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BURR FORMAN

BANKING & FINANCIAL SERVICES E-NOTE

August 23, 2012

BANKRUPTCY

Rent Assignments in Bankruptcy: an Eleventh Circuit Analysis

Section 552(b)(2) of the Bankruptcy Code allows a creditor with a perfected security agreement in pre-petition property to also have a security interest in any "amounts paid as rents of such property" after the filing of the bankruptcy petition. If the debtor executed an assignment of rents in conjunction with a mortgage on the property, the lender may have a lien interest or other entitlement in the rents generated from the property during the bankruptcy case, in addition to its mortgage interest in the property.

Click here to read the full alert. For more information, please contact Jonathan M. Sykes at (407) 540-6636 or jsykes@burr.com.

BANKING

"Banks Must Guard ATM Patrons with Better Cams" - Jon Kane quoted

Jon E. Kane, a partner in the Orlando office of Burr & Forman, was quoted in the *Orlando Sentinel* article entitled 'Banks must guard ATM patrons with better cams' on July 15, 2012. The article examines Florida's safety requirements for ATM cameras. Kane told the *Sentinel*, "To date, few states have enacted legislation that even make mention of security cameras."

For more information, please contact Jon at (407) 540-6625 or jkane@burr.com.

HEALTH REFORM ALERT

Update on The Patient Protection and Affordable Health Care Act of 2010

The Patient Protection and Affordable Health Care Act of 2010, as amended by

Headlines

- Community Banks Lobby Congress to Extend TAG Program
- CFPB Proposes New Mortgage Protection Rules
- British Regulators Unveil Steps to Overhaul Libor Oversight
- Regulators Tell 5 Big Banks to Prepare for Preventing Collapse
- Background Screening Firm to Pay $2.6M for Violating FCRA
- Higher One Ordered to Pay $11M to Students Over Excessive Fees
- Survey Finds Community Banks Concerned Over Compliance Costs
- Companies Face Challenges in Offering Mobile Payments
- Survey Finds Banks Beginning to Ease Some Lending

News Briefs

Community Banks Lobby Congress to Extend TAG Program

Transaction Account Guarantee, an emergency deposit insurance program created during the financial crisis to help stabilize the banking system and protect depositors, is set to expire at the end of this year. Community banks don't want that to happen, and they're lobbying for Congress to extend the program, which it's already done once.

(Source: Brownsville Herald, 2012-08-16) Read More

CFPB Proposes New Mortgage Protection Rules

The government's consumer lending watchdog proposed new rules aimed at protecting homeowners from unexpected costs and shoddy service by companies that collect their monthly mortgage payments. Mortgage servicing companies would be required to provide clear monthly billing statements, warn borrowers before interest rate hikes and actively help them avoid foreclosure under the proposal by the Consumer Financial Protection Bureau.

(Source: USA Today (free reg. req'd), 2012-08-10) Read More

British Regulators Unveil Steps to Overhaul Libor Oversight

The system at the center of the rate-rigging scandal is set to be overhauled, as regulators respond to public anger over the manipulation of the London interbank offered rate, or Libor. Martin Wheatley, the regulator in charge of a plan backed by the British government to restructure the rate-setting process, outlined steps that could lead to wholesale changes to Libor, used as a benchmark rate for more than $360 trillion of financial products, including mortgages and loans.

(Source: Pittsburgh Post-Gazette, 2012-08-11) Read More

Regulators Tell 5 Big Banks to Prepare for Preventing Collapse

U.S. regulators directed five of the country's biggest banks to develop plans for staving off collapse if they faced serious problems, emphasizing that the banks could not count on government help. The two-year-old program, which has been largely secret until now, is in addition to the "living wills" the banks crafted to help regulators dismantle them if they actually do fail.

(Source: CNBC, 2012-08-10) Read More

Background Screening Firm to Pay $2.6M for Violating FCRA

An employment background screening company that provides consumer reports to companies nationwide will pay $2.6 million to settle Federal Trade Commission charges that it violated the Fair Credit Reporting Act by failing to use reasonable procedures to

the Health Care and Education Reconciliation Act of 2010 (collectively referred to as "PPACA") was recently reviewed by the United States Supreme Court and, for the most part, upheld by a vote of 5-4. In its opinion, the Supreme Court found that PPACA's individual mandate was a legal tax within Congress' constitutional taxing authority, but that the penalty associated with the mandatory expansion of Medicaid was unconstitutional. With the recent ruling, focus is now shifting to how PPACA will be implemented and carried out over the years to come.

Click here to read our Alert summarizing the Supreme Court's recent decision and highlighting what we believe to be the most important provisions of PPACA with the greatest impact to our clients, including employers, group health plans, health care providers, insurers, and taxpayers.

If you have any questions or if you would like additional information on this topic, please contact any attorney listed in the Alert, or visit our website at www.burr.com.

RESULTS MATTER RADIO

"WIT" – Women In Technology Panel

CLICK HERE TO LISTEN

Our guests join us to discuss the events, programs and opportunities at Women In Technology, Inc. ("WIT"). To learn more about WIT, please visit www.mywit.org.

SPEAKING ENGAGEMENTS

National Association of Bankruptcy Trustees ("NABT") Annual Meeting - Larry Ahern speaking

Larry Ahern, a partner in the Nashville office of Burr & Forman, will participate in a panel discussion entitled "New Age Assets: Copyrights, Trademarks, Trade Names, Websites and the Like: What to Look for and How

assure the maximum possible accuracy of information it provided, failing to give consumers copies of their reports, and failing to reinvestigate consumer disputes, as required by law. The case against HireRight Solutions, Inc. represents the first time the FTC has charged an employment background screening firm with violating the FCRA, and is the second-largest civil penalty that the FTC has obtained under the Act.

(Source: Inside Arm, 2012-08-09) Read More

Higher One Ordered to Pay $11M to Students Over Excessive Fees

A company that markets debit cards to college students has agreed to refund $11 million to 60,000 students to settle allegations that it charged excessive fees. The Federal Deposit Insurance Corp. said that Higher One Holdings Inc. engaged in unfair and deceptive behavior by repeatedly charging college debit-card customers with overdraft fees on single transactions and collecting fees from deposits made into their accounts, typically funds for tuition and other college expenses.

(Source: Fox Business, 2012-08-08) Read More

Survey Finds Community Banks Concerned Over Compliance Costs

New regulatory standards are really putting the squeeze on community banks that are forced to hire more people to make sure they are in compliance, and added to that worry is that they will lose mortgage borrowers to bigger banks that have more resources to absorb those compliance costs. Those are the results of a new survey looking at the mortgage-lending departments at community banks.

(Source: Puget Sound Business Journal (Seattle), 2012-08-16) Read More

Companies Face Challenges in Offering Mobile Payments

Businesses of all kinds, including big companies like Google, Microsoft and Sprint and small start-ups like GoPago and Scvngr, are hoping to profit from mobile payments -- if only they can figure out what kind of system appeals to consumers and merchants. Any company offering mobile payments faces a big challenge: convincing people that paying with a phone is safer and more convenient than using cash or a credit card.

(Source: The New York Times, 2012-08-09) Read More

Survey Finds Banks Beginning to Ease Some Lending

U.S. banks have made it slightly easier for companies to obtain loans and for consumers to get car loans and credit cards, according to a survey. Most banks held lending standards unchanged for business loans in the face of stronger demand, the Federal Reserve said, but the small percentage of banks that did change their standards moved in the direction of easing.

(Source: MarketWatch (free reg. req'd), 2012-08-06) Read More

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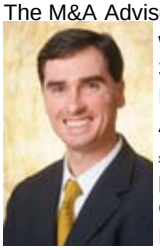
To Cell It" at the NABT 2012 Annual Convention held September 5-9, 2012. For more information about the Convention, please click here.

FIRM NEWS

Burr & Forman Partner Jason Woodard Named Among Finalists in the "Top 40 Under 40" Awards by The M&A Advisor

The M&A Advisor today announced the winners and finalists of the 3rd Annual 40 UNDER 40 M&A Advisor Recognition Awards – Central Region. Jason D. Woodard, a partner in the Firm's Creditor's Rights & Bankruptcy group was among the finalists named. Please click here to read the full announcement.



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