

COPY

1 ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
2 CHARLES L. PERNICKA (BAR NO. 224134)  
501 West Broadway, 15th Floor  
3 San Diego, California 92101-3541  
Phone: (619) 233-1155  
4 Fax: (619) 233-1158  
E-Mail: cpernicka@allenmatkins.com

ENDORSED  
JUN 09 2015

SUPERIOR COURT  
COUNTY OF IMPERIAL  
TAMMY L. GRIMM, CLERK  
BY KRISTIE ANDREOTTI, DEPUTY

5 Attorneys for Plaintiff  
6 ONEWEST BANK N.A.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF IMPERIAL

11 ONEWEST BANK N.A.,  
12 Plaintiff,  
13 v.

Case No. ECU08738

ASSIGNED FOR ALL PURPOSES TO  
Judge Jeffrey B. Jones

Dept: 7

14 PETER M. ORMOND, AN INDIVIDUAL;  
15 PETER M. ORMOND, TRUSTEE OF THE  
16 PETER M. ORMOND TRUST, UNDER  
DECLARATION OF TRUST DATED  
MAY 7, 2013; AND DOES 1 THROUGH  
50, INCLUSIVE,

**STIPULATION AND [PROPOSED]  
ORDER TO VACATE EX PARTE  
ORDER APPOINTING RECEIVER AND  
REQUIRING PAYMENT OF  
OBLIGATIONS**

17 Defendants.  
18  
19  
20  
21

22 WHEREAS, plaintiff OneWest Bank N.A. ("OneWest") is the lender, and defendant Peter  
23 M. Ormond is the borrower, in relation to a loan for the original principal amount of \$1,650,000,  
24 made on or about July 6, 2007 (the "Loan"). The Loan is secured by certain real property,  
25 including the improvements thereon and certain tangible and personal property related thereto,  
26 located at 1020 W. Evan Hewes Hwy 80, El Centro, California 92243, commonly known as the  
27 Date Gardens Mobile Home Park (the "Property").  
28

1           WHEREAS, on or about May 15, 2015, the Building Official of the County of Imperial  
2 issued a Notice and Order to Repair which stated, among other things, that the Imperial Irrigation  
3 District (water and electric), Southern California Gas Company (gas) and Allied Waste Services  
4 (trash collection) had not been paid for services in connection with the Property, and declaring the  
5 Property "to be substandard and a *per se* public nuisance, and that these substandard conditions  
6 constitute a threat to the life, health, and safety of the public or the occupants of the building(s)  
7 thereon," (the "County Notice").

8           WHEREAS, on May 26, 2015, OneWest filed its complaint in this action, for 1) judicial  
9 foreclosure, 2) specific performance of assignment of rents and deed of trust and appointment of  
10 rents and profits receiver, and 3) injunctive relief, against Peter M. Ormond, individually, and  
11 Peter M. Ormond, Trustee of the Peter M. Ormond Trust, under Declaration of Trust dated May 7,  
12 2013 (jointly, "Ormond"), alleging breaches of the Loan as a result of, among other things, failure  
13 to pay property taxes, utilities, and other amounts due and owing for services necessary for the  
14 preservation and protection of the Property.

15           WHEREAS, on June 2, 2015, OneWest filed an *ex parte* application for appointment of a  
16 rents and profits receiver, issuance of an order to show cause why appointment should not be  
17 confirmed, and issuance of a temporary restraining order, or, in the alternative, a temporary  
18 restraining order, and an order to show cause why a receiver should not be appointed (the  
19 "Application"). Hearing on the Application was held on June 3, 2015. At the hearing, Ormond,  
20 by and through counsel, submitted a declaration of David Heitz, which stated, among other things,  
21 that payments of property taxes, utilities, and other charges in connection with the Property had  
22 been and/or were in the process of being paid.

23           WHEREAS, on June 3, 2015, the Court granted the Application, and entered a written Ex  
24 Parte Order Appointing Receiver and Order to Show Cause And Temporary Restraining Order –  
25 Rents, Issues, and Profits (the "*Ex Parte* Order").

26           WHEREAS, OneWest, Ormond, and David T. Heitz ("Heitz") have now reached an  
27 agreement for resolution of the matters described below without the imposition of a receiver.

28

1 OneWest, Ormond, and Heitz therefore stipulate as follows, and request entry of the following  
2 Order vacating the *Ex Parte* Order and requiring the payment of obligations.

3 **STIPULATION**

4 IT IS HEREBY STIPULATED, by and between OneWest, Ormond, and Heitz, that the *Ex*  
5 *Parte* Order may be, and should be, vacated in its entirety, without prejudice to OneWest's right to  
6 seek a new order appointing a receiver in connection with the Loan or the Property, including as  
7 set forth below, or in the event of any other default under the Loan. OneWest, Ormond, and Heitz  
8 jointly request that the Court vacate the *Ex Parte* Order in its entirety, without prejudice.

9 IT IS FURTHER STIPULATED AS FOLLOWS:

10 A) Ormond, or Heitz on Ormond's behalf, will pay all outstanding property taxes in  
11 connection with the Property, including all past due and due principal amounts, penalties, fees,  
12 and interest, if any, by no later than June 12, 2015. Ormond, or Heitz on Ormond's behalf, will  
13 provide to the below-signed counsel of record for OneWest written evidence of such payment as  
14 soon as possible after payment is made, but by no later than close of business on June 12, 2015.

15 B) Ormond, or Heitz on Ormond's behalf, will pay all outstanding amounts owed to  
16 the Imperial Irrigation District, Southern California Gas Company, Allied Waste Services, and any  
17 other utility service provider, if any, for services provided or to be provided in connection with the  
18 Property, including all past due and due principal amounts, penalties, fees, and interest, if any, by  
19 no later than June 12, 2015. Ormond, or Heitz on Ormond's behalf, will provide to the below-  
20 signed counsel of record for OneWest written evidence of such payment as soon as possible after  
21 payment is made, but by no later than close of business on June 12, 2015.

22 C) Ormond, or Heitz on Ormond's behalf, will take such action as is necessary to  
23 obtain from the County of Imperial a written withdrawal of the County Notice, a written notice  
24 that the County Notice is cured, or such other written documentation as may be appropriate to  
25 demonstrate that the violations set forth in the County Notice have been cured, by no later than  
26 June 12, 2015. Ormond, or Heitz on Ormond's behalf, will provide to the below-signed counsel of  
27 record for OneWest a copy of such withdrawal or notice of cure as soon as possible after it is  
28 received, but by no later than close of business on June 12, 2015.

1 D) Ormond, or Heitz on Ormond's behalf, will pay all outstanding amounts owed for  
2 wastewater treatment services, maintenance of wastewater treatment systems, freshwater treatment  
3 services, and maintenance of freshwater treatment systems, including without limitation for  
4 laboratory testing of wastewater, in connection with the Property, including all past due and due  
5 principal amounts, penalties, fees, and interest, if any, by no later than June 12, 2015. Ormond, or  
6 Heitz on Ormond's behalf, will provide to the below-signed counsel of record for OneWest written  
7 evidence of such payment as soon as possible after payment is made, but by no later than close of  
8 business on June 12, 2015.

9 E) Ormond, or Heitz on Ormond's behalf, will take such steps as are necessary to cure,  
10 remedy, or pay any violations, complaints, charges, penalties, or fees issued, charged, or imposed  
11 by the California Regional Water Quality Control Board in connection with the Property as soon  
12 as possible, and will continue to do so until such violations, complaints, charges, penalties, or fees,  
13 as applicable, are fully and finally cured, remedied, settled, withdrawn, or paid. Ormond, or Heitz  
14 on Ormond's behalf, will provide to the below-signed counsel of record for OneWest written  
15 updates, on a monthly basis, concerning the status of any such complaints, charges, penalties, or  
16 fees.

17 F) Ormond, or Heitz on Ormond's behalf, will pay to OneWest, care of the below-  
18 signed counsel of record for OneWest, the amount of \$15,000.00 for attorneys' fees and costs  
19 incurred in the above-captioned action, by no later than June 12, 2015. Ormond, or Heitz on  
20 Ormond's behalf, will pay to OneWest, care of the below-signed counsel of record for OneWest,  
21 the additional amount of \$13,000.00 for attorneys' fees and costs incurred in the above-captioned  
22 action, by no later than June 30, 2015.

23 IT IS FURTHER STIPULATED THAT Ormond, or Heitz on Ormond's behalf, will  
24 continue on an ongoing basis to pay when due, in a timely fashion, all proper and appropriate  
25 charges, invoices, and fees in connection with the Property for property taxes, utilities (including  
26 electric, water, gas, and trash collection), wastewater treatment and system maintenance,  
27 freshwater treatment and system maintenance, and any such other services and maintenance as  
28 may be required to preserve and secure the Property and the health and safety of its inhabitants

1 and the public. Should any such payment not be made, it is stipulated and agreed that OneWest  
2 may renew the Application, or may file a new application for appointment of a receiver, on an *ex*  
3 *parte* basis, in this action or in any other action. It is further stipulated that if OneWest does seek  
4 appointment of a receiver, an applicant's bond in the amount of \$1,500.00 would be appropriate  
5 and sufficient, and a receiver's bond in the amount of \$10,000.00 would be appropriate and  
6 sufficient.

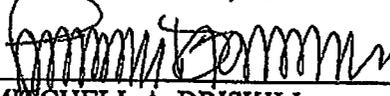
7 IT IS FURTHER STIPULATED that nothing in this stipulation is intended to, or shall, in  
8 any way amend or modify the rights, obligations, terms and conditions of the Loan, including  
9 without limitation any of the provisions of the Note, Deed of Trust, Assignment of Rents, and  
10 other documents setting forth the rights, obligations, terms and conditions of the Loan. Nothing in  
11 this stipulation is intended to, or shall, constitute a waiver by any party of any rights, obligations,  
12 or conditions under the Loan or of any default under the Loan.

13 HEITZ STIPULATES, and warrants and represents to OneWest and to the Court, that his  
14 address is 369B Third Street, #635, San Rafael, CA 94901, and that he is duly authorized by a  
15 power of attorney to sign this stipulation on Ormond's behalf and to act on Ormond's behalf in  
16 connection with the Property. Heitz further stipulates and agrees that he is and will be personally  
17 liable for any damages, costs, or expenses that might be incurred by OneWest should Heitz in fact  
18 not be duly authorized to sign this stipulation on behalf of Ormond or to act on Ormond's behalf in  
19 connection with the Property.

20 IT IS SO STIPULATED.

21  
22 Dated: June 4, 2015

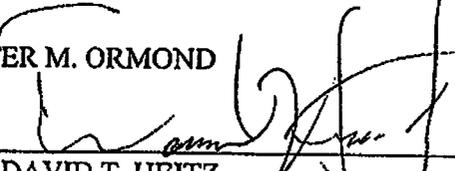
WALKER & DRISKILL, PLC

23 By:   
24 MITCHELL A. DRISKILL  
25 Attorneys for Defendants Peter M. Ormond,  
26 individually and as Trustee of the Peter M.  
27 Ormond Trust  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: June 4, 2015

PETER M. ORMOND

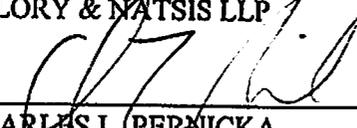
By:   
DAVID T. HEITZ  
Attorney-In-Fact for Peter M. Ormond,  
individually and as Trustee of the Peter M.  
Ormond Trust

Dated: June 4, 2015

By:   
DAVID T. HEITZ

Dated: June 4, 2015

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

By:   
CHARLES L. PERNICKA  
Attorneys for Plaintiff  
ONEWEST BANK N.A.

**ORDER**

Pursuant to the stipulation above, and good cause appearing therefore, IT IS HEREBY ORDERED:

The *Ex Parte* Order entered on June 3, 2015 in the above-captioned action is VACATED in its entirety, without prejudice to OneWest's right to seek a new order appointing a receiver in connection with the Loan or the Property.

IT IS FURTHER ORDERED AS FOLLOWS:

A) Ormond, or Heitz on Ormond's behalf, will pay all outstanding property taxes in connection with the Property, including all past due and due principal amounts, penalties, fees, and interest, if any, by no later than June 12, 2015. Ormond, or Heitz on Ormond's behalf, will provide to counsel of record for OneWest written evidence of such payment as soon as possible after payment is made, but by no later than close of business on June 12, 2015.

B) Ormond, or Heitz on Ormond's behalf, will pay all outstanding amounts owed to the Imperial Irrigation District, Southern California Gas Company, Allied Waste Services, and any

1 other utility service provider, if any, for services provided or to be provided in connection with the  
2 Property, including all past due and due principal amounts, penalties, fees, and interest, if any, by  
3 no later than June 12, 2015. Ormond, or Heitz on Ormond's behalf, will provide to counsel of  
4 record for OneWest written evidence of such payment as soon as possible after payment is made,  
5 but by no later than close of business on June 12, 2015.

6 C) Ormond, or Heitz on Ormond's behalf, will take such action as is necessary to  
7 obtain from the County of Imperial a written withdrawal of the County Notice, a written notice  
8 that the County Notice is cured, or such other written documentation as may be appropriate to  
9 demonstrate that the violations set forth in the County Notice have been cured, by no later than  
10 June 12, 2015. Ormond, or Heitz on Ormond's behalf, will provide to counsel of record for  
11 OneWest a copy of such withdrawal or notice of cure as soon as possible after it is received, but  
12 by no later than close of business on June 12, 2015.

13 D) Ormond, or Heitz on Ormond's behalf, will pay all outstanding amounts owed for  
14 wastewater treatment services, maintenance of wastewater treatment systems, freshwater treatment  
15 services, and maintenance of freshwater treatment systems, including without limitation for  
16 laboratory testing of wastewater, in connection with the Property, including all past due and due  
17 principal amounts, penalties, fees, and interest, if any, by no later than June 12, 2015. Ormond, or  
18 Heitz on Ormond's behalf, will provide to counsel of record for OneWest written evidence of such  
19 payment as soon as possible after payment is made, but by no later than close of business on  
20 June 12, 2015.

21 E) Ormond, or Heitz on Ormond's behalf, will take such steps as are necessary to cure,  
22 remedy, or pay any violations, complaints, charges, penalties, or fees issued, charged, or imposed  
23 by the California Regional Water Quality Control Board in connection with the Property as soon  
24 as possible, and will continue to do so until such violations, complaints, charges, penalties, or fees,  
25 as applicable, are fully and finally cured, remedied, settled, withdrawn, or paid. Ormond, or Heitz  
26 on Ormond's behalf, will provide to counsel of record for OneWest written updates, on a monthly  
27 basis, concerning the status of any such complaints, charges, penalties, or fees.

28

1 F) Ormond, or Heitz on Ormond's behalf, will pay to OneWest, care of counsel of  
2 record for OneWest, the amount of \$15,000.00 for attorneys' fees and costs incurred in the above-  
3 captioned action, by no later than June 12, 2015. Ormond, or Heitz on Ormond's behalf, will pay  
4 to OneWest, care of counsel of record for OneWest, the additional amount of \$13,000.00 for  
5 attorneys' fees and costs incurred in the above-captioned action, by no later than June 30, 2015.

6 IT IS FURTHER ORDERED THAT Ormond, or Heitz on Ormond's behalf, will continue  
7 on an ongoing basis to pay when due, in a timely fashion, all proper and appropriate charges,  
8 invoices, and fees in connection with the Property for property taxes, utilities (including electric,  
9 water, gas, and trash collection), wastewater treatment and system maintenance, freshwater  
10 treatment and system maintenance, and any such other services and maintenance as may be  
11 required to preserve and secure the Property and the health and safety of its inhabitants and the  
12 public.

13 IT IS SO ORDERED.

14  
15 Dated: JUN 09 2015, 2015

**JEFFREY B. JONES**

JUDGE OF THE SUPERIOR COURT

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28