

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
IN AND FOR BAY COUNTY, FLORIDA**

**TRUSTMARK NATIONAL BANK,
successor to BankTrust,**

Plaintiff,

Case No. 2013-CA - 1131

v.

**THOMAS DRIVE LAND II, LLC,
a Florida limited liability company,
TOP SHELF INVESTORS, LLC,
a Florida limited liability company,
WILLIAM R. MCKELVY,
MARBELLA MASTER ASSOCIATION, INC.,
a Florida corporation,
FIRST CITY BANK OF FLORIDA,
FIRST FEDERAL BANK OF FLORIDA,
successor in interest by merger with Chipola
Community Bank f/n/a First Capital Bank,
FARM CREDIT OF NORTHWEST FLORIDA, ACA,
WELLS FARGO BANK, N.A.,
BRANCH BANKING & TRUST COMPANY, and
SSA/NAV PROPERTIES, LLC,
a Florida limited liability company,**

Defendants.

FILED
2013 DEC - 4 P 2:26
BILL KINSAUL
CLERK OF COURT
BAY COUNTY, FLORIDA

FINAL SUMMARY JUDGMENT

This matter is before the Court on the Plaintiff's Motion for Final Summary Judgment, and the Court having reviewed the pleadings on file and heard argument of counsel finds that a summary final judgment should be entered. It is therefore ADJUDGED that:

1. Plaintiff, Trustmark National Bank, 7700 US Hwy 98 West, Santa Rosa Beach, FL 32459, is due the following amounts:

THOMAS DRIVE LOAN NO. XXXXX0014

(1) Principal	\$1,303,358.63
(2) Interest to December 4, 2013 (per diem \$181.02)	\$ 263,333.66
(3) Late Fees	\$ 500.00
(4) Escrow Advance for 2007 Ad Valorem Taxes	\$ 15,379.39
(5) Escrow Advance for 2009 Ad Valorem Taxes	\$ 11,848.38
(6) Escrow Advance for 2010 Ad Valorem Taxes	\$ 11,635.48
(7) Escrow Advance for 2011 Ad Valorem Taxes	\$ 11,452.69
(8) Appraisal Fee	<u>\$ 1,900.00</u>
TOTAL - THOMAS DRIVE LOAN NO. XXXXX0014	\$1,619,408.23

TOP SHELF LOAN NO. XXXXX2572

(1) Principal	\$1,004,834.67
(2) Interest to December 4, 2013 (per diem \$139.56)	\$ 204,765.28
(3) Late Fees	\$ 500.00
(4) Escrow Advance for 2007 & 2008 Ad Valorem Taxes	\$ 36,540.41
(5) Escrow Advance for 2009 Ad Valorem Taxes	\$ 10,359.16
(6) Escrow Advance for 2010 Ad Valorem Taxes	\$ 7,517.67
(7) Escrow Advance for 2011 Ad Valorem Taxes	\$ 5,845.72
(8) Appraisal Fee	<u>\$ 400.00</u>
TOTAL - TOP SHELF LOAN NO. XXXXX2572	\$1,270,762.91

MCKELVY LOAN NO. XXXXX2574

(1) Principal	\$437,874.20
(2) Interest to December 4, 2013 (per diem \$60.82)	\$ 89,081.75
(3) Late Fees	\$ 100.00
(4) Escrow Advance for 2010 Ad Valorem Taxes	\$ 3,290.76
(5) Escrow Advance for 2011 Ad Valorem Taxes	\$ 3,209.26
(6) Escrow Advance for Flood Insurance	<u>\$ 5,939.00</u>
TOTAL - MCKELVY LOAN NO. XXXXX2574	\$539,494.97

MCKELVY LOAN NO. XXXXX2571

(1) Principal	\$1,750,163.88
(2) Interest to December 4, 2013 (per diem \$218.77)	\$ 321,311.94
(3) Late Fees	\$ 100.00
(4) Escrow Advance for 2007 & 2008 Ad Valorem Taxes	\$ 44,340.34
(5) Escrow Advance for 2009 Ad Valorem Taxes	\$ 16,114.68
(6) Escrow Advance for 2010 Ad Valorem Taxes	\$ 14,070.04
(7) Escrow Advance for 2011 Ad Valorem Taxes	\$ 6,776.96
(8) Appraisal Fees	<u>\$ 1,750.00</u>
TOTAL - MCKELVY LOAN NO. XXXXX2571	\$2,154,627.84

CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT

(1) Thomas Drive Loan No XXXXX0014	\$1,619,408.23
(2) Top Shelf Loan No XXXXX2572	\$1,270,762.91
(3) McKelvy Loan No XXXXX2574	\$ 539,494.97

(4) McKelvy Loan No XXXXX2571 \$2,154,627.84

TOTAL OWED TO PLAINTIFF \$5,584,293.95

that shall bear interest at the rate of 4.75% per annum.

As to Count II

3. As to Count II of the Complaint, Plaintiff shall have a money judgment against WILLIAM R. MCKELVY, in the amount of **\$5,584,293.95**, which amount shall bear interest at the rate of 4.75% until satisfied, for all of which let execution issue.

As to Count I

4. As to Count I of the Complaint, Plaintiff shall have a money judgment against THOMAS DRIVE LAND II, LLC, in the amount of **\$5,584,293.95**, which amount shall bear interest at the rate of 4.75% until satisfied, for all of which let execution issue.

5. As to Count II of the Complaint, Plaintiff shall have a money judgment against TOP SHELF INVESTORS, LLC, in the amount of **\$5,584,293.95**, which amount shall bear interest at the rate of 4.75% until satisfied, for all of which let execution issue.

6. Plaintiff holds a lien for the total sums superior to any claim or estate of the Defendants on the following described real and personal properties located in Bay County, Santa Rosa County, and Okaloosa County, Florida:

Bay County, Florida:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 4 SOUTH, RANGE 15 WEST, BAY COUNTY, FLORIDA; THENCE S00°02'42"E ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER FOR 608.96 FEET TO THE POINT OF BEGINNING; THENCE S89°59'41"W FOR 187.83 FEET; THENCE N50°56'15"W FOR 89.23 FEET; THENCE N00°00'00"E FOR 108.85 FEET; THENCE N90°00'00"W FOR 44.88 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF AN ACCESS AND UTILITY EASEMENT; THENCE S46°33'35"W ALONG SAID RIGHT OF

WAY LINE 242.02 FEET TO A POINT ON THE CURVING EASTERLY RIGHT OF WAY LINE OF THOMAS DRIVE; THENCE SOUTHEASTERLY ALONG SAID CURVING EASTERLY RIGHT OF WAY LINE FOR AN ARC DISTANCE OF 352.50 FEET TO THE POINT OF TANGENCY OF SAID CURVE, SAID CURVE HAVING A CENTRAL ANGLE OF $12^{\circ}43'27''$, A RADIUS OF 1587.28 FEET, A CHORD DISTANCE OF 351.78 FEET BEARING $S42^{\circ}05'58''E$; THENCE $S48^{\circ}29'01''E$ ALONG SAID EASTERLY RIGHT OF WAY LINE 323.53 FEET TO THE INTERSECTION OF THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE $N00^{\circ}02'42''W$ ALONG SAID EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER FOR 476.81 FEET TO THE POINT OF BEGINNING.

Santa Rosa County, Florida:

LOT 13, BLOCK 50, NAVARRE BEACH RESIDENTIAL SECTION ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK F, PAGE 44, OF THE PUBLIC RECORDS OF SANTA ROSA COUNTY, FLORIDA.

and

DESCRIPTION AS PREPARED BY NORTHWEST FLORIDA ENGINEERING & SURVEYING, INC.:

COMMENCE AT THE NORTHEAST CORNER OF LOT 3, BLOCK 20, OF THE OFFICIAL MAP OF BAGDAD BY C.H. OVERMAN, DATED JANUARY 3, 1912; THENCE GO NORTH $47^{\circ}30'00''$ EAST A DISTANCE OF 50.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF WATER STREET (50' R/W); THENCE GO NORTH $42^{\circ}30'00''$ WEST A DISTANCE OF 64.10 FEET TO THE SOUTHERLY LINE OF A 50 FOOT WIDE ROAD EASEMENT; THENCE GO NORTH $47^{\circ}30'00''$ EAST ALONG THE AFORESAID SOUTHERLY LINE A DISTANCE OF 90.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH $47^{\circ}30'00''$ EAST ALONG THE AFORESAID SOUTHERLY LINE A DISTANCE OF 90.00 FEET; THENCE GO SOUTH $42^{\circ}30'00''$ EAST A DISTANCE OF 311.19 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE CONTINUE SOUTH $42^{\circ}30'00''$ EAST A DISTANCE OF 30 FEET MORE OR LESS TO THE NORTHERLY APPROXIMATE MEAN HIGH WATER LINE OF BLACKWATER BAY; THENCE MEANDER SOUTHWESTERLY ALONG THE AFORESAID MEAN HIGH WATER LINE TO A POINT BEING SOUTH $42^{\circ}30'00''$ EAST FROM THE POINT OF BEGINNING; THENCE GO NORTH $42^{\circ}30'00''$ WEST A DISTANCE OF 45 FEET MORE OR LESS TO A POINT LYING SOUTH $44^{\circ}49'00''$ WEST A DISTANCE OF 90.10 FEET FROM THE AFOREMENTIONED POINT "A"; THENCE CONTINUE NORTH

42° 30' 00" WEST A DISTANCE OF 315.41 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL OF LAND IS SITUATED IN SECTION 14, TOWNSHIP 1 NORTH, RANGE 28 WEST, SANTA ROSA COUNTY, FLORIDA.

AND ALSO, DESCRIPTION AS FURNISHED:

A 50 FOOT ROAD EASEMENT:

COMMENCING AT AN IRON PIPE AT THE NORTHEAST CORNER OF LOT 3, BLOCK 20, ACCORDING TO THE OFFICIAL MAP OF BAGDAD, FLORIDA; THENCE NORTH 47° 30' EAST, ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID BLOCK, A DISTANCE OF 50.0 FEET, SAID POINT BEING IN THE EAST RIGHT OF WAY LINE OF WATER STREET, ACCORDING TO SAID MAP; THENCE NORTH 42° 30' WEST, ALONG SAID RIGHT OF WAY LINE, 64.1 FEET TO AN IRON PIPE FOR THE POINT OF BEGINNING; THENCE CONTINUE NORTH 42° 30' WEST, 50.0 FEET TO AN IRON PIPE; THENCE NORTH 47° 30' EAST, 600.0 FEET; THENCE SOUTH 47° 30' EAST, 50.0 FEET TO IRON PIPE; THENCE SOUTH 47° 30' WEST, 600.0 FEET TO THE POINT OF BEGINNING.

Okaloosa County, Florida:

LOTS 1 AND 5, MARBELLA, A TOWNHOME SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 21, PAGE(S) 84 AND 85, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.

7. If the total sum with interest at the rate prescribed by law and all costs of this action accruing subsequent to this judgment are not paid within the time required by law, the Clerk of this Court shall sell the property at public sale to the highest bidder for cash, except as set forth hereinafter, on January 21, 2014 at 11:00 am Central time at www.bay.realforeclose.com in accordance with Chapter 45, Florida Statutes. At the time of the sale, the successful high bidder shall post with the Clerk a cash deposit equal to five percent (5%) of the final bid. The balance of the final bid shall be paid in cash or cash equivalent to the Clerk no later than 4:00 p.m. on the sale date. The successful high bid shall be exclusive of the clerk's registry fee and documentary stamps on the Certificate of Title which shall be paid by the successful bidder.

8. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the property at the sale. If Plaintiff is the purchaser at the sale, the Clerk shall credit Plaintiff's bid with the total sum of this judgment with interest and costs accruing subsequent to this judgment or such part of it as is necessary to pay the bid in full.

9. On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of Plaintiff's costs; second, documentary stamps affixed to the certificate; third, attorneys' fees; fourth, the total sum due to Plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this court.

10. On filing the Certificate of Sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any. Upon the filing of the Certificate of Title, the person named on the Certificate of Title shall be let into possession of the property.

11. Jurisdiction of this action is retained to enter further orders that are proper.

12. If the subject property is sold at public auction, there may be additional money from the sale after payment of persons who are entitled to be paid from the sale proceeds pursuant to the final judgment of foreclosure. If you are a subordinate lienholder claiming a right to funds remaining after the sale, you must file a claim with the Clerk no later than 60 days after the sale. If you fail to file a claim, you will not be entitled to any remaining funds. If you are the property owner, you may claim these funds yourself. You are not required to have a lawyer or any other representation and you do not have to assign your rights to anyone else in

order for you to claim any money to which you are entitled. Please check with the Clerk of the Court, Bay County Courthouse, 300 East 4th Street, Panama City, Florida 32401 within ten (10) days after the sale to see if there is additional money from the foreclosure sale that the clerk has in the registry of the court.

13. If you decide to sell your property or hire someone to help you claim the additional money, you should read very carefully all papers you are required to sign, ask someone else, preferably an attorney who is not related to the person offering to help you, to make sure that you understand what you are signing and that you are not transferring your property or the equity in your property without the proper information. If you cannot afford to pay an attorney, you may contact Legal Services of North Florida, Inc. at (850) 769-3581 to see if you qualify financially for their services. If they cannot assist you, they may be able to refer you to a local bar referral agency or suggest other options. If you choose to contact Legal Services of North Florida, Inc. for assistance, you should do so as soon as possible after receipt of this notice.

14. On filing the Certificate of Title, Defendants and all persons claiming under or against the subject property since the filing of the Notice of Lis Pendens are foreclosed of all estate or claim in the property and the purchaser at the sale shall be let into possession of the property. This provision of the judgment shall not be construed as extending the time during which the Defendants may exercise a right of redemption. Defendants' right of redemption expires at the time of the filing of the Certificate of Sale.

15. Pursuant to §45.0315, Florida Statutes, at any time before the filing of a Certificate of Sale by the clerk of the court, Defendants may cure the indebtedness adjudicated due herein and prevent a foreclosure sale by paying the amount of monies specified in this judgment, plus

the reasonable expenses of proceeding to foreclosure incurred to the time of the tender, including reasonable attorneys' fees of the plaintiff. Otherwise, there is no right of redemption.

DONE AND ORDERED in Chambers in Bay County, Panama City, Florida this 4th
day of December, 2013.


THOMAS ELLINOR
CIRCUIT COURT JUDGE

Conformed Copies to:

Keith L. Bell, Jr., Esq.

Michael Bist, Esq.

Christopher S. Linde, Esq.

William R. McKelvy, Thomas Drive Land II, LLC, and Top Shelf Investors, LLC

First Federal Bank of Florida, successor in interest by merger with Chipola Community Bank
f/n/a First Capital Bank

Marbella Master Association, INC.

First City Bank of Florida

Wells Fargo Bank, N.A.