

STATE MS.-DESOTO CO. FILED

SEP 7 8 32 AM '99

BK 82 PG 459  
W.E. DAVIS CH. CLK.

This Instrument Prepared by  
and Return to:  
H. Lee Shaw, Attorney  
6075 Poplar Avenue, #420  
Memphis, Tennessee 38119 901/767-8000

**ASSIGNMENT OF LEASES, RENTS AND INCOME**

**KNOW ALL MEN BY THESE PRESENTS**, that:

**WHEREAS**, the undersigned (hereinafter called "Borrower") is the owner of certain real property (the "Realty") described on Exhibit A annexed hereto; and

**WHEREAS**, Borrower is indebted to Enterprise National Bank ("Lender") for sums advanced or to be advanced.

**NOW THEREFORE**, it is mutually agreed by and between the parties hereto as follows:

That Borrower for good and valuable consideration, the receipt whereof is hereby acknowledged, hereby grants, transfers and assigns to Lender the entire Borrower's interest in and to all leases, rents, issues, profit, income, revenues and other charges, now existing or hereafter arising, and from time to time to be received, together with any guarantees and deposits securing payment thereof, arising from or for the use and occupation of the Realty, including all leases hereafter executed during and for the term of this Assignment for any portion of the Realty, whether by Borrower or subsequent owners (all of which is together hereinafter called the "Lease(s)"). This Assignment specifically includes the following described Lease(s):

| Date            | Lessee                | Property   |
|-----------------|-----------------------|--|
| August 26, 1999 | Huey's Southaven, LLC | Premises containing 4,550 sq.ft. in South Creek Collection |

**ALL PRESENT AND FUTURE LEASES**

This Assignment is made for the purpose of securing:

A. The payment of that indebtedness, together with interest, evidenced by the following, including any extension or renewals thereof:

That certain promissory note of even date herewith in the principal amount of \$1,591,000.00.

B. The payment of that indebtedness, liabilities or obligations owing by Borrower to Lender, whether mature or unmatured, absolute or conditional, primary or secondary, and whether now existing or hereafter arising; and

C. The performance and discharge of each and every obligation, covenant and agreement contained herein or in any instrument evidencing or securing the indebtedness secured thereby.

Borrower covenants with Lender to observe and perform all the obligations imposed upon it as Lessor under the Lease(s) and not to do or permit to be done anything to impair the security thereof; not to collect any of the rents, income and profits arising or accruing under the Lease(s) upon the Realty, or any

portion thereof, in advance of the time when the same shall become due; not to execute any other assignment of Lessor's interest in the Lease(s) or any other assignment of rents arising or accruing from the Lease(s) or cancel or terminate the same or accept a surrender thereof without the prior written consent of Lender; at Lender's request to deliver to Lender any and all the Lease(s) upon all or any part of the Realty during and for the term of this Assignment, and to execute and deliver at the request of Lender all such further assurances and assignments in the Realty as Lender shall from time to time require.

This Assignment is made on the following terms, covenants and conditions:

1. So long as there shall exist no default by Borrower in the payment or performance of the indebtedness and obligations secured hereby, or in the Lease(s) on the part of Borrower to be performed, Borrower shall have the right to collect at the time of, but not prior to, the date provided for the payment thereof, all rents, income and profits arising from the Realty or the Lease(s) thereof, and to retain, use and enjoy same.

2. Upon or at any time after default in the payment or performance of any indebtedness, obligation or liability secured hereby, Lender without in any way waiving such default, may at its option, without notice and without regard to the adequacy of any collateral, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court of proper jurisdiction, (a) take possession of the Realty, or any portion thereof, together with all furniture, fixtures, appliances and other personalty thereon or therein, and have, hold, manage, lease and operate the same, at such times and for such period of time as Lender may deem proper; (b) cancel, amend or alter the existing Lease(s) and execute any new Lease(s) (including leases that extend beyond any redemption period); and (c) with or without taking possession of the Realty in its own name, sue for or otherwise collect and receive all rents, income and profits therefrom, including those past-due and unpaid and apply such rents, income and profits to the payment of; (i) all expenses of managing the Realty including without limitation the salaries, fees and wages of the managing agent and such other employees as Lender may deem necessary or desirable, and all expenses of operating and maintaining the Realty, (including without limitation all taxes, charges, claims, adjustments, water rents, sewer rents, liens, leases, installment obligations and premiums for insurance which Lender may deem necessary and desirable, and the cost of all operations, renovations, repairs or replacements), and all expenses incident to taking and/or receiving possession of the Realty; and (ii) the principal sum, interest and indebtedness secured hereby, together with all costs and attorney fees. The exercise by Lender of the options granted in this paragraph and collection of rents, income and profits and application thereof, hereby provided, shall not be considered a waiver of any default by Borrower under any note or deed of trust or under the Lease(s) or this Assignment, or under any other agreement to which Borrower and Lender may be parties.

3. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Realty after default or from any other act or omission of Lender in managing same after default, unless such loss is caused by the willful misconduct and bad faith of Lender. Further, Lender shall not be obligated to perform or discharge, nor does Lender hereby undertake to perform or discharge any obligation, duty or liability under the Lease(s) or under or by reason of this Assignment, and Borrower shall, and does hold Lender harmless from, any and all liability, loss or damage which may or might be incurred under the Lease(s) or by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against Lender by reason of the alleged obligations or

undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Lease(s). Should Lender incur any such liability under the Lease(s) or under or by reason of this Assignment, or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney fees, shall be secured hereby and Borrower shall reimburse Lender therefor immediately upon demand, and upon demand and failure of Borrower so to do, Lender may, at its option, declare all sums secured hereby immediately due and payable. And it is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Realty upon Lender, nor for the carrying out of any of the terms and conditions of the Lease(s); nor shall it operate to make Lender responsible or liable for any act or omission by the tenants or any other parties, or for any dangerous or defective condition of the Realty or for any negligence in the management, upkeep, repair or control of said Realty resulting in loss or injury or death of any tenant, licensee, employee or stranger.

4. Upon payment in full of the obligations, indebtedness, and liability secured hereby, this Assignment shall become void and of no effect, but the Affidavit, certificate, letter or statement of any officer, agent or attorney of Lender showing any part of said indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment and any person may, and is hereby authorized to, rely thereon. Borrower hereby authorizes and directs the lessee named in the Lease(s), or any other or future lessee or occupant of the Realty described therein, upon receipt from Lender of written notice to the effect that Lender is then the holder of said indebtedness and that a default exists thereunder or under this Assignment, or any obligation, indebtedness or liability secured hereby, to pay over to Lender all rents, income and profits arising or accruing under the Lease(s) or from the Realty described therein, and to continue so to do until otherwise notified by Lender. Upon the curing of any and all defaults in any note, deed of trust and/or any other instruments given to evidence or secure the indebtedness secured hereby, Borrower may request that Lender notify the lessee named in the Lease(s) or in any other or future lease(s) that all defaults have been cured. Upon receipt of request to issue such a notice, Lender will notify any such lessee, provided, the indebtedness, obligations and liabilities secured hereby are current in all respects and no defaults of any type or character exist in any of the covenants of the above-mentioned instruments.

5. Lender may take other security for payment of the indebtedness secured hereby and may release any party primarily or secondarily liable therefor, and may apply any other security held by it to the satisfaction of the indebtedness secured hereby without prejudice to any of its rights under this Assignment.

6. Nothing contained in this Assignment, or done or omitted by Lender pursuant to the powers and rights granted hereunder, shall be deemed to be a waiver by Lender of its rights and remedies under any note and deed of trust, and this Assignment is made and accepted without prejudice to any of the rights or remedies possessed by Lender under the terms of any note and deed of trust, or under any other instrument evidencing or securing any indebtedness secured hereby. The right of Lender to collect the indebtedness, together with interest, secured hereby, and to enforce any other security held therefor by it, may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

This Assignment, together with the covenants and warranties herein contained, shall inure to the benefit of Lender and any subsequent holder of any note secured hereby, and shall be

binding upon Borrower, its heirs, executors, administrators, successors and assigns, and any subsequent owner of the Realty.

IN WITNESS WHEREOF, Borrower has executed this Assignment this the 3rd day of September, 1999.

BORROWER:

ENDEAVOR GROUP, LLC

BY: Carey Folk  
CAREY FOLK, PRESIDENT

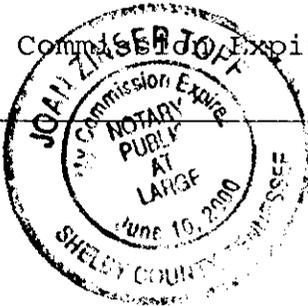
STATE OF TENNESSEE, COUNTY OF SHELBY

Before me, the undersigned Notary Public, of the State and County aforesaid, personally appeared Carey Folk, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be the President of Endeavor Group, LLC, the within named bargainer, a limited liability company, and that he as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as such President.

WITNESS my hand and seal at office this 3rd day of September, 1999.

Jean Zinser Lopp  
Notary Public

My Commission Expires:



Cf

EXHIBIT "A"  
TO  
ASSIGNMENT OF LEASES, RENTS AND INCOME  
BY AND BETWEEN  
ENDEAVOR GROUP, LLC  
AND  
ENTERPRISE NATIONAL BANK

LEGAL DESCRIPTION

A 3.56, MORE OR LESS, ACRES OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 1 SOUTH, RANGE 7 WEST, CITY OF SOUTHAVEN, DESOTO COUNTY, MISSISSIPPI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 30, TOWNSHIP 1 SOUTH, RANGE 7 WEST; THENCE EAST, 862.09 FEET TO A POINT; THENCE NORTH, 59.63 FEET TO AN IRON PIN (FOUND) AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF MALCO BOULEVARD (R.O.W. VARIES) AND THE NORTH RIGHT-OF-WAY LINE OF GOODMAN ROAD (R.O.W. VARIES), SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THE HEREIN DESCRIBED LOT; THENCE NORTH 00 DEGREES 28 MINUTES 07 SECONDS WEST, ALONG THE EAST RIGHT-OF-WAY LINE OF MALCO BOULEVARD (R.O.W. VARIES), 520.29 FEET TO AN IRON PIN (FOUND); THENCE NORTH 07 DEGREES 18 MINUTES 40 SECONDS WEST, ALONG SAID RIGHT-OF-WAY, 50.36 FEET TO AN IRON PIN (FOUND); THENCE NORTH 00 DEGREES 28 MINUTES 07 SECONDS WEST, ALONG SAID RIGHT-OF-WAY, 68.02 FEET TO A "P.K. NAIL" (FOUND) IN THE SOUTH LINE OF LOT 2 OF THE FIRST AMENDMENT TO THE FOURTH REVISION DESOTO STATION SUBDIVISION (PB. 60, PG. 21); THENCE SOUTH 89 DEGREES 46 MINUTES 40 SECONDS EAST, ALONG SAID SOUTH LINE OF LOT 2, 248.51 FEET TO A "P.K. NAIL" (FOUND); THENCE SOUTH 00 DEGREES 26 MINUTES 57 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 2 AND THE WEST LINES OF LOTS 4, 5 AND 6 OF THE FIRST REVISION GOODMAN PLACE SUBDIVISION (PB. 38, PG. 45), 635.90 FEET TO AN IRON PIN (FOUND) IN THE NORTH RIGHT-OF-WAY LINE OF GOODMAN ROAD (R.O.W. VARIES); THENCE SOUTH 89 DEGREES 40 MINUTES 08 SECONDS WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, 242.28 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.56, MORE OR LESS, ACRES OF LAND BEING SUBJECT TO ALL CODES, COVENANTS, RESTRICTIONS, REVISIONS, REGULATIONS, EASEMENTS, AND RIGHTS-OF-WAY OF RECORD.

DATED: 13 AUGUST 1999 T.F.

CW