

THE SPREADSHEET

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March 2014 Volume 2

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UPCOMING EVENTS

April 1 Michael Parks "What's Ahead"

April 22 Women in
Banking Laurie Stewart
"Two Sides of the Same
Coin"

April 29 State of the Com-
mercial Real Estate Market
May 6 Steve Hovde "The
Banking Industry"

For more details go to:

[http://
community.rmahq.org/
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OFFICERS

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Conrad Wouters
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Peoples Bank
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Secretary/Treasurer:

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Whidbey Island Bank
425-394-4460

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Bonnie McGoldrick
Secretarial Assistants
206-282-0158

FROM OUR CHAPTER PRESIDENT

One of the biggest benefits of RMA membership is the people you meet and the relationships you make. On that topic...



John Ruhl

I have some great news to share: Governor Jay Inslee has appointed our colleague and RMA Puget Sound Chapter past-president

John Ruhl to serve as a judge on the King County Superior Court. The Governor's full press release on John's appointment can be found here: [Press Release](#)

John is a long-time RMA member and our chapter's immediate Past President. On a personal note, he has been extremely helpful to me in the transition to my term as President.

We're excited for John and his family, and we wish him all the

best as he starts his impressive new position in that black robe.

Career planning assistance is one of our goals at RMA: At our April 22nd luncheon it is a key topic. Set your own goals high!



Best Regards,

Conrad Wouters

Michael Parks— "What's Ahead"

Regional Economic Update and Outlook

Dinner Meeting, April 1, 2014, 5:30 pm, Washington Athletic Club

About Mr. Parks ... The Seattle Times says Mr. Parks is the "Dean of Pacific Northwest Economy Watchers." Michael is a professional speaker on the economic well-being of the Pacific Northwest. He has been writing and speaking about the economy for more than 40 years. Mr. Parks is a former Seattle Times financial editor and editor, publisher and owner of Marple's Pacific Northwest Letter. Occasionally he is a guest on the talk show Weekday on Seattle's NPR station KUOW. Michael is a ferocious reader, fan of classical music and an occasional salmon fisherman. He has presented his observations and findings to RMA before and he always adds some unique perspective that banks should consider.

RMA Member Fee \$85.00 - click on link to pay using PayPal

https://www.paypal.com/cgi-bin/webscr?cmd=_s-xclick&hosted_button_id=W6X39K4MZDQLL

Non-Member Fee \$95.00 - click on link to pay using PayPal

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**EDUCATION
PROGRAMS
2013-2014
NATIONAL CLASSES**

April 4, 2014
Analyzing
Construction
Contractors

May 12, 2014
Asset-Based
Lending for Non-
Asset-Based
Lending

All classes are to be
held at
Evergreen
Business Capital,
13925 Interurban
Avenue, #100, Seat-
tle, WA 98168.

For more info:
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NEW MEMBERS

Banner Bank
Daniel Oxford
Heritage Bank
Nigel English
Blake Lindskog
Hillis Clark Martin Law Firm
Michael Kot
HomeStreet Bank
Mark Ahlstedt
Stephen Marshall
Theresa Sykes
Moss Adams CPA
Wayne Fjeld
Peterson Russell Law Firm
Mike Deleo
Puget Sound Bank
Susan Chou
Revitalization Partners
Jan Heald Robinson
Seattle Bank
Tony Vounn
Skagit Bank
Richard Humphrey
UniBank
Joshua Bae
US Bank
Marc Wright

CONFLICTING STATE COURT RULINGS ON GUARANTOR LIABILITY

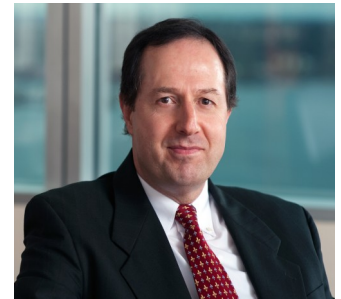
Two recent Washington State Court of Appeals decisions have cast doubt upon lenders' contractual rights to enforce their commercial guaranties following a non-judicial foreclosure sale. Based on the language contained in a form of deed of trust, some courts have held that the deed of trust secured not just the borrowers obligations to the lender, but also the obligations of guarantors under their guaranties, thereby eliminating rights of the lenders to pursue deficiency claims against guarantors following a nonjudicial foreclosure.

For a period of time, many lenders used (and some continue to use) a form of deed of trust to secure real estate collateral on commercial loans that define the obligations secured by the deed of trust to include payment of the indebtedness set forth in a promissory note as well as performance of all obligations under the promissory note and "Related Documents". "Related Documents" is defined to include "guaranties" executed in connection with the indebtedness.

The Washington State Deed

of Trust Act relating to nonjudicial foreclosure sales provides, in part at RCW 61.24.100(10): A Trustee's sale under a deed of trust securing a commercial loan does not preclude an action to collect or enforce any obligation of a borrower or guarantor if that obligation, or the substantial equivalent of that obligation, was not secured by the deed of trust.

On December 3, 2013, Division II of the Washington State Court of Appeals (reviewing a Superior Court decision out of Pierce County) ruled in *First Citizens Bank & Trust Company v. Cornerstone Homes & Development, LLC*, 178 Wn.App. 207 (2013), that because the guaranties were defined as "Related Documents" using the form deed of trust described above, the obligations by the guarantors under their guaranties were included as part of the indebtedness secured by the deed of trust. As a result, a nonjudicial foreclosure of the deed of trust precluded the lender from bringing a successful action to collect or enforce a deficiency against the guarantors.



This article was submitted by chapter member Rick Hyatt, an attorney with Ryan, Swanson & Cleveland in Seattle. Rick has a broad-based creditor's rights and bankruptcy practice, including representation of banks, creditors, trustees and debtors, in transactional, workouts and all phases of insolvency matters. Because of the breadth of his practice, he has developed expertise in a number of business and legal areas, including real estate transactions.

Rick is a graduate of the University of Washington and the University of Denver Law School.

To continue the article click:
[Nonjudicial Foreclosure](#)

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