

Miscellaneous Record, No. 23, Madison County, Iowa

Jacob E. Replogle

#1135

Filed for record the 20 day of February
A.D. 1940 at 3:14 o'clock P.M.

To

Fee \$.60

Pearl E. Shetterly, Recorder

The Public

A F F I D A V I T

STATE OF ILLINOIS COUNTY OF COOK)SS.

JACOB E. REPLOGLE, being first duly sworn deposes and says that he is an attorney-at-law with office in Chicago, Illinois; that for thirty-five years he has been engaged as an attorney for CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO and its predecessor corporations including The Merchants' Loan and Trust Company; that he is familiar with the abstract of title covering the fractional Northwest Quarter and the North Half of the Southwest quarter of Section Five (5) and Government Lots Four (4), Five (5), Six (6) and Seven (7) in Section Six (6), and Government Lots One (1), Two (2) and Six (6) in Section Seven (7), all in Township Seventy-seven (77) North, Range Twenty-six (26) West of the Fifth Principal Meridian, in Madison County, Iowa; that he passed on the legal details and title in the making of the mortgage by S. S. McIlree and wife, Mary C.; and Bessie I. Miller O'Laughlin and husband, A. O'Laughlin, to Leon L. Loehr, Trustee, dated October 21, 1922, recorded in Mortgage Record 74, page 465, in the Recorder's Office of Madison County, Iowa, on November 9, 1922; that said mortgage was given to secure the payment of principal notes aggregating Forty-two Thousand Dollars (\$42,000.00), with interest.

That affiant has known Leon L. Loehr since 1905; that he has acted as attorney for Mr. Loehr on many occasions, and that he was the attorney on October 21, 1922 for The Merchants' Loan and Trust Company, the successor in trust mentioned in said trust deed or mortgage; that Leon L. Loehr never personally had any interest in this trust deed or mortgage or the notes secured thereby, but acted simply as trustee for the benefit of The Merchants' Loan and Trust Company; that the deed from Robert J. Laughlin to Frank Phillips, dated April 5, 1924, and recorded in Deed Record 67, Page 9, in the Recorder's Office of Madison County, Iowa, contained a recital that it was made subject to a trust deed for \$42,000.00 to Leon L. Loehr; that this recital should have stated that the trust deed ran to Leon L. Loehr as Trustee.

Affiant further states that in a mortgage from S. S. McIlree and wife, Mary C., to Frank Phillips, dated October 28, 1922, and recorded in Mortgage Record 66, page 520, it is recited that the property is subject to a mortgage of \$42,000.00 in favor of The Merchants' Loan and Trust Company of Chicago, Illinois; that The Merchants' Loan and Trust Company at the time of

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notice to be given of such hearing by mailing by the Attorneys for said Receiver to all claimants in the said Receivership, a notice of such time at least ten days before the time of hearing fixed, and by publishing such notice once in each the Davenport Democrat and Leader, and the Daily Times, newspapers published in Davenport, Scott County, Iowa, such publication to be at least ten (10) days before the date of hearing so fixed. That proof of such mailing and such publication as required by the Court, was duly filed in my office.

That on said 5th day of November, 1934, in pursuance of said notice, said application was duly heard and the Order of the Court entered thereon. That in and as a part of said Order, the Court finds that notice of the hearing had been given in accordance with its said prior Order and that proof thereof is on file.

The Court thereupon found the statements in said application to be true and granted the prayer therein contained and in particular found that said Committee had acquired the assets in the hands of the Trustees in the manner set out in said application and that said Committee was entitled to have any instruments of transfer and conveyance from the Receiver necessary or convenient to pass the nominal or record title to said Committee. It was ordered that such transfers and conveyances be made by the Receiver.

That thereafter, on February 1, 1935, said Receiver filed his report that said Committee by its unanimous written acknowledged request, had, on January 5, 1935, designated Joe Lindburg to take title to the real estate and other property by the above Order of November 5, 1934, found to be that of said Committee, including that hereinabove particularly described. That thereafter, on the same date the Court entered its Order upon said report, approving the same and approved said transfers and conveyances of personal and real property to said Joe Lindburg, by the said Receiver. That no appeal was taken by anyone from the orders herein referred to, of the District Court of Iowa, in and for Scott County, to the Supreme Court of Iowa, nor was there any motion for new trial or rehearing filed.

All of which appears of record in my office.

Witness my hand officially and the Seal of said Court by me hereto affixed this 13th day of February, A.D. 1940.

(DISTRICT COURT SEAL)

COMPARED

I. M. Mullen
Clerk of the District Court of Iowa
in and for Scott County.
By Rosa Grimmer, Deputy