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November 30, 2004

State of Florida
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

041028-70

RE: Johnny Leverock's Seafood House/First Coast Hospitality One

To Whom It May Concern:

In regard to the compliance investigations for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees, Telecommunications Companies, all assets of First Coast Hospitality One were transferred in 2003 to Bank of the West, c/o James R. McCachren, III, Esquire, Smith, Gambrell & Russell, LLP, 50 North Laura St., Suite 2600, Jacksonville, FL 32201. Please see the enclosed documents.

Sincerely yours,



Richard A. Barsky
Former President
First Coast Hospitality One

Enclosures

- CMP _____
- COM _____
- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- RCA _____
- SCR _____
- SEC 1
- OTH _____

DOCUMENT NUMBER-DATE
12801 DEC-28
FPSC-COMMISSION CLERK

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: December 7, 2004, 9:30 a.m.

LOCATION: Room 148, Betty Easley Conference Center

DATE ISSUED: November 24, 2004

NOTICE

Persons affected by Commission action on certain items on this agenda for which a hearing has not been held (other than actions on interim rates in file and suspend rate cases) may be allowed to address the Commission when those items are taken up for discussion at this conference. These items are designated by double asterisks (**) next to the agenda item number.

Included in the above category are items brought before the Commission for tentative or proposed action which will be subject to requests for hearing before becoming final. These actions include all tariff filings, items identified as proposed agency action (PAA), show cause actions and certain others.

To obtain a copy of staff's recommendation for any item on this agenda, contact the Division of the Commission Clerk and Administrative Services at (850) 413-6770. There may be a charge for the copy. The agenda and recommendations are also accessible on the PSC Homepage, at <http://www.floridapsc.com>, at no charge.

Any person requiring some accommodation at this conference because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours before the conference. Any person who is hearing or speech impaired should contact the Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD). Assistive Listening Devices are available in the Division of the Commission Clerk and Administrative Services, Betty Easley Conference Center, Room 110.

Video and audio versions of the conference are available and can be accessed live on the PSC Homepage on the day of the Conference. The audio version is available through archive storage for up to three months afterward.

ITEM NO.

CASE

6**PAA

Compliance investigations for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 040991-TC	-	Daytona International Speedway, Inc.
Docket No. 040992-TC	-	Hollywood Billiards, Inc.
Docket No. 040993-TC	-	Richard A. Kral
Docket No. 040996-TC	-	Quality Wholesale Florist Supply, Inc.
Docket No. 040998-TC	-	U.S. Payphones, Inc.
Docket No. 041020-TC	-	Ron Kain
Docket No. 041022-TC	-	Hans L. Singh d/b/a Southwest Communications
Docket No. 041023-TC	-	Frentel Communications, Inc.
Docket No. 041025-TC	-	Paytel USA, Inc.
Docket No. 041027-TC	-	Mar-Tina Petroleum Corp. d/b/a Texaco of Stuart
Docket No. 041028-TC	-	First Coast Hospitality One, Inc. d/b/a Johnny Leverock's Seafood House
Docket No. 041029-TC	-	Nations Communication, Inc.
Docket No. 041031-TC	-	Bay Public Communications, Inc.
Docket No. 041032-TC	-	Kerstin K Krieger d/b/a All American Warrior Vending
Docket No. 041033-TC	-	Gracia Inzerillo
Docket No. 041034-TC	-	Concepts for Advanced Technology Inc.
Docket No. 041035-TC	-	Thair Y. Said d/b/a Crossroads Texaco
Docket No. 041036-TC	-	Robert James Durkin
Docket No. 041037-TC	-	Morden Properties, Inc.
Docket No. 041045-TC	-	Sarasota Jungle Gardens Inc.
Docket No. 041046-TC	-	Sandra T. Avant d/b/a Avant Telcom
Docket No. 041047-TC	-	Donald R. Peterson and Myrna A. Peterson d/b/a F.C. Communications
Docket No. 041048-TC	-	Gilbert Green
Docket No. 041051-TC	-	William Reilly
Docket No. 041052-TC	-	Rose Manor, A.L.F., Inc.
Docket No. 041053-TC	-	Chris OConnell
Docket No. 041054-TC	-	T & P Enterprises of Bay County, Inc. d/b/a Laguna Beach Christian Retreat
Docket No. 041058-TC	-	A & G Investment Property, Inc.
Docket No. 041059-TC	-	Public Telephone Corporation
Docket No. 041060-TC	-	Brothers Services Corporation
Docket No. 041061-TC	-	Jestel Corporation

Critical Date(s): None

Commissioners Assigned: All Commissioners
Prehearing Officer: Deason

ITEM NO.

CASE

6**PAA

Compliance investigations for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

(Continued from previous page)

Staff: CMP: Isler
GCL: Rockette-Gray

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel each entity's pay telephone company certificate as identified in Attachment A of staff's November 23, 2004 memorandum, with an effective date of December 31, 2004, for an apparent first violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.505, Florida Administrative Code?

Recommendation: Yes.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing pay telephone service in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate.

IN THE CIRCUIT COURT FOR THE
FOURTH JUDICIAL CIRCUIT, IN
AND FOR DUVAL COUNTY, FLORIDA

BANK OF THE WEST, a California
banking corporation,

Plaintiff,

CASE NO.: 2003-CA-002168
DIVISION: CV-E

v.

FIRST COAST HOSPITALITY ONE,
INC., a Florida corporation,
RICHARD A. BARSKY, CAROL A. BARSKY,
LOUIS BARSKY, MYRA BARSKY,
DENNIS A. THOMAS, FIRST COAST
HOSPITALITY GROUP, INC., a
Florida corporation, TSB I, Ltd.,
a Florida limited partnership,
the U.S. SMALL BUSINESS
ADMINISTRATION, a federal agency,
and IDINE RESTAURANT GROUP, INC.,
a Florida corporation,

Defendants.

AMENDED FINAL JUDGMENT OF FORECLOSURE

This cause came before the Court on the Motion for Summary Judgment of Foreclosure (Count I of the Complaint) filed herein by Plaintiff Bank of the West ("Bank of The West"), after proper notice to all interested parties. The Court, having reviewed the record in this cause, and particularly the pleadings and affidavits filed herein by Plaintiff in support of the Motion

for Summary Judgment of Foreclosure, makes the following findings:

1. Plaintiff, Bank of the West, owns and holds the Note described in the Complaint filed herein, and the Mortgage and Security Agreement also described in the Complaint filed herein, which Mortgage and Security Agreement comprise a valid and unified first lien on all of the real and personal property described in the Mortgage and Security Agreement, more fully described in Composite Exhibit "A" and Exhibit "B" attached hereto, which lien secures the indebtedness under the Note, and which real and personal property comprises the Johnny Leverocks Seafood House restaurant in Jacksonville, Florida.

2. The Defendant, First Coast Hospitality One, Inc. d/b/a/ Johnny Leverocks Seafood House ("FCH"), the debtor on the Note and owner of the real and personal property subject to the Mortgage and Security Agreement of Bank of the West, described in the Complaint filed herein, is in default pursuant to the terms of the Note, Mortgage and Security Agreement, and has been in default since FCH failed to make the payment due pursuant to the Note on April 1, 2003, or any payment thereafter, as a result of which Bank of the West has properly accelerated the indebtedness due pursuant to the Note, Mortgage and Security Agreement which indebtedness is now fully due and payable, and

as a result of which Bank of the West is entitled to foreclose upon and have sold at judicial sale the real and personal property subject to the unified first lien of the Mortgage and Security Agreement.

3. The unified first lien of Bank of the West, upon the real and personal property described in the Mortgage and Security Agreement is superior to any right, title or interest of any of the Defendants in this action.

4. Bank of the West, is therefore entitled to entry of a final summary judgment of foreclosure of the real and personal property subject to the unified first lien of the Mortgage and Security Agreement.

5. As of July 1, 2003, the Receiver appointed herein has filed three (3) Receiver's Certificates in the amounts of \$25,000.00, \$30,000.00 and \$35,549.00.

Accordingly, it is **ORDERED AND ADJUDGED:**

1. The Motion for Summary Judgment of Foreclosure filed herein by Bank of the West seeking summary judgment of foreclosure on Count I of the Complaint, is hereby **GRANTED**.

2. Bank of the West is hereby adjudicated to be due from the Defendant, FCH pursuant to the terms of the Note, Mortgage and Security Agreement the sum of \$ 1,637,750.54 as principal, \$264,649.35 as interest (and late fees) to July 1, 2003, \$150.00

for title search expenses associated with this action, \$50,371.92 for payment of unpaid taxes related to the property subject to the Plaintiff's first unified lien, \$29,984.00 for the reasonable attorneys' fees of the Plaintiff in this action, \$91,538.76 as the indebtedness due, with interest, to the Plaintiff for Receiver Certificates duly issued by the Receiver appointed by the Court in this cause, \$1,076.60 as taxable costs, which when totaled and after applying a credit of \$135,000.00 for a payment on the debt subsequent to the filing of this action results in a total sum due of \$1,940,521.17, which total sum shall bear interest at the legal rate from July 1, 2003.

3. Bank of the West holds a unified first lien upon the real and personal property described in Count I of the Complaint and in Exhibit "A" and "B" hereto, as security for the indebtedness in the total sum set forth above, which is superior to any claim, right, title or interest of any of the Defendants herein on the real and personal property described in the Mortgage and Security Agreement referenced hereinabove.

4. Accordingly, if the total sum due, with interest thereon at the rate described in paragraph 2 above, and all costs accrued and other amounts paid subsequent to this judgment including but not limited to amounts reflected on any Receiver's

Certificates filed July 1, 2003, are not paid prior to the time of judicial sale set below, the Clerk of this Court shall sell the real and personal property described on Exhibit "A" and "B" attached hereto at public judicial sale on August 7, 2003, between 11:00 a.m. and 2:00 p.m., to the highest bidder for cash, except as prescribed in paragraph 5, at the Duval County Courthouse in Jacksonville, Duval County, Florida, in accordance with §45.031, Florida Statutes.

5. Bank of the West shall advance all subsequent costs of this action, including costs and amounts associated with the Receiver appointed in this cause, and shall be entitled to reimbursement for them by the Clerk if the Plaintiff is not the purchaser of the real and personal property directed to be sold herein. If Plaintiff is the purchaser, the Clerk shall credit the Plaintiff's bid with the total sum, with interest and costs accruing or amounts paid subsequent to July 1, 2003 including amounts reflected on any Receiver's Certificates filed after July 1, 2003, or such part of it, as is necessary to pay the bid in full.

6. 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 of Title; third,

Plaintiff's attorneys' fees; fourth, the total sum due to Plaintiff, less the items paid, together with interest at the rate prescribed in paragraph 2 above from July 1, 2003 to the date of the sale; and by retaining any remaining amount for disbursement pending further Order of this Court.

7. On filing of the Certificate of Title subsequent to the judicial sale ordered herein by the Clerk of this Court, the Defendants, and each of them, and all persons claiming under or against the Defendants in this cause since the filing of the Notice of Lis Pendens herein, shall be foreclosed in and to all estate, right, title or claim in or to the real and personal property described above. Defendant the United States of America, on behalf of its agency Small Business Administration ("SBA"), shall have the right of redemption provided by 28 U.S.C. §2410(c) for the period provided in that subsection running from the date of the issuance of the certificate of title issued under that subsection and shall be permitted thirty (30) days in which to deliver a Treasury check in the payment of the amount determined by the Court, as set forth herein, to be due and owing to the Plaintiff Bank of the West if the United States of America SBA is the successful bidder at the Plaintiff's foreclosure sale.

8. The Receiver appointed herein by the Court shall retain possession of the real and personal property subsequent to the judicial sale thereof, and the issuance and filing of the Certificate of Title, pending further Order of this Court following appropriate proceedings for discharging the Receiver and directing the manner in which the real and personal property in the custody of the Receiver shall be delivered to the successful purchaser at the judicial sale ordered herein.

9. Jurisdiction of this action is retained to enter such further Orders as may be necessary and proper including, without limitation, writs of possession, and deficiency judgment, pursuant to appropriate subsequent proceedings herein.

DONE AND ORDERED in Chambers at Jacksonville, Duval County, Florida, on this _____ day of July, 2003.

ORDER ENTERED

JUL 14 2003

/s/ Bernard Nachman

CIRCUIT COURT JUDGE

Copies to:

Bank of the West
c/o James R. McCachren, III, Esquire
Smith, Gambrell & Russell, LLP
50 North Laura St., Suite 2600
Jacksonville, FL 32201

Jacob A. Brown, Esquire
Akerman & Senterfitt
50 North Laura Street, Suite 2500
Jacksonville, Florida 32202

Adrian Rust, Esquire
Rogers Towers, P.A.
1301 Riverplace Boulevard, Suite 1500
Jacksonville, Florida 32207

Patricia A. Kerwin, Assistant U.S. Attorney
Attention: State Foreclosure
Unit Park Tower, Suite 3200
400 N. Tampa Street
Tampa, Florida 33602

SGRJAX/38763.1

EXHIBIT "A"

All of the following described personal property whether now existing or hereafter acquired and located on the real property more particularly described in Exhibit "B" hereto attached and by this reference incorporated herein:

1. All fixtures, fittings, furnishings, appliances, apparatus, equipment, and machinery, including, without limitation, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, ovens, elevators and motors, bathtubs, heating and air conditioning equipment, plumbing, mirrors, mantles, refrigerators, iceboxes, dishwashers, carpeting, furniture, laundry equipment, cooking apparatus and appurtenances and all building materials, supplies and equipment of every nature and description now located on or delivered to the real property described on Exhibit "B" hereto, which is attached hereto and made a part hereof (the "Property") and intended to be installed thereon; all other fixtures and personal property of whatever kind and nature at present contained in or hereafter placed in any building standing on the Property; and all renewals or replacements thereof or articles in substitution thereof; and all proceeds and profits thereof and all of the estate, right, title and interest of the Debtor in and to all property of any nature whatsoever, now or hereafter situated on the Property or intended to be used in connection with the operation thereof; all leases and use agreements of machinery, equipment and other personal property of Debtor in the categories hereinabove set forth, under which Debtor is the lessee of, or entitled to use, such items, and all deposits made therefore; and
2. All rents, incomes, profits, revenues, royalties, bonuses, rights, accounts, contract rights, general intangibles and benefits under any and all leases or tenancies now existing or hereafter created on the Property or personal property described in Paragraph 1, above, or any part thereof; and
3. All judgments, awards of damages and settlements hereafter made as a result of or in lieu of any taking of the Property or any part thereof or interest therein under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Property or the improvements thereon or any part hereof or interest therein, including any award for change of grade of streets; and
4. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims.
5. All equipment, inventory and accounts, contract rights, instruments, documents, chattel paper, general intangibles and all forms of obligations owing to Debtor; all proceeds thereof; all of the Debtor's rights to any merchandise which is represented thereby; and all Debtor's right, title and interest including guarantees with respect to each receivable, as well as the right of stoppage in transit.

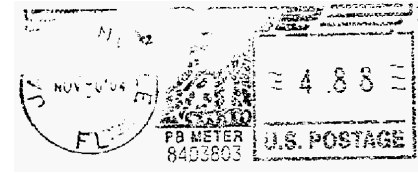
EXHIBIT "B"

A PART OF PARCEL "H" AND A PART OF PARCEL "J", DEERWOOD PARK NORTH REPLAT NUMBER ONE, AS RECORDED IN PLAT BOOK 51, PAGES 6 AND 6A THROUGH 6N OF THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE COMMENCE AT THE POINT OF CUSP FORMED BY THE INTERSECTION OF CURVE NO. C78 (CURVE NUMBER BY SAID PLAT) ON THE SOUTHERLY RIGHT-OF-WAY LINE OF DEER LAKE COURT WITH THE EASTERLY RIGHT-OF-WAY LINE OF SOUTHSIDE BOULEVARD (STATE ROAD NO. 115, A 250 FOOT RIGHT-OF-WAY); THENCE EASTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF DEER LAKE COURT THE FOLLOWING FOUR COURSES: 1) NORTHEASTERLY ALONG THE ARC OF SAID CURVE NO. C78, THE SAME BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 50.00 FEET, AN ARC DISTANCE OF 77.38 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING OF N.29°39'57"E. AND A CHORD DISTANCE OF 69.88 FEET TO A POINT OF TANGENCY OF SAID CURVE, SAID RIGHT-OF-WAY OF DEER LAKE COURT BEING 80 FEET WIDE AT THIS POINT; 2) N.74°00'00"E. A DISTANCE OF 160.95 FEET TO THE POINT OF CURVATURE OF CURVE NO. C77 (CURVE NUMBER BY SAID PLAT), THE SAME BEING A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1411.03 FEET; 3) NORTHEASTERLY ALONG THE ARC OF SAID CURVE NO. C77 A DISTANCE OF 205.17 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING OF N.69°50'04"E. AND A CHORD DISTANCE OF 204.99 FEET TO A POINT OF COMPOUND CURVATURE; 4) NORTHEASTERLY ALONG THE ARC OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 842.47 FEET, AN ARC DISTANCE OF 422.02 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING OF N.51°19'05"E. AND A CHORD DISTANCE OF 417.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, AN ARC DISTANCE OF 250.08 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING OF N.28°27'48"E. AND A CHORD DISTANCE OF 249.17 FEET; THENCE S.80°08'04"E., DEPARTING FROM SAID RIGHT-OF-WAY LINE, A DISTANCE OF 294.95 FEET TO THE WESTERLY LINE OF THE LANDS DESCRIBED IN BOOK 8600, PAGE 832 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE S.04°51'45"W., ALONG SAID WESTERLY LINE, A DISTANCE OF 2.37 FEET TO AN ANGLE POINT IN SAID WESTERLY LINE; THENCE S.12°11'39"E., ALONG SAID WESTERLY LINE, A DISTANCE OF 92 FEET, MORE OR LESS, (72.04 FEET TO THE MEANDER LINE) TO THE EDGE OF WATER OF DEER LAKE NORTH AS ESTABLISHED AT CONTOUR ELEVATION 43.0, BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929 (THE SAME BEING THE LINE DIVIDING PARCEL "H" FROM PARCEL "G"); THENCE SOUTHWESTERLY AND SOUTHERLY ALONG SAID LAKE EDGE A DISTANCE OF 275 FEET, MORE OR LESS, SAID LAKE EDGE BEING MONUMENTED BY A MEANDER LINE ALONG THE TOP OF BANK AS DESCRIBED IN THE FOLLOWING FOUR COURSES: 1) S.77°48'19"W. A DISTANCE OF 96.34 FEET; 2) S.19°54'15"W. A DISTANCE OF 74.70 FEET; 3) S.10°34'17"W. A DISTANCE OF 93.08 FEET; 4) S.36°58'07"E. A DISTANCE OF 56.97 FEET; THENCE N.80°08'04"W., DEPARTING FROM SAID LAKE EDGE, A DISTANCE OF 200 FEET, MORE OR LESS, (182.95 FEET FROM THE MEANDER LINE); THENCE N.54°38'46"W. A DISTANCE OF 173.73 FEET TO THE POINT OF BEGINNING.

Richard Barsky
7354 Seabreeze Dr.
Jacksonville, FL 32250



7801 2510 0007 2170 6889



**RETURN RECEIPT
REQUESTED**

State of Florida
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850