

20070824000400050 1/6 \$26.00
Shelby Cnty Judge of Probate, AL
08/24/2007 12:44:13PM FILED/CERT

AFTER RECORDING RETURN TO:

BEST & FLANAGAN LLP
225 South Sixth Street, Suite 4000
Minneapolis, Minnesota 55402
Attn: Michelle L. Gierke

LOAN NO. 010-00002108

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

STATE OF ALABAMA

COUNTY OF SHELBY

THIS AGREEMENT, dated August 13, 2007, executed by and among ARTESIA MORTGAGE CAPITAL CORPORATION, a Delaware corporation, and its successors and/or assigns, with its principal office at 1180 NW Maple Street, Suite 202, Issaquah, Washington 98027 (hereinafter called "Lender"); DW CLEANERS, LLC, an Alabama limited liability company, doing business as CHAMPION CLEANERS (hereinafter called "Tenant"); and [TO BE DETERMINED], a(n) RAEM ALABAMA, LLC (hereinafter called "Borrower");

WITNESSETH:

WHEREAS, Tenant has entered into a certain Lease dated May 17, 2005 ("Lease") with Borrower's predecessor-in-interest, Shoppes at Greystone, LLC, an Alabama limited liability company, covering certain premises more fully described in said Lease ("Premises") located in Shelby County, Alabama, more fully described on Exhibit A attached hereto and made a part hereof (the "Property"); and

WHEREAS, by the Security Instrument (as defined in that certain Fixed Rate Note, of even date with the Security Instrument, and all modifications, extensions, renewals and replacements thereof or judgments thereon [collectively, the "**Note**"]) recorded concurrently herewith at Reception/Document No. 20070824000400030 of the Shelby County, Alabama real estate records (hereinafter called the "Security Instrument"), Borrower granted a first lien interest in the Property and the Premises to Lender; and

WHEREAS, by Assignment of Leases, Rents, Income and Profits recorded concurrently herewith at Reception/Document No. 20070824000400040 of the Shelby County, Alabama real estate records (hereinafter called the "Assignment"), Borrower assigned all leases, rents, security deposits or other security affecting the mortgaged premises, as security for the payment of the indebtedness of Borrower to Lender; and

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WHEREAS, Tenant desires to be assured of continued occupancy of the Premises under the terms of the Lease and subject to the terms of the Security Instrument.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) by each party in hand paid to the other, the receipt of which is hereby acknowledged, and in consideration of the mutual promises, covenants and agreements herein contained, the parties hereto, intending to be legally bound hereby, promise, covenant and agree as follows:

1. The Lease and all estates, options (including purchase options, if any), liens and charges therein contained or created thereunder is and shall be subject and subordinate to the lien and effect of the Security Instrument insofar as it affects the real and personal property of which the Premises forms a part, and to all renewals, modifications, consolidations, replacements and extensions thereof, to the full extent of the principal sum secured thereby and interest thereon, with the same force and effect as if the Security Instrument had been executed, delivered, and duly recorded among the above-mentioned public records, prior to the execution and delivery of the Lease.

2. In the event Lender takes possession of the Premises as mortgagee-in-possession or through a receiver, or forecloses the Security Instrument or takes a deed in lieu of foreclosure, Lender agrees not to affect or disturb Tenant's right to possession of the Premises in the exercise of Lender's rights so long as Tenant is not in default under any of the terms, covenants or conditions of the Lease.

3. In the event that Lender succeeds to the interest of Borrower under the Lease and/or to title to the Premises, Lender and Tenant hereby agree to be bound to one another under all of the terms, covenants and conditions of the Lease. Accordingly, from and after such event, Lender and Tenant shall have the same remedies against one another for the breach of an agreement contained in the Lease as Tenant and Borrower had before Lender succeeded to the interest of Borrower; provided, however, that Lender shall not be:

- (i) liable for any act or omission of any prior landlord (including the Borrower); or
- (ii) subject to any offsets or defenses which Tenant might have against any prior landlord (including the Borrower); or
- (iii) bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord (including the Borrower); or
- (iv) bound by any amendment or modification of the Lease made without Lender's written consent; or
- (v) liable for the repayment of any security deposit not actually paid to the Lender.

4. In the event that anyone else acquires title to or the right to possession of the Premises upon the foreclosure of the Security Instrument, or upon the sale of the Premises by Lender or its successors or assigns after foreclosure or acquisition of title in lieu thereof or otherwise, Tenant agrees not to seek to terminate the Lease by reason thereof, but shall remain bound unto the new owner so long as the new owner agrees to be bound to Tenant under all terms, covenants and conditions of the Lease.

5. In the event Lender becomes a mortgagee-in-possession of the Premises or exercises its rights under the Assignment or the Security Instrument, Tenant agrees to make all payments payable by Tenant under the Lease directly to Lender upon Lender's written instructions to Tenant.

6. Tenant hereby warrants and represents, covenants and agrees with Lender:

- (i) to deliver to Lender a duplicate of each notice of default delivered to Borrower at the same time as such notice is given to Borrower;

(ii) that Tenant is now the sole owner of the leasehold estate created by the Lease and shall not hereafter assign the Lease except as permitted by the terms thereof, and that notwithstanding any such assignment or any sublease, Tenant shall remain primarily liable for the observance and performance of all of its agreements under the Lease;

(iii) not to anticipate the payment of rent or other sums due under the Lease; and


(iv) to promptly certify in writing to Lender, in connection with any proposed assignment of the Security Instrument whether or not any default on the part of Borrower then exists under the Lease.

7. Tenant hereby authorizes Borrower, and Borrower agrees, to promptly provide upon Lender's request, all of the financial and sales statements/information of Tenant provided by Tenant to Borrower pursuant to the Lease.

8. This Agreement shall be binding upon the parties hereto and their respective heirs, administrators, executors, successors and assigns.

9. This Agreement may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

[SIGNATURE PAGE(S) ATTACHED]


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IN WITNESS WHEREOF, the undersigned have executed this Agreement under seal as of the day and year first above written.

LENDER:

ARTESIA MORTGAGE CAPITAL CORPORATION,
a Delaware corporation

By: Laura Dodd

Name: Laura Dodd

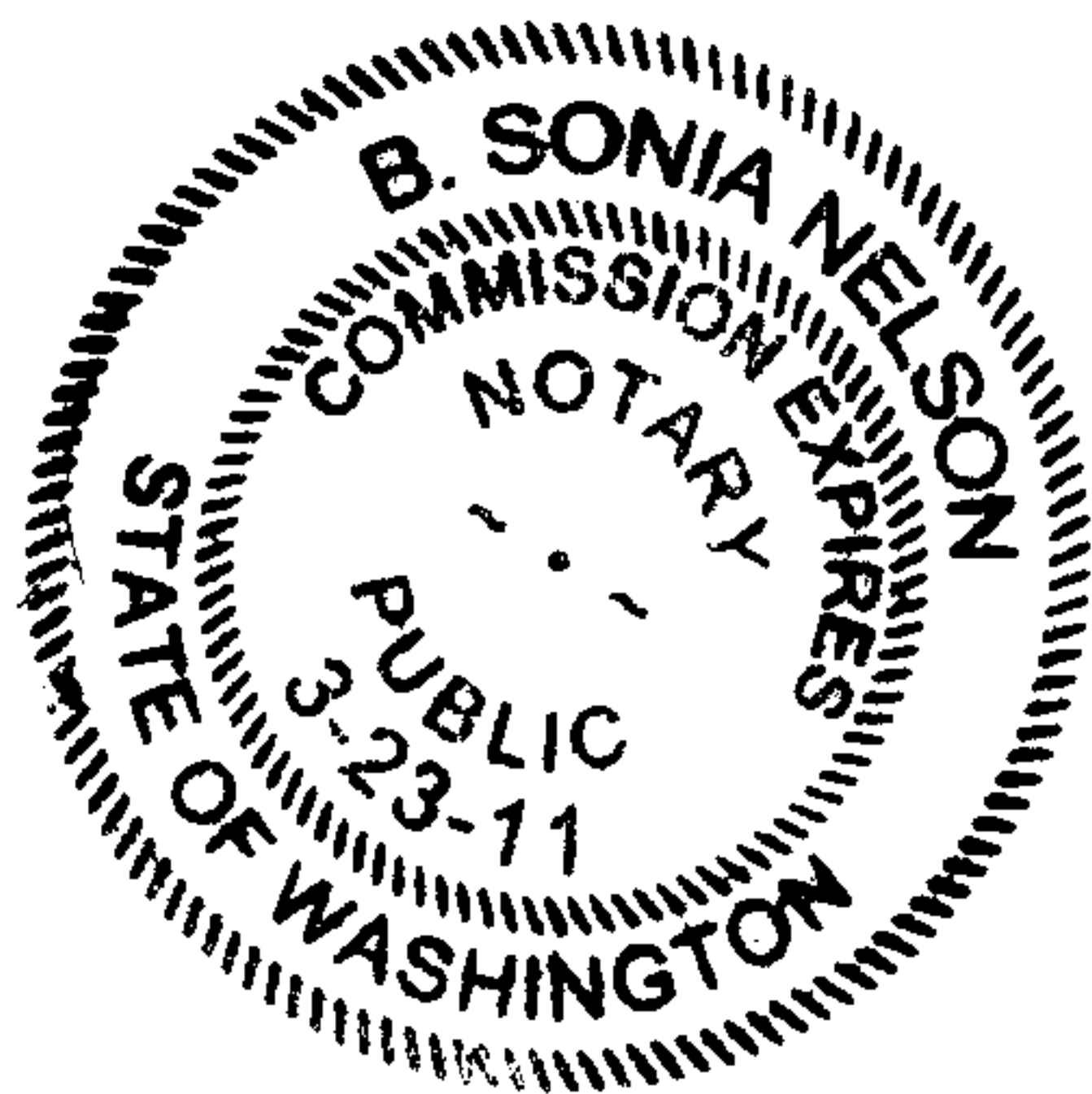
Its: Manager

STATE OF Washington

COUNTY King

I, B. Sonia Nelson a Notary Public, in and for said County in said State, hereby certify that Laura Dodd, whose name as Manager of ARTESIA MORTGAGE CAPITAL CORPORATION, a Delaware corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such Manager and with full authority, executed the same voluntarily for and as the act of said corporation as of the date hereof.

Given under my hand this the 1st day of August, 2007.



B. Sonia Nelson (SEAL)

Notary Public

My commission expires: March 23, 2011

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OWNER: BORROWER
RAEM Alabama, LLC

By: RAEM 93 Chambers Street Corp.

Ezra R. Mizrahi
By: Ezra R. Mizrahi, President

STATE OF New York
COUNTY of New York

I, a Notary Public, in and for said County in said State, hereby certify that Ezra R. Mizrahi, whose name as President of RAEM ALABAMA LLC, a(n) LLC, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such President and with full authority, executed the same voluntarily for and as the act of said _____ as of the date hereof.

Given under my hand this the 23 day of August, 2007.

[Signature] (SEAL)
Notary Public
My commission expires: _____

TERRENCE J. DALY
Notary Public, State of New York
No. 02DA6057490
Qualified in Westchester County
Commission Expires April 16, 2011



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TENANT:

DWCLEANERS, LLC, an Alabama limited liability company, doing business as CHAMPION CLEANERS

By:

David W. Whitehurst

Name:

DAVID W. WHITEHURST

Its:

SOLE MEMBER

STATE OF ALABAMA
COUNTY JEFFERSON

I, a Notary Public, in and for said County in said State, hereby certify that DAVID W. WHITEHURST whose name as SOLE MEMBER of DWCLEANERS LLC d/b/a CHAMPION CLEANERS, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such WILLINGLY and with full authority, executed the same voluntarily for and as the act of said SOLE MEMBER as of the date hereof.

Given under my hand this the 9 day of August, 2007.

James Everett Corlock (SEAL)
Notary Public

My commission expires

MY COMMISSION EXPIRES

AUGUST 6, 2008

MY COMMISSION EXPIRES
AUGUST 6, 2008