

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF LOUISIANA

IN RE:	*	BANKRUPTCY NO.
	*	
THE UPPER ROOM BIBLE CHURCH, INC.	*	16-12757
Debtor	*	
	*	CHAPTER 11
	*	
	*	SECTION "B"
* * * * *		

MOTION TO PROHIBIT USE OF CASH COLLATERAL

NOW INTO COURT through undersigned counsel, comes First Bank and Trust, a secured creditor of this estate, who moves the court as follows:

1.

To enter an order prohibiting the debtor from using any rents or lease payments, or payments in the nature of rent or lease payments, or that are otherwise derived from the use and occupancy of the below described property by any entity other than the debtor, which payments form a part of creditor's cash collateral, and which may not be used by the debtor, absent court authority, under 11 U.S.C. § 363 and 11 U.S.C. § 552.

2.

Creditor is a holder and owner for value of one certain promissory note dated April 30, 2013, payable to the order of First Bank and Trust, executed by The Upper Room Bible Church, Inc., in the principal amount of \$829,325.00, stipulating to bear interest at the rate of 5.250 percent per annum from date, payable on

demand, and if no demand, then in 35 regular payments of \$5,623.96 each and one irregular last payment estimated at \$759,320.54, with the first payment being due May 30, 2013, and all subsequent payments being due on the same day of each month after that, with the final payment being due on April 30, 2016, which note stipulates 25% of the amount due as attorney's fees if handed to an attorney for collection by legal proceedings. A copy of said note is attached hereto and made a part hereof, and is hereinafter referred to as Note 1.

3.

Creditor is a holder and owner for value of one certain promissory note dated April 30, 2013, payable to the order of First Bank and Trust, executed by The Upper Room Bible Church, Inc., in the principal amount of \$754,050.00, stipulating to bear interest at the initial rate of 5.250 percent per annum from date, payable on demand, and if no demand, then in 12 monthly consecutive interest payments, beginning May 30, 2013, with interest calculated on the unpaid principal balances using an interest rate of 5.250% per annum based on a year of 360 days; 23 monthly consecutive principal and interest payments of \$5,075.12 each, beginning May 30, 2014, with interest calculated on the unpaid principal balances using an interest rate of 5.250% per annum based on a year of 360 days; and one principal and interest payment of \$715,518.89 on April 30, 2016, which said note stipulates 25% of the amount due as attorney's fees if handed to an attorney for collection by legal

proceedings. A copy of said note is attached hereto and made a part hereof, and is hereinafter referred to as Note 2.

4.

Creditor is a holder and owner for value of one certain promissory note dated April 30, 2013, payable to the order of First Bank and Trust, executed by The Upper Room Bible Church, Inc., in the principal amount of \$1,353,586.00, stipulating to bear interest at the rate of 5.250 percent per annum from date, payable on demand, and if no demand, then in 35 regular payments of \$9,179.17 each and one irregular last payment estimated at \$1,239,327.93, with the first payment being due May 30, 2013, and all subsequent payments being due on the same day of each month after that, with the final payment being due on April 30, 2016, which said note stipulates 25% of the amount due as attorney's fees if handed to an attorney for collection by legal proceedings. A copy of said note is attached hereto and made a part hereof, and is hereinafter referred to as Note 3.

5.

Note 1, Note 2 and Note 3 (hereinafter collectively "all notes") are secured by an Act of Multiple Indebtedness Mortgage (hereinafter "Mortgage 1") executed by debtor The Upper Room Bible Church, Inc., dated April 30, 2013, by act before Donald B. Hingle, Jr., Notary Public, recorded in the mortgage records of St. Tammany Parish at Instrument no. 1898255, and in the mortgage records of the Parish of Orleans on May 1, 2013, at MIN 1123076 . Copies of

said mortgage, showing it was recorded in both Orleans and St. Tammany Parishes, are attached hereto and made a part hereof. The mortgage is hereinafter referred to as Mortgage 1.

6.

In Mortgage 1, the said debtor, The Upper Room Bible Church, Inc., did specially mortgage, effect, and hypothecate unto and in favor of all future holders of all notes, the following described property, located in the Parishes of Orleans and St. Tammany, to wit:

- 1) A CERTAIN PARCEL OF LAND, together with all the buildings and improvements thereon, and all of the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the STATE OF LOUISIANA, THIRD DISTRICT of the CITY OF NEW ORLEANS, PARISH OF ORLEANS, in SECTION 22 of the LAKRATT TRACT, designated as LOT "C" on a plan of resubdivision by Richard T. Dading, Surveyor, dated May 3, 1984, annexed to a Declaration of Title Change, registered in COB 793, folio 631, N. A. Number 553605, Conveyance Records of Orleans Parish, Louisiana. And according to said plan, said Lot "C" is more particularly described as follows:

Commencing at the point of curvature from the Southerly right of way line of Lake Forest Boulevard into the Easterly right of way line of Crowder Boulevard; thence N 64 degrees 17 minutes 40 seconds E, along the South right of way line of Lake Forest Boulevard, a distance of 243.72 feet to a point of curvature; thence continue along said Southerly right of way line, being a curve to the right, having a radius of 2209.49 feet, an arc length of 166.28 feet to the point of beginning; thence continue along said right of way line, being a curve to the right having a radius of 2209.49 feet, an arc length of 30.00 feet to a point; thence S 26 degrees 55 minutes 05 seconds E a distance of 200.00 feet to a point; thence N 71 degrees 19 minutes 54 seconds E a distance of 149.97 feet to a point; thence N 26 degrees 55 minutes 05 seconds W a distance of 200 feet to a point; said point of being on the Southerly right of way line of Lake Forest Boulevard; thence along said Southerly right of way line, being a curve to the right, having a radius of 2209.49 feet, an arc length of 107.19 feet to a point; thence S 26 degrees 55 minutes 05

seconds E a distance of 421.49 feet to a point; thence S 63 degrees 04 minutes 55 seconds W a distance of 202.72 feet to a point; thence along a curve to the left, having a radius of 1498.92 feet, an arc distance of 274.18 feet to a point; thence N 33 degrees 39 minutes 06 seconds E a distance of 36.34 feet to a point; thence N 26 degrees 55 minutes 05 seconds W a distance of 200.00 feet to the point of beginning containing 90.038.4094 square feet or 2.067 acres.

All as shown on a survey by R. P. Fontcuberta, dated April 23, 1985, a copy of which is annexed to act before Karen H. Patnychux, Notary Public, dated August 2, 1985, registered in COB 801, folio 348, Notarial Archives Number 614007 Orleans Parish.

The northeasterly most corner of said Lot "C" is shown to commence 452.41 feet from the corner of Lake Forest Boulevard and Benson Canal, as measured along the line of Lake Forest Boulevard.

Improvements thereon bear the Municipal Number 8600 Lake Forest Boulevard, New Orleans, Louisiana.

- 2) THAT CERTAIN PORTION OF GROUND, together with all the buildings and improvements thereon, and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the THIRD DISTRICT of the CITY OF NEW ORLEANS, PARISH OF ORLEANS, STATE OF LOUISIANA, in SQUARE "D" of OAK PARK SUBDIVISION, which square is bounded by Riviera, Seville and Perlita Streets and Paris Avenue, and is designated as LOT 10-A on that certain resubdivision survey by BFM Corporation dated February 10, 2000, certified by City Planning Commission dated May 26, 2000 under Docket No. 21/00, attached to Declaration of Title Change registered in CIN 198928, and according to which said Lot 10-A forms the intersections of Seville and Riviera Streets with Paris Avenue, and measures 240 feet front on Paris Avenue, by a depth and front on Riviera Street of 180 feet, by a depth and front on Seville Street of 120 feet, thence turn toward Perlita Street a distance of 60 feet, thence a further width in the rear to Seville Street of 120 feet. Said property is a resubdivision of former Lots 1, 2, 3, 10, 11, 12 and 13 of Square "D".

Improvements thereon bear the Municipal No. 5134 Paris Avenue, New Orleans, Louisiana 70122.

- 3) A CERTAIN PIECE OR PORTION OF GROUND, together with all the buildings and improvements thereon and all the rights, ways, servitudes, privileges, appurtenances and advantages thereunto

belonging or in anywise appertaining, situated in the CITY OF NEW ORLEANS, ORLEANS PARISH, STATE OF LOUISIANA, THIRD DISTRICT, SECTION 24 of the LAKRATT TRACT, designated as LOT 3B-8E-2B and being more fully described on the plan of resubdivision prepared by J. J. Krebs & Sons, Inc., dated September 27, 1990, approved by the City Planning and Zoning Commission under Docket No. 58/90 on January 3, 1991, registered in Conveyance Instrument No. 31161, as measuring 236.12 feet front on Deer Park Boulevard, same width in the rear, by a depth of 239.18 feet between equal and parallel lines.

Improvements bear the Municipal Number 40838 Deer Park Boulevard, New Orleans, Louisiana

- 4) A CERTAIN PORTION OF GROUND, together with all the buildings and improvements thereon, and all of the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the STATE OF LOUISIANA, PARISH OF ST. TAMMANY, designated as TRACT "B" on and consisting of 19.22 acres of land lying and being situated in Section 44, Township 9 South, Range 14 East., 8th and 9th Wards, St Tammany Parish, Louisiana, which is more particularly described as follows:

From the corner common to fractional Sections 14, 23 and Section 44, Township 9 South, Range 14 East, go East 3.87 chains; thence 45.04 chains; thence South 45 degrees West, 18.72 chains to the point of beginning; thence East 18.86 chains to the westerly edge of the Howze Beach Road; thence along said road in two courses as follows:

South 19 degrees West 2.83 chains; thence South 26 degrees 30 minutes West 5.10 chains; thence South 1.50 chains; thence South 80 degrees West 6.50 chains; thence North 45 degrees West 11.78 chains; thence North 45 degrees East 6.14 chains to the point of departure.

Which said Tract "B" is more fully shown and described on a certain survey made by H.G. Fritchie, Parish Surveyor, dated April 5, 1935, being survey No. 745, annexed to an act passed before Gabriel Fernandez, Jr., N.P., dated May 31, 1935.

SAID PORTION OF GROUND is currently described as follows, to-wit:

A parcel of land located io Section 44, Township 9 South, Range 14 East, St Tammany Parish, Louisiana, and more fulJy described as follows:

Commencing from the Section Corner common to Sections 14, 23 and Section 44, Township 9 South, Range 14 East, thence East 255.42 to a point, thence South 2972.64 feet to a point; thence South 45 degrees West 1235.52 feet to a 3/4 inch Iron Pipe Found being the point of beginning.

Thence North 89 degrees 57 minutes 09 seconds East 1230.85 feet to a ½ inch Iron Rod Found on the west side of Howze Beach Road, thence South 26 degrees 18 minutes 55 seconds West 149.31 feet along the West side of said road to a ½ inch Iron Rod Found, thence 27 degrees 16 minutes 43 seconds West 288.04 feet along the west side of said road to a ½ inch Iron Rod Found, thence North 63 degrees 48 minutes 26 seconds West 263.60 feet to a ½ inch Iron Rod Found, thence 21 degrees 42 minutes 39 seconds West 268.96 feet to a 1/4 inch Iron Pipe Found, thence 64 degrees 04 minutes East 17.66 feet to a 1 inch Iron Pipe Found, thence South 21 degrees 58 minutes West 73.54 feet to a 3/4 inch Iron Pipe Found, thence 00 degrees 39 minutes 34 seconds East 100.04 feet to an Axle Found thence 79 degrees 33 minutes 43 seconds West 401.77 feet to a Railroad Rail Found thence North 49 degrees 58 minutes 14 seconds West 755.01 feet to a Iron Bolt Found, thence North 45 degrees 09 minutes 42 seconds East 404.88 feet to the POINT OF BEGINNING and containing 16.49 acres.

Improvements thereon bear the Municipal Number 801 Spartan Drive, Slidell, Louisiana.

AND

- 5) ALL THAT CERTAIN LOT OR PARCEL OF GROUND, together with all of the buildings and improvements thereon and all the rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in part of LOT 144 of MAGNOLIA FOREST SUBDIVISION and a parcel of land situated in Section 19, Township 8 South, Range 15 East, in ST. TAMMANY PARISH, STATE OF LOUISIANA, being more fully described as follows:

Being the east ½ of the Lake area including the 0.1075 acre dam, said line dividing the lake area is as follows: Beginning at the southern most boundary line common to Lots 144 aud 145 of Magnolia Forest Subdivision, Phase

Eight, St Tammany Parish, State of Louisiana, and running in a southeasterly direction to the north eastern lot line of Lot 146 of Magnolia Forest Subdivision, Phase Eight, St Tammany Parish, State of Louisiana. All in accordance with survey by J. V. Burkes & Associates, Inc., dated June 1, 1989, under drawing no. 890-325, a copy of which is attached to act registered in COB Instrument No. 951263.

and

THAT CERTAIN PIECE OR PORTION OF GROUND, together with all the buildings and improvements thereon and all of the rights, ways, privileges, servitudes, advantages and appurtenances thereunto belonging or in anywise appertaining, situated in the PARISH OF ST. TAMMANY, STATE OF LOUISIANA, being more particularly described as follows, to-wit:

LOT NO. 144, MAGNOLIA FOREST SUBDIVISION, PHASE EIGHT, St. Tammany Parish, Louisiana.

All as more fully shown on survey of Ivan M. Borgen dated April 19, 1979, revised March 20, 1980, under Survey No. 20417, a copy of which is attached to act registered in COB 1378, folio 169, St Tammany Parish, Louisiana.

Improvements thereon bear the No. 203 Beauvoir Court, Pearl River, Louisiana.

7.

Pursuant to the terms of all notes, upon debtor's default, creditor has the right to increase the interest rate charged on said notes to 21% per annum, a right creditor exercised on April 1, 2016.

8.

Creditor alleges that Note 1, and accordingly, all notes and Mortgage 1 are in default, and therefore each are due and payable and fully mature, as the debtor have failed and refused to fully pay the balance due on Note 1, which was due and payable, in full,

on or before April 30, 2016, which default causes a default under the terms of all notes, all guarantees, and all mortgages, which defaults creditor previously declared. Additionally, said note is payable on demand, which demand was previously made. creditor hereby makes. Accordingly, creditor accelerated all sums due under all notes, and made demand for full payment thereof.

9.

Creditor alleges that Note 2, and accordingly, all notes and Mortgage 1 are in default, and therefore each are due and payable and fully mature, as the debtor has failed and refused to fully pay the balance due on Note 2, which was due and payable, in full, on or before April 30, 2016, which default causes a default under the terms of all notes, all guarantees, and all mortgages, which defaults creditor previously declared. Additionally, said note is payable on demand, which demand was previously made. creditor hereby makes. Accordingly, creditor accelerated all sums due under all notes, and made demand for full payment thereof.

10.

Creditor alleges that Note 3, and accordingly, all notes and Mortgage 1 are in default, and therefore each are due and payable and fully mature, as the debtor has failed and refused to fully pay the balance due on Note 3, which was due and payable, in full, on or before April 30, 2016, which default causes a default under the terms of all notes, all guarantees, and all mortgages, which defaults creditor previously declared. Additionally, said note is

payable on demand, which demand was previously made. creditor hereby makes. Accordingly, creditor accelerated all sums due under all notes, and made demand for full payment thereof.

11.

There remains due and owing under Note 1 the principal sum of \$772,657.80, plus accrued interest of \$6,986.11, accrued through April 1, 2016, plus interest on the principal balance from April 2, 2016, until paid at the rate of 21.00 per cent per annum, late charges of \$1,800.00, plus 25 per cent of all sums due as attorneys fees.

12.

There remains due and owing under Note 2 the principal sum of \$726,682.73, plus accrued interest of \$6,570.42, accrued through April 1, 2016, plus interest on the principal balance from April 2, 2016, until paid at the rate of 21.00 per cent per annum, late charges of \$1,800.00, plus 25 per cent of all sums due as attorneys fees.

13.

There remains due and owing under Note 3 the principal sum of \$1,261,187.21, plus accrued interest of \$11,403.23, accrued through April 1, 2016, plus interest on the principal balance from April 2, 2016, until paid at the rate of 21.00 per cent per annum, late charges of \$1,598.12, plus 25 per cent of all sums due as attorneys fees.

14.

The accelerated balances due on Note 1, Note 2 and Note 3 all remain past due and unpaid.

15.

As of November 8, 2019, the date on which the bankruptcy petition was filed, the balance due to creditor on all three notes was:

Principal	\$2,760,527.74
Interest	\$375,962.75
Late Charges	\$15,198.12
Attorneys Fees	\$6,500.00
Court Costs	\$1,876.00
Total	\$3,160,064.61

16.

Mortgage 1 contain a provision assigning the rents and lease payments from the property, which grants creditor a security interest in said rents and lease payments superior to the trustee, to secure the notes listed above, and the mortgage was duly perfected by recording in the mortgage records of Orleans Parish and St. Tammany Parish, pursuant to La. R.S. 9:4401(A)(1).

17.

Creditor asks the court to prohibit the debtors from using the rents and lease payments, or payments in the nature of rent or lease payments, or that are otherwise derived from the use and occupancy of the above property by any entity other than the

debtor, particularly Upperroom Bible Church Preschool and Academy,
Inc., which occupies portions of the above described property.

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By: /s/Mark C. Landry
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