, in addition to all other sums provided by law. This Note has been delivered to Holder and accepted by Holder in the State of Oklahoma. This Note shall be governed by and construed in accordance with the laws of the State of Oklahoma.

**COLLATERAL:** This Note is secured by, in addition to any other collateral, a Real Estate Mortgage with Power of Sale of even date herewith covering the real property more particularly described therein, located in Oklahoma County, Oklahoma, all the terms and conditions of which are hereby incorporated and made a part of this Note.

**GENERAL PROVISIONS:** Holder may delay or forego enforcing any of its rights or remedies under this Note without losing them. Maker and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waives presentment, demand for payment,

protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Holder may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Holder's security interest in the collateral; and take any other action deemed necessary by Holder without the consent or notice to anyone. All such parties also agree that Holder may modify this loan without the consent or notice to anyone other than the party with whom the modification was made.

**PRIOR TO SIGNING THIS NOTE, I READ AND UNDERSTOOD ALL OF THE PROVISIONS OF THIS NOTE. I AGREE TO THE TERMS OF THE NOTE AND ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THE NOTE.**

**MAKER:**

**BRICKTOWN CAPITAL, LLC**

By: 

Tom Seabrooke, Manager

**GUARANTY**

In consideration of the premises, the Guarantor guarantees the payment of the amount of \$2,759,120.25. To the extent Wayne Doyle advances the additional amount of \$245,000.00, or any portion thereof, Guaranty guarantees such payment. Guarantor will fully and completely perform and fulfill the terms of the agreement with Wayne Doyle.

IN WITNESS WHEREOF, I have hereunto set my hand this 9<sup>th</sup> day of April, 2014.

**GUARANTOR:**



Tom Seabrooke, Individually



20140410010450860  
 04/10/2014 02:41:54 PM  
 Bk RE12507 Pg 1174 Pgs 5 MTG  
 State of Oklahoma  
 County of Oklahoma  
 Oklahoma County Clerk  
 Carolyn Caudill

**REAL ESTATE MORTGAGE**

**A POWER OF SALE HAS BEEN GRANTED IN THIS MORTGAGE. A POWER OF SALE MAY ALLOW THE MORTGAGEE TO TAKE THE MORTGAGED PROPERTY AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY THE MORTGAGOR OF THIS MORTGAGE.**

THIS MORTGAGE is made effective the 9<sup>th</sup> day of April, 2014, by and between Bricktown Capital, LLC, C/O Seabrooke Realty, 425 N.W. 11<sup>th</sup> Street, Oklahoma City, OK 73103 (hereinafter collectively referred to as "Mortgagor") and Wayne Doyle, whose mailing address is P.O. Box 6722, Edmond, OK 73083 (hereinafter referred to as "Mortgagee").

WHEREAS, Mortgagor is indebted to Mortgagee, which indebtedness is evidenced by Mortgagor's Promissory Note of even date herewith (hereinafter called the "Note"), provided that the principal, together with the accrued interest thereon, shall be due and payable, if not sooner paid, on March 23<sup>rd</sup>, 2019.

TO SECURE to Mortgagee the repayment of Two Million Seven Hundred Fifty-Nine Thousand One Hundred Twenty and 25/100 Dollars (\$2,759,120.25) of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of the Mortgagor herein contained, Mortgagor does hereby mortgage, grant and convey to Mortgagee all of Mortgagor's right, title and interest in and to that certain tract of real property located in the County of Oklahoma, State of Oklahoma, more particularly described on Exhibit "A" attached hereto and made a part hereof, together with all improvements now or hereafter erected on the real property, and all easements, rights, appurtenances and all fixtures now or hereafter attached to the real property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said real property being hereinafter called the "Property".

Mortgagor covenants that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, and the Mortgagor will warrant and defend generally the title to the Property against all claims and demands, subject to any leases, declarations, easements or restrictions of record.

Mortgagor and Mortgagee hereby covenant and agree as follows:

1. Mortgagor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note.
2. Mortgagor shall keep the Property in good repair and not commit waste or permit impairment or deterioration of the Property.

RECEIVED MTG TAX \$ 2759.12

PAID on APRIL 10th 2014 RCPT# 36  
 FORREST "BUTCH" FREEMAN  
 OKLA CO. TREASURER  
 BY Paula Wells DEPUTY

C

Doyle Production ODS Subpoena - 000043

**EXHIBIT** \_\_\_\_\_

3. Mortgagor shall promptly pay all taxes, assessments and other charges, fines and impositions attributable to the Property (including the discharge of any lien) which has or may attain a priority over this Mortgage.

4. If Mortgagor fails to perform the covenants or agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the property, including but not limited to eminent domain, insolvency, code enforcement or arrangements or proceedings in bankruptcy, then Mortgagee, at Mortgagee's option, upon notice to Mortgagor, may make such appearances, disburse such sums and take such action as is necessary to protect Mortgagee's interest, including but not limited to disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

5. Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property, provided that Mortgagee shall give Mortgagor notice prior to any such inspection specifying reasonable cause therefore related to Mortgagee's interest in the Property.

6. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, shall, at Mortgagee's option, be used to restore the property or to be applied to the sums secured by this Mortgage.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless the Mortgagee and Mortgagor otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportions of the proceeds as is equal to that proportion which the amount of the sums secured by this mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking with the balance of the proceeds paid to Mortgagor.

7. This Mortgage shall be governed by the laws of the State of Oklahoma.

8. Mortgagor may not sell or convey all or any part of the Property, or an interest therein, without Mortgagee's prior written consent.

9. Upon Mortgagor's default or breach of any covenant or agreement in this Mortgage, or the Note which this Mortgage secures, Mortgagee may elect at its option to declare the entire unpaid principal balance, interest and all sums due under the Note which are secured by this Mortgage to be immediately due and payable without further demand, and may foreclose this Mortgage by judicial proceeding or by exercising the power of sale granted to the Mortgagee herein. Mortgagee shall be entitled to collect in such judicial proceedings or in exercising its power of sale all expense incurred therein, including reasonable attorney's fees. Mortgagor waives all demands for payment, notices of intention to accelerate maturity, notices of acceleration of maturity, protest and notices of protest.

10. **Power of Sale:** (a) Mortgagee, as an alternative remedy, may elect to foreclose by power of sale, and Mortgagor authorizes Mortgagee or its attorney, and grants to the Mortgagee or its attorney, the power (i) to sell and to convey the Property to a purchaser and the purchaser's heirs or assigns, forever, and; (ii) to foreclose Mortgagor's rights and the rights of all persons who took an interest in the Property subject to the Mortgage; (b) this right to foreclose and to sell and convey the Property which Mortgagor has given Mortgagee by contract is called the "Power of Sale" and may, at the option of the Mortgagee, be utilized in lieu of the procedure authorized by law for acceleration and foreclosure by judicial process. The power of sale means that in accordance with applicable Oklahoma law with respect to notice to Mortgagor and other person, Mortgagor's interest and other persons' interest in the Property can be sold by Mortgagee at public sale and that the proceeds can be applied to pay the accelerated debt evidenced by the Note and any other indebtedness secured by this Mortgage without Mortgagee having to go to court in a foreclosure action; (c); however, under the power of sale, before Mortgagee, after an Event of Default, declares all sums secured by this Mortgage immediately due and payable irrespective of any maturity date specified in the Note or in this Mortgage, Mortgagee must give Mortgagor written notice of intention to foreclose by power of sale, which notice informs Mortgagor how Mortgagor failed to perform under this Mortgage and what Mortgagor must do to cure the failure; (d) Mortgagor will have the right for thirty-five (35) days from the date notice is sent, or for any other period provided by law, to cure the failure by paying money or otherwise providing the performance due, unless Mortgagor previously has been in default more than the number of times specified by statute within the previous two (2) years, in which case: (i) Mortgagee is entitled immediately to accelerate the sum secured by this Mortgage and to proceed with the power of sale and; (ii) Mortgagee is not required to send a notice of intention of foreclosure with any right to cure. Mortgagee is not required to send a notice of intention of foreclosure with any right to cure. If Mortgagor cures the default or if Mortgagee accepts a partial performance and a promise to complete performance later, Mortgagee may not require immediate payment in full by acceleration. Mortgagor understands cure of a default or Mortgagee's acceptance of partial cure and a promise to complete performance later does not affect or compromise Mortgagee's rights if there is again a default. If Mortgagee so requests, Mortgagor agrees to sign and return a form stating: (a) when Mortgagor received the notice specified in this paragraph; (b) whether the Property is homestead Property; and (c) if so, whether Mortgagor will elect judicial foreclosure or elect against a deficiency. Mortgagor understands that Mortgagor may, but need not, waive a right to cure in any such receipt form if requested by Mortgagee; (e) in any effort to collect the amounts secured by this Mortgage, whether or not involving foreclosure and sale by power of sale, Mortgagee will have the right to collect all costs allowed by law, and Mortgagor agrees to pay to the extent permitted by law the legal expenses of Mortgagee.

11. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy.



**EXHIBIT "A"**

A part of the Southwest Quarter (SW/4) of Section THIRTY-SIX (36), Township TWELVE (12) North, Range THREE (3) West of the Indian Meridian, Oklahoma County, Oklahoma, more particularly described as follows: Beginning at the Southwest corner of said Southwest Quarter (SW/4); thence North on the West line a distance of 225 feet; thence East and parallel to the South Section line a distance of 50 feet; thence North and parallel to the West Section line a distance of 250 feet; thence East and parallel with the South Section line a distance of 605.12 feet; thence South and parallel with the West Section line a distance of 425 feet; thence West and parallel with the South Section line a distance of 380.12 feet; thence South and parallel with the West Section line a distance of 50 feet to a point on the South Section line; thence West on said South Section line a distance of 275 feet to the point of beginning. Less and Except that part described as follows: Beginning 50.00 feet East of and 33.00 feet North of the Southwest corner of said Southwest Quarter (SW/4); thence East along the North right-of-way line of Reno Avenue a distance of 225.00 feet; thence North a distance of 17.00 feet; thence South 89°49'16" West a distance of 205.02 feet; thence North 45°12'48" West a distance of 28.30 feet to a point on the East right-of-way line of Eastern Avenue; thence South along said right-of-way line a distance of 37 feet to a point of beginning. And Less and Except that part described as follows: Beginning 445.82 feet North and 50 feet East of the Southwest corner of the Southwest Quarter (SW/4); thence North a distance of 30 feet; thence East a distance of 30 feet; thence in a Southwesterly direction a distance of 42.77 feet to the point of beginning.



### Seller's Closing Statement

Stewart Abstract & Title of Oklahoma, Stewart Abstract & Title of Oklahoma  
 701 North Broadway, Suite 300, Oklahoma City, OK 73102, (405) 232-6764

Seller(s) Bricktown Capital LLC  
 Buyer(s) Prominent Hotels, LLC  
 Lender(s) Cash  
 Property 2001 E Reno Oklahoma City, Oklahoma 73117

133626030

Section Number 36Township 12N, Range 03W Oklahoma

PT SW4 SEC 36 12N 3W BEG SW/C SW4 TH N225FT E50FT N250FT E605.12FT S425FT W380.12FT S50FT  
 W275FT TO BEG EX BEG 50FT E & 33FT N OF SW/C SW4 TH E225FT N17FT W205.02FT NW28.30FT S37FT TO  
 BEG & EX BEG 445.82FT N & 50FT E OF SW/C SW4 TH N30FT E30FT SW42.77FT TO BEG SUBJ TO ESMTS ON  
 W & S

Closing Date 12/19/2014 Disbursement Date 12/19/2014 Proration Date 12/19/2014

	Debit	Credit
<b>Sales/Price</b>		
Contract sales price		\$2,550,000.00
<b>Prorations</b>		
County taxes 12/19/2014 to 1/1/2015		\$1,370.50
<b>Other Adjustments</b>		
Release of Mortgage (Doyle Mortgage) to County Clerk	\$17.00	
2014 Real Estate Taxes to County Treasurer	\$38,479.29	
Pursuant to Agreement Net Proceeds to Oklahoma County District Court Clerk	\$187,858.90	
<b>Payoffs</b>		
Payoff of first mortgage loan to 12-15-14 to Quail Creek Bank	\$1,911,290.69	
Payoff of second mortgage loan to 12/23/14 to SBA; Loan: 6525055006	\$327,772.12	
<b>Commissions</b>		
\$76,500.00 to Vawter real Estate	\$76,500.00	
<b>Title Charges</b>		
Settlement or closing fee to Stewart Abstract & Title of Oklahoma	\$150.00	
Abstract or title search to Stewart Abstract & Title of Oklahoma	\$500.00	
Title examination to Stewart Abstract & Title of Oklahoma	\$300.00	
Title Insurance to Stewart Abstract & Title of Oklahoma		
Owner's coverage \$2,550,000.00 \$4,427.50	\$4,427.50	
Final Title Report to Stewart Abstract & Title of Oklahoma	\$100.00	
Title Service Fee to Stewart Abstract & Title of Oklahoma	\$150.00	
<b>Recording Fees/Transfer Charges</b>		
State tax/stamps: Deed \$3,825.00	\$3,825.00	
	<b>Subtotal:</b>	<b>\$2,551,370.50</b>
	Balance due from Seller:	\$0.00
	<b>Totals:</b>	<b>\$2,551,370.50</b>

  
 Bricktown Capital LLC

## AGREEMENT ON INSTRUCTION FOR CLOSING

THIS AGREEMENT ("Agreement") made by and between Ryan Leonard, Receiver ("Receiver"), as appointed in the certain civil proceeding entitled "Oklahoma Department of Securities ex rel Irving L. Faught, Administrator, Plaintiff, vs. Seabrooke Investments, LLC, et al.", Case No. CJ-2014-4515, (the "Lawsuit"), Bricktown Capital, LLC ("Bricktown") and Wayne Doyle ("Doyle"). This Agreement is accepted by Stewart Abstract & Title of Oklahoma ("Stewart"), as evidenced by its signature below.

### RECITALS

WHEREAS, Stewart has been requested to close a certain sale of real property which is commonly known by the Receiver and Bricktown, as the "Bricktown Hotel and Convention Center" (the "Hotel"); and

WHEREAS, as part of the Settlement Statement (HUD-1) involving the sale of the Hotel, the Receiver and Doyle assert competing claims to \$187,858.90 in proceeds from the sale; and

WHEREAS, the Receiver and Doyle agree that the sale of the Hotel should occur as quickly as possible, and the question regarding the rights to \$187,858.90 of the sale proceeds should not impede or delay the closing of the sale of the Hotel; and

WHEREAS, the Receiver and Doyle agree that the \$187,858.90 should be interpleaded into the Lawsuit and that Stewart is instructed to pay said amount to the District Court Clerk of Oklahoma County, Case No. CJ-2014-4515 as funds to be interpleaded by the Receiver, Bricktown Capital LLC, and Doyle for an order from the Court as to how said funds should be distributed.

NOW THEREFORE, in consideration of the Recitals set forth above, and the agreements set forth below, it is therefore agreed as follows:

### AGREEMENTS

1. Agreement to Close Sale of Hotel. The Receiver, Bricktown and Doyle agree that Stewart shall immediately close the sale of the Hotel as expeditiously as possible, and without delay.
2. Interpleader of the \$187,858.90. The Receiver and Doyle agree that rights to the \$187,858.90 in sales proceeds from the sale of the Bricktown Hotel and Convention Center is in dispute between the parties and, that accordingly, same shall be paid by Stewart to the District Court Clerk of Oklahoma County, Case No. CJ-2014-4515 as funds to be interpleaded in said matter by the Receiver and Doyle.
3. Interpleader For Future Court Order. The Receiver, Bricktown and Doyle shall execute a joint motion to interplead said \$187,858.90 into the Lawsuit and request an Order from the Court memorializing the terms of this Agreement as soon as is practically convenient.

EXHIBIT \_\_\_\_\_

E

Thereafter, the respective parties shall assert their respective interests in the proceeds delivered to the Court for a determination by the Court on the proper distribution of said interpleaded funds.

4. Parties' Rights Reserved for Interpleader. The Receiver, Bricktown and Doyle agree that if, in order to facilitate the Closing by Stewart, Doyle executes a release of any mortgage lien he claims in the Bricktown Hotel and Convention Center, said release of mortgage lien will neither validate or invalidate said mortgage for purposes of the Court's ruling on the rights of Doyle or the Receiver to the \$187,858.90 interpled funds. Rather, any interest which Doyle asserts based on the claimed validity of said mortgage shall attach to the interpled funds, and any interest which the Receiver asserts based on the invalidity of said mortgage shall likewise attach to the interpled funds. Doyle and the Receiver reserve all right to assert the validity or invalidity of the said mortgage in the Lawsuit as applicable to the interpled funds and to present the issue for determination by the Court.

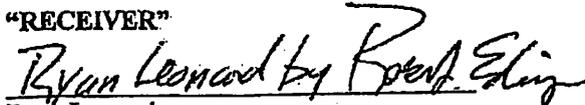
5. Reliance by Stewart. Stewart is authorized to rely upon this Agreement and instructions herein for payment of said \$187,858.90 to the District Court Clerk of Oklahoma County, Case CJ-2014-4515. Stewart is further directed to reflect said funds on the Settlement Statement for closing as follows: "Paid as interpleader to the District Court of Oklahoma County, Case CJ-2014-4515." Upon fulfillment of these instructions, Stewart is fully released and held harmless by the Receiver, Bricktown, and Doyle and Stewart will not be liable to any parties hereto nor to any other person, firm or corporation by reason of said payment.

6. Entire Agreement. This is the entire agreement of the parties and shall be binding on the parties hereto and the heirs, successors and assigns. No modification of this agreement shall be effective unless in writing and signed by all parties hereto.

The UNDERSIGNED have executed this instrument on the date appearing opposite each Party's respective signature.

Signed: December 22, 2014

"RECEIVER"

  
Ryan Leonard

BRICKTOWN CAPITAL LLC

Signed: December \_\_\_\_\_, 2014

BY: \_\_\_\_\_  
Tom W. Seabrooke, Manager

WAYNE DOYLE

Thereafter, the respective parties shall assert their respective interests in the proceeds delivered to the Court for a determination by the Court on the proper distribution of said interpleaded funds.

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The UNDERSIGNED have executed this instrument on the date appearing opposite each Party's respective signature.

**"RECEIVER"**

Signed: December \_\_\_\_\_, 2014

\_\_\_\_\_  
Ryan Leonard

**BRICKTOWN CAPITAL LLC**

Signed: December 19, 2014

BY:   
\_\_\_\_\_  
Tom W. Seabrooke, Manager

**WAYNE DOYLE**

Signed: December 19, 2014

Wayne Doyle

Stewart Abstract & Title of Oklahoma accepts the above instructions.

Signed: December 21, 2014

Margaret Miller  
(Signature)

MARGARET MILLER DVP  
(Print Name and Title)