

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ROCKLAND

-----x
348 REALTY ASSOCIATES, LLC,

Plaintiff,

-against-

JAV CONSULTING, INC. and UNIVERSAL
AUTOMOTIVE SERVICES, INC.,

Defendants.

-----x
JAV CONSULTING, INC. and UNIVERSAL
AUTOMOTIVE SERVICES, INC.,

Third-Party Plaintiffs,

-against-

ALBERT MARKARIAN a/k/a MARK MARKARIAN

Third-Party Defendant.

-----x

The following sets of papers numbered 1 to 11 were
considered on the plaintiff's motion for summary judgment
discharging the June 2, 2006 mortgage upon plaintiff's property:

Order to show cause; Burger
affirmation and exhibits 1&2;
Burger affirmation; Friedberg
affidavit and exhibits 1&2;
Friedberg affidavit and
exhibits 1&2; memorandum of
law; pleadings; copy of defense
motion to dismiss 1-8

Defendant's memorandum in
opposition; Rhedrick affirmation,
Vaccaro affidavit, Sherman
affirmation, Guberman affidavit,
and exhibits 9,10

"Certification" of third-party
defendant, and affidavit

11

Upon review of the foregoing, the plaintiff's motion is granted.

Dr. Albert E. Markarian (a/k/a Mark Markarian) had no authority to execute a mortgage on plaintiff's property. Any evidence of authority came, not from the plaintiff, but from Dr. Markarian himself. Whether or not Dr. Markarian used loan proceeds to pay his personal obligations to the plaintiff, the plaintiff itself did not benefit from the loan. Reasonable investigation by the defendants would have revealed Dr. Markarian's lack of authority. Under these circumstances, the plaintiff is entitled to have the mortgage discharged. See, *Lindenbaum v Albany Post Property Associates, Inc.*, 297 AD2d 661 (2d Dept 2002).

Settle judgment on notice.

E N T E R

Dated: New City, New York
September 6, 2008



WILLIAM K. NELSON
ACTING SUPREME COURT JUSTICE

DAVIDSON FINK LLP
28 East Main Street, Suite 1700
Rochester, New York 14614-1990

ZARIN S. STEINMETZ, ESQ.
81 Main Street, Suite 415
White Plains, New York 10601