

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE, NORTHEASTERN DIVISION
AT GREENEVILLE

IN RE:)
)
PHILLIPS RENTAL PROPERTIES, LLC,) Case No. 10-53129
)
) Chapter 11
Debtor-in-Possession.)

OBJECTION BY REGIONS BANK TO THIRD MODIFIED
DISCLOSURE STATEMENT

COMES **REGIONS BANK** (hereinafter the "Bank"), a creditor and party-in-interest, by and through counsel, pursuant to 11 U.S.C. § 1125 and Rule 3017 of the Federal Rules of Bankruptcy Procedure, and herewith timely files and serves its written Objection to the **Third Modified Disclosure Statement** [Docket No. 234] of Phillips Rental Properties, LLC (the "**Debtor**"), and in support thereof says as follows:

1. The Bank is a secured creditor and party in interest of the Debtor.
2. The Debtor initiated its voluntary Chapter 11 case on December 7, 2010. The Debtor has continued to operate its business and manage its property as Debtor-in-Possession pursuant to §§ 1107(a) and 1108.
3. The Debtor has submitted two (2) prior Disclosure Statements and the Bank, as well as several other creditors, have lodged Objections to both previous filings.
4. The Bank's objection to the Third Modified Disclosure Statement relates to the alleged factual statements in Section II of the Third Modified Disclosure Statement pertaining to the Line of Credit in the amount of \$747,750.00. More specifically, on May 19, 2009, Phillips Rental Properties, LLC, executed and delivered to the Bank a Promissory Note in the amount of \$747,750.00. Said Note was secured by a Deed of Trust on properties owned by both the Debtor

and Gary Phillips and Karla Phillips, individually, a copy of that Deed of Trust is attached hereto and incorporated herein by reference as Exhibit A. In fact, the Debtor only owned Tracts 5 and 6 as set forth in the Deed of Trust attached hereto as Exhibit A. In its third Disclosure Statement, the Debtor leaves out a very telling and important fact. Namely, that on the 30th day of April, 2010, within three (3) weeks of the April 8th demand letter from the Bank referenced in the Third Modified Disclosure Statement, the Debtor borrowed \$675,000.00 from Citizens Bank and paid off the Line of Credit to the Bank. Therefore, as of April 30, 2010, the Debtor was not obligated to the Bank on the \$747,750.00 Note. The Debtor was unable to draw on the Line of Credit at the Bank because the Line of Credit no longer existed. Furthermore, Regions Bank did not assert any cross-collateralization with respect to said loan and Regions Bank has released the Deed of Trust attached hereto as Exhibit A without asserting it was cross-collateralized with the remaining debt of the Debtor to the Bank. As far as the Bank knows, the Deed of Trust in favor of Citizens Bank, a copy of which is attached hereto as Exhibit B, remains in place on said property. The Debtor never asked the Bank for a draw on the Line of Credit to pay the past due property taxes owing on the collateral securing the remaining loan owing by the Debtor to the Bank. Furthermore, after payment of the \$747,750.00 Note in full (the balance due and owing was approximately \$440,000.00), the only obligation existing by and between the Debtor and the Bank was the existing loan on the apartments on which the Bank currently holds a lien and is subject to this pending proceeding. The Disclosure Statement repeatedly makes reference to further draw requests being denied by the Bank and that the Bank had to approve all house sales and receive net proceeds from each sale. This Debtor has not disclosed in any of its Disclosure Statements or its filings with the Court that it has or had ongoing houses under construction or for sale. If such is true, then the Debtor has failed to disclose those assets to the Court and to its

creditors. Because of these inaccurate factual statements by the Debtor, specifically, with respect to the Line of Credit and the statements regarding the Debtor's construction of homes for sale, the Third Modified Disclosure Statement is inaccurate and incomplete.

5. The Debtor borrowed \$675,000.00 from Citizens Bank to pay off the Line of Credit to Regions Bank. It appears the Debtor received at least \$250,000.00 from the loan since the payoff to Regions Bank was approximately \$440,000.00. What happened to that \$250,000.00 the Debtor received within six (6) months of its bankruptcy filing?

6. Furthermore, the Debtor has filed an **Application to Employ Bearfield & Associates** [Docket No. 258] and stated in said Application that it needs to hire outside counsel to review potential causes of action or other claims that the Debtor may have for pre-petition conduct of unnamed parties. The Disclosure Statement fails to make any reference to any claims of any type that the Debtor may have against anyone. As such, the Disclosure Statement is inadequate.

WHEREFORE, premises considered, the Bank files this Objection and prays that the Debtor be required to amend or otherwise revise his Third Modified Disclosure Statement so as to provide adequate information and for such other and further relief as to which the Bank may show entitlement.

This the 24th day of October, 2011.

REGIONS BANK

By: /s/ Walter N. Winchester
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this **Objection** has been served electronically via ECF on the parties specified in the Notice of Electronic Filing to be issued by the ECF system this the 24th day of October, 2011.

Winchester, Sellers, Foster & Steele, P.C.

By: /s/ Walter N. Winchester