

3. In my capacity as asset manager, I have had the primary responsibility for negotiating the sale of certain Colorado retail properties (the "Subject Properties") owned by the plaintiff. Such properties were the subject of the failed purchase and sale transaction with the defendant, which resulted in the Settlement Agreement that forms the basis of this litigation.

4. Subsequent to the aforementioned failed purchase and sale transaction, the plaintiff resumed marketing the Subject Properties.

5. On or about March 24, 2004, the plaintiff entered into an agreement with a new buyer, Super America, I.L.C, to sell the Subject Properties for approximately \$10.0 million, subject to adjustment. Such transaction was set to close on June 16, 2004.

6. On the morning of June 16, 2004, we received, by facsimile, copies of eleven lis pendens relating to each of the Subject Properties, which lis pendens were executed by the defendant. Such copies are attached hereto as Exhibit A.

7. On June 17, 2004, we received confirmation that at least four of the aforementioned lis pendens had been recorded in the counties in which some of the Subject Properties are located. Copies of the four recorded lis pendens are attached hereto as Exhibit B. As of the date hereof, we have been unable to confirm whether the other seven lis pendens have been recorded.

8. Despite our demands, the defendant has refused to remove the four recorded lis pendens and/or to agree not to record the remaining seven lis pendens.

9. The lis pendens have caused, are causing and will continue to cause the plaintiff immediate, substantial and irreparable harm. Specifically, the lis pendens have caused both the title company and the buyer of the Subject Properties to reassess their existing

commitments and to seek additional, expensive and time-consuming assurances from the plaintiff. In addition, the new buyer has expressed grave concerns regarding the quality of title to the Subject Properties, and is extracting and attempting to extract additional financial and contractual concessions from the plaintiff. The entire transaction is threatened by the lis pendens. If the transaction fails, the plaintiff will suffer immediate and substantial damages. Furthermore, even if the plaintiff is able to salvage the transaction, by making additional concessions, it has suffered and will continue to suffer material adverse consequences.

10. The extent of the plaintiff's damages could be greatly reduced by the Court's order directing the defendant to immediately remove the lis pendens and/or to refrain from otherwise attempting to thwart the pending transaction.

DATED this 18th day of June, 2004.

Brian Naeve
Brian Naeve

SUBSCRIBED AND SWORN to before me this 18th day of June, 2004.



Lenise Redding
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires 9/9/2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of June, 2004, I caused a true and correct copy of the foregoing **AFFIDAVIT OF BRIAN NAEVE IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION AND EXPUNGEMENT OF LIS PENDENS** to be served by the method indicated below, and addressed to the following:

Robert L. Chortek
BERLINER COHEN
10 Almaden Boulevard, 11th Floor
San Jose, CA 95113-2233
Fax: (408) 998-5388

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile

Wade Curtis
2611 Stoney Fork Way
Boise, ID 83706
Fax: (208) 345-4461

- U.S. Mail, Postage Prepaid
- Hand Delivered
- Overnight Mail
- Facsimile



Michael O. Roe

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in DOUGLAS County, State of Colorado, to wit:

LOT 5 COTTONWOOD COMMERCIAL # 2 AMENDED 0.373 AM/L
Parcel No.: 2233-044-05-002

also known by street and number as: 17840 Cottonwood Dr., Parker, CO

Dated this 13th day of June, 2004.

By: [Signature]
Manjit Sahota, Mgr. Amer. Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

[Signature]
Notary Public
JON ANGELO
OLMEDO
STATE OF COLORADO

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in

EL PASO County, State of Colorado, to wit:

LOT 3 BLK 1 MADDOCKS ADDITION TO IVYWILD AND LOTS 1, 2 REFIL OFF LOTS 1, 2, 15 TO 20 INC BLK 1 MADDOCKS ADD TO IVYWILD, EXPT CONV TO CITY BY REC # 2000B4054

Schedule No.: 6419309025

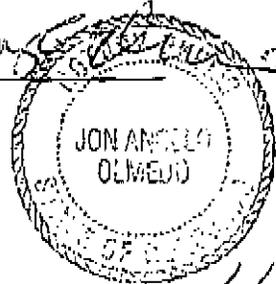
also known by street and number as: 1502 S. Tejon St., Colorado Springs, CO

Dated this 13th day of June, 2004. By: [Signature]
Manjit Sahota, Mgr. Amer. Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

[Signature]
Notary Public

My Comm. Expires 5/9/05

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in

Weld County, State of Colorado, to wit:

GCT 6045 L1-2 BLK 16 KENDRICK 2ND ALSO VACATED S 10'
26th ST ADJ TO 2603 S 8 AV GARDEN

Parcel No.: 096117317017

also known by street and number as 2603 S. 8th Ave., Garden City, CO

Dated this 13th day of June, 2004.

By: [Signature]
Manjit Sahota, Mgr. Amer. Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

[Signature]
Notary Public

My Comm. Expires 5/9/05

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in

Weld County, State of Colorado, to wit:

GR 5433 S90' W125' L3 BLK 95 1025 13 ST GREELEY 80631
Parcel No.: 096108208003

also known by street and number as: 1025 13th St., Greeley, CO

Dated this 13th day of June, 2004.

By: [Signature]
Manjit Sabota, Mgr. Amer. Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

[Signature]
Notary Public

My Comm. Expires 6/9/05

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

647

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in

Weld County, State of Colorado, to wit:

GCT 6045 L1-2 BLK 16 KENDRICK 2ND ALSO VACATED S 10'
26th ST ADJ TO 2603 S 8 AV GARDEN

Parcel No.: 096117317017

also known by street and number as 2603 S. 8th Ave., Garden City, CO

Dated this 13th day of June, 2004.

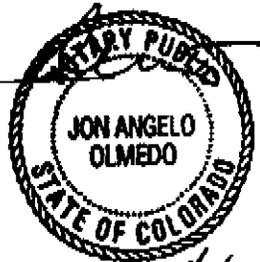
By: [Signature]
Manjit Sahota, Mgr. Amer. Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

Jon Angelo
Notary Public



My Comm. Expires 5/9/05

3188648 06/14/2004 09:11A Weld County, CO
1 of 1 R 6.00 D 0.00 Steve Moreno Clerk & Recorder

645

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in

WELD County, State of Colorado, to wit:

GR 4634 W15' N140' L6 & N140' L7-8 BLK 26 504 11 AV GREELEY 80631

PARCEL # 096105305023

also known by street and number as: 504 11th Ave., Greeley, CO

Dated this 13th day of June, 2004.

By: *[Signature]*
Manjit Sahota, Mgr. Amer.Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

[Signature]
Notary Public

My Comm. Expires 5/9/05

645

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

RECUPEROS, LLC, an Idaho LLC,)
Plaintiff,)
VS.)
AMERICAN FOOD STORES, LLC, a)
California LLC,)
Defendant.)

Case No: CIV 04-229-S-BLW

LIS PENDENS

NOTICE is hereby given that a civil action has been commenced and is pending in the court named above wherein the parties named above have each asserted a claim affecting the title to real property and which claim or claims affect the following described real property situate in

Weld County, State of Colorado, to wit:

GR 5433 S90' W125' L3 BLK 95 1025 13 ST GREELEY 80631
Parcel No.: 096108208003

also known by street and number as: 1025 13th St., Greeley, CO

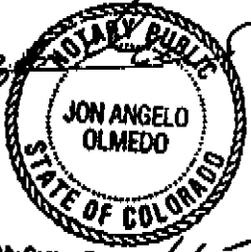
Dated this 13th day of June, 2004.

By: [Signature]
Manjit Sahota, Mgr. Amer. Food Stores, LLC.

State of Colorado)
) ss.
City and County of Denver)

The above signature was sworn to and subscribed before me this 13th day of June, 2004.

My commission expires:

[Signature]
Notary Public

My Comm. Expires 7/15