

SEARCH RESULTS REPORT

Instrument	Type	File Date	Document Date	Book Page	Marginal Notes	Town
3000436	ENTRIES AT LAW	02/25/2009	00/00/00	00103 00139	2008-796	Malone

Defendant
ABRUZZI PAUL
COSITORE AILEEN
COSITORE FRANK R JR
FRANKLIN COUNTY TREASURER
ISLAND PLACE LLC
MALONE TOWN RECEIVER OF TAXES
MALONE VILLAGE RECEIVER OF TAXES
ROBERT SCHMITT LLC
SCHMITT ARLENE
SCHMITT ROBERT
SCHMITT ROBERT LLC
U I C C HOLDING LLC
UICC HOLDING LLC
WARD LUMBER CO

Plaintiff
STONE MOUNTAIN PRIME LLC

REFERENCES
3000602 03/19/09 ENTRIES AT LAW EL 00103 312

REMARKS
JUDGMENT OF FORECLOSURE
SEE AMENDED JUDGMENT OF FORECLOSURE &
SALE

CT
U-47

Franklin County
Wanda D. Murtagh
Franklin County Clerk
Malone, NY 12953

Document# 03000436
Volume: 103 Page: 139



60 2009 03000436

Instrument Number: 2009- 03000436

As
Entries at Law

Recorded On: February 25, 2009

Parties: UICC HOLDING : LLC
To

Recorded By: BRYAN CAVE LLP
Comment: 2008-796 T/O MALONE

Num Of Pages: 18

** Examined and Charged as Follows: **

Entries at Law 0.00
Recording Charge: 0.00

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Franklin County,

File Information:

Record and Return To:

Document Number: 2009- 03000436
Receipt Number: 59931
Recorded Date/Time: February 25, 2009 01:19:43P
Book-Vol/Pg: Bk-EL VI-103 Pg-139
Cashier / Station: L H / Cash Station 3



Wanda D Murtagh
Wanda D Murtagh
Franklin County Clerk

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF FRANKLIN

----- X
STONE MOUNTAIN PRIME LLC, : Index No. 2008-796
 :
 Plaintiff, : IAS # 16-1-2008-0691
 :
 - against - :
 :
 UICC HOLDING LLC, a New York limited liability : JUDGMENT
 company, WARD LUMBER COMPANY, :
 VILLAGE OF MALONE RECEIVER OF TAXES, :
 TOWN OF MALONE RECEIVER OF TAXES, :
 FRANKLIN COUNTY TREASURER, FRANK R. :
 COSITORE, JR., AILEEN COSITORE, PAUL :
 ABRUZZI, ARLENE SCHMITT, ROBERT :
 SCHMITT, ROBERT SCHMITT LLC, ISLAND :
 PLACE, LLC and JOHN DOE #1-50, said John Doe :
 defendants being fictitious, it being intended to name :
 all other parties who may have some interest in or :
 lien upon the premises sought to be foreclosed, :
 :
 Defendants. :
 :
----- X

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Upon the Summons and Notice of Pendency dated May 22, 2008 and filed on May 23, 2008 in the Office of the Clerk of Franklin County; the Verified Amended Foreclosure Complaint dated September 2, 2008, the Amended Notice of Pendency filed on September 2, 2008 in the Office of the Clerk of Franklin County; the Affidavits of Service of the Summons and Verified Foreclosure Complaint upon each of the defendants filed in the Office of the Clerk of Franklin County on June 18, 2008; the Verified Answer with Counterclaims to Verified Amended Foreclosure Complaint dated October 2, 2008 filed by defendants UICC Holding LLC, Frank R. Cositore, Jr. Aileen Cositore, Paul Abruzzi, Arlene Schmitt, Robert Schmitt and Island Place, LLC (collectively, the "UICC Defendants"), the Verified Answer to Amended Foreclosure Complaint and Answer to

the Complaint dated September 30, 2008 filed by defendant Town of Malone Receiver of Taxes; the Answer to the Summons and Complaint dated June 12, 2008 filed by the Defendant Franklin County Treasurer; the Notice of Appearance filed by Defendant Village of Malone Receiver of Taxes on or about July 18, 2008; the Affidavit of Additional Service, pursuant to CPLR § 3215(g)(4), on Defendant Ward Lumber Company; Plaintiff's Verified Reply to Counterclaims dated October 14, 2008; Plaintiff's Notice of Motion for Summary Judgment and Related Relief dated December 1, 2008; the Affidavit of Regularity And In Support of Plaintiff's Motion for Summary Judgment and Related Relief of Suzanne M. Berger, sworn to December 1, 2008 with Exhibits, the Affidavit of Jon Steinberg, sworn to November 17, 2008 and the Affidavit of John Laliotis, sworn to November 25, 2008, with exhibits in support of said motion (the "Summary Judgment Motion"); from all of which it appears that this action was brought to foreclose upon a first mortgage, and a collateral mortgage, both on real property situated in the Village of Malone, Town of Malone, County of Franklin, State of New York, and that the entire balance of the principal sum secured by the mortgages, to wit, the sum of \$4,000,000, together with interest thereon and other charges, is now due and payable; that all of the defendants herein have been duly served in this action; that the time to answer or move has expired as to Defendant Ward Lumber Company and that no answer or motion directed to the Verified Foreclosure Complaint or the Verified Amended Foreclosure Complaint or otherwise has been interposed by or on behalf of said defendant and that the time to do so has not been extended by consent or by order of this Court; and it appearing that none of the defendants herein is an infant, incompetent, or absentee, and that the Notice of Pendency filed on May 23, 2008 and the Amended

Notice of Pendency on September 2, 2008 both filed in this action in the County of Franklin contain truly and correctly all of the particulars required by law to be stated in such notices; and upon the Stipulation of Plaintiff and the UICC Defendants on file with this Court from which it appears that (i) the sum of \$5,000,000 was due to the plaintiff as of February 11, 2009, and (ii) the mortgaged premises should be sold as one parcel,

NOW, on motion of Bryan Cave LLP, attorneys for the plaintiff herein, it is

ORDERED, that Plaintiff's Summary Judgment Motion be and the same hereby is granted in favor of Plaintiff to the extent that (i) Plaintiff is awarded judgment against the UICC Defendants for all of the relief requested in its Verified Amended Foreclosure Complaint, including judgment of foreclosure and sale; (ii) Plaintiff is awarded judgment against the Town of Malone Receiver of Taxes, the Village of Malone Receiver of Taxes and Franklin County Treasurer for any unpaid taxes, if any, which are not superior to the lien of Plaintiff's mortgages under RPAPL § 1354; (iii) Plaintiff is awarded judgment dismissing with prejudice each of the three counterclaims asserted in the Answer; (iv) Plaintiff is awarded judgment on default, against defendant Ward Lumber Company for all of the relief requested in its Verified Amended Foreclosure Complaint, including judgment of foreclosure and sale; and (v) the caption of this proceeding shall be amended and the Clerk directed that the names of the "John Doe" defendants be deleted from the caption; and it is further

ORDERED AND ADJUDGED, that Plaintiff is entitled to have judgment herein for the sum of \$5,000,000, besides the sum of \$ 1244⁰⁰ [not to exceed \$1,500] as taxed by the Clerk of the Court and hereby adjudged to the plaintiff for costs

KLH

and disbursements in this action, with interest thereon from the date hereof (the "Judgment"); and it is further

ORDERED AND ADJUDGED, that the Mortgaged Premises described in the Verified Amended Foreclosure Complaint and as hereinafter described, be simultaneously sold subject to existing encumbrances, covenants, and restrictions of record (except those enumerated at NY RPAPL § 1354), if any, subject to leases of tenants not made parties to this action, if any, and subject to any projections and state of facts, if any, as an accurate survey may show, at public auction at the Lobby, Franklin County Courthouse, 355 West Main Street, Malone, New York 12952, Malone, New York under the direction of 518/483-1446

Thomas A. Grue, Esq. 367 W. Main St., Malone, NY 12953

who is hereby appointed Referee for that purpose; that on or after June 15, 2009, the Referee give public notice of the time and place of the sale according to law and the practice of this Court, pursuant to NY RPAPL § 231 by publication and, if statutorily required by posting; that in case Plaintiff or its nominee shall become the purchaser at the sale it shall not be required to make any deposit thereon but shall be required to pay taxes, assessments and water rates pursuant to NY RPAPL § 1354 prior to receipt of Deed from Referee; that the Referee execute to the purchaser or purchasers on such sale a deed of the premises sold only after complying with NY RPAPL § 1354; that the Referee on receiving the proceeds of such sale forthwith pay therefrom the taxes, assessments or water rates which are or may become liens on the premises at the time of sale with such interest or penalties which may be lawfully accrued thereon to the date of payment; that the Referee then deposit the balance of the proceeds of sale in his own name as Referee

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in his Federally-insured New York IOLA account; and shall thereafter make the following payments, and his checks drawn for that purpose shall be paid by the depository:

1. Sums not exceeding \$500 on sale and \$50 on computation to the Referee, Thomas A. Grove, Esq., for his fees herein.
2. The expenses of the sale and advertising expenses as shown in the bills presented and certified by the Referee to be correct, duplicate copies of which shall be left with the depository.
3. The sum of \$1,244.00 [not to exceed \$1,500] to Plaintiff for its costs and disbursements in this action (as taxed by the Clerk of the Court), and also the sum of \$5,000,000, the amount so reported due as aforesaid, or so much thereof as the purchase money of the Mortgaged Premises will pay of the same.

WJ

In case Plaintiff or its nominee is the purchaser of the mortgaged premises at the sale, or in the event that the rights of the purchaser at the sale and the terms of sale under this judgment shall be assigned to and be acquired by the Plaintiff or its nominee, and a valid assignment thereof filed with the Referee, the Referee shall not require Plaintiff or its nominee to pay in cash the entire amount bid at such sale, but shall execute and deliver to the Plaintiff or its nominee a deed or deeds of the premises sold upon the payment to said Referee of the amounts specified above in items marked "1" and "2" and the amount of the aforesaid taxes, assessments and water rates and interest or penalties thereon, or in lieu of the payment of the last mentioned amount, upon filing with the Referee receipts of the proper municipal authorities, showing the prior payment thereof; that the balance of the amount bid after deducting therefrom the aforesaid amount paid by

the plaintiff for Referee's fees, advertising expenses and taxes, assessments and water rates, shall be allowed to the Plaintiff or its nominee and applied by the Referee upon the amounts due to the Plaintiff as specified above in item marked "3"; that if after so applying the balance of the amount bid there shall be a surplus over and above the amounts due to the Plaintiff, the Plaintiff or its nominee shall pay to the Referee upon delivery to him of the Referee's deed the amount of such surplus; that the Referee on receiving the several amounts from the Plaintiff shall forthwith pay therefrom the taxes, assessments, water rates and interest or penalties thereon, unless the same shall have already been paid, and shall pay the surplus money to the Franklin County Treasurer.

The Referee is directed to take the receipt of the Plaintiff or its attorneys for the amounts paid as hereinbefore directed, in item marked "3" and file it with his report of sale(s); to pay into Court the surplus moneys, if any, within five days after the same shall be received and be ascertainable, to the credit of this action, to be withdrawn only on the order of the Court signed by a Justice of this Court; and to make a report of such sale(s) and file it with the Clerk of Franklin County with all convenient speed; and it is further

ORDERED, that by accepting this appointment, the Referee certifies that the Referee is in compliance with 22 NYCRR Part 36, including but not limited to, § 36.2(c)("Disqualifications from appointment") and § 36.2(d)("Limitations on appointments based upon compensation"); and it is further

ORDERED AND ADJUDGED that if the proceeds of such sale(s) be insufficient to pay the amount reported due to the Plaintiff with interest and costs as aforesaid, Plaintiff may seek to recover from the UICC Defendants the whole deficiency

or so much thereof as the Court may determine to be just and equitable of the residue of the mortgage debt remaining unsatisfied after the sale of the entirety of the Mortgaged Premises and the application of the proceeds thereof, provided a motion for a deficiency judgment shall be made as prescribed by Section 1371 of the Real Property Actions and Proceedings Law within the time limited therein, and the amount thereof is determined and awarded by an order of this Court as provided for in said statutory provision; and it is further

ORDERED AND ADJUDGED that the purchaser or purchasers at said sale(s) be let into possession on production of the Referee's deed or deeds; and it is further

ORDERED AND ADJUDGED that each and all of the defendants in this action and all persons claiming under them or any or either of them after the filing of the Notice of the Pendency and the Amended Notice of Pendency of this action, be and they hereby are forever barred and foreclosed of all right, claim, lien, title, interest and equity of redemption in said mortgaged premises and each and every part thereof; and it is further

ORDERED AND ADJUDGED that the defendants John Doe #1 – 50 are dismissed from the action and the caption of the action is amended as follows:

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF FRANKLIN

----- x
STONE MOUNTAIN PRIME LLC, :
 : Index No. 2008-796
Plaintiff, :
 : IAS # 16-1-2008-0691
- against - :
 :
UICC HOLDING LLC, a New York limited liability :
company, WARD LUMBER COMPANY, :
VILLAGE OF MALONE RECEIVER OF TAXES, :
TOWN OF MALONE RECEIVER OF TAXES, :
FRANKLIN COUNTY TREASURER, FRANK R. :
COSITORE, JR., AILEEN COSITORE, PAUL :
ABRUZZI, ARLENE SCHMITT, ROBERT :
SCHMITT, ROBERT SCHMITT LLC, ISLAND :
PLACE, LLC, :
 :
Defendants. :
 :
----- x

DESCRIPTION OF MORTGAGED PREMISES

All that tract or parcel of land, situate in the Town and Village of Malone, County of Franklin and State of New York,

COMMENCING at the southeast corner of a parcel of land this day conveyed to Mary J. Flanagan by S.J., J.A. and J.J. Flanagan (June 16, 1913) and known as the Flanagan Block, said corner being in the north line of Main Street, as said line was surveyed and staked out by D.H. Staton, Dec. 13, 1885, and 67.5 feet distant easterly from the southeast corner of the King Block, so called; and

RUNNING THENCE northerly in the east line of the said Flanagan Block and at right angles with Main Street, 85 feet (record; North 10 degrees 54 minutes 55 seconds East 86.26 feet, survey) to the northeast corner of said block;

THENCE westerly in the northerly line of said block and on the said line continued, which is in the north line of lands of King, Badger and Hugaboom, 159.85 feet (record; North 79 degrees 06 minutes 42 seconds West 159.43 feet, survey) to the east line of lands of one Whittlesey, as the said line was agreed upon in and by a writing made between said Whittlesey and said Flanagan;

THENCE northerly in said line so agreed upon, forming thereby an interior angle of 91 degrees at this corner of property hereby conveyed 94 feet to the lands of the Rutland Railroad;

THENCE easterly on a line forming an interior angle of 81 degrees 30 minutes at this corner of the land hereby conveyed (record; South 71 degrees [sic] 54 minutes 34 seconds East, survey) 172 feet;

THENCE southerly in a line forming an interior angle of 99 degrees at this corner of the land hereby conveyed (record; South 12 degrees 28 minutes 37 seconds West, survey) 42 feet to a point 114.50 feet distant north from Main Street;

THENCE easterly at an angle to the left of 86 degrees and 22 minutes (record, South 75 degrees 31 minutes 01 second East, survey) 70 feet (record; 68.2 feet, tax map) to an iron rail set in the ground;

THENCE south in a line forming an angle of 89 degrees 30 minutes at this corner of the land hereby conveyed 20 feet to an iron rail (record; South 12 degrees 35 minutes 40 seconds West 20.02 feet to an iron nail [sic], survey);

THENCE southeast at an angle of 78 degrees 25 minutes to the left (record; South 62 degrees 30 minutes 44 seconds East, survey), 91.4 feet to an iron rail in the west line of Elm Street;

THENCE southwest in a line forming an angle of 57 degrees 53 minutes at this corner of the land hereby conveyed 99.4 feet (record; South 59 degrees 29 minutes 51 seconds West, survey) to the north line of Main Street;

THENCE west at an angle of 51 degrees 35 minutes to the right (record; North 79 degrees 52 minutes 23 seconds West) along said north line of Main Street 92.5 feet of the place of BEGINNING.

II

All those tracts and parcels of land, situate in the Town and Village of Malone, Franklin County, New York, bounded and described as follows:

PARCEL I:

All that tract or parcel of land, situate in the Town and Village of Malone, County of Franklin and State of New York, commencing at the southeast corner of the King Block, so-called, in the north line of Main Street, as the said line was surveyed and staked out by D.H. Stanton, December 13, 1885;

THENCE easterly along said street line (record; South 79 degrees 52 minutes 23 seconds East, survey) 67.5 feet to the southeast corner of the block now standing upon said property;

THENCE northerly at right angles with said street line and in the east line of said block, 85 feet (record; North 10 degrees 54 minutes 55 seconds East, 86.26 feet survey) to the northeast corner thereof;

THENCE westerly parallel with the north line of Main Street and in the north line of said block (record; North 79 degrees 06 minutes 42 seconds West, survey) 69.35 feet to the northwest corner of said block;

THENCE southerly in the west line of said block and the east line of the King Block, 85 feet to the place of BEGINNING.

PARCEL II:

All that tract or parcel of land, situate in the Town and Village of Malone, County of Franklin and State of New York, described in a deed from Al Dufrane Enterprises, Inc. to John J. McGee by a deed dated and recorded January 22, 1973 in Liber 461 at Page 237, as follows:

All that tract or parcel of land, situate in the Village of Malone, County of Franklin and State of New York, to wit: The premises known as No. 2 King's Block, in said village and described as follows, viz:

BEGINNING on the north side of Main Street, 50 feet (record; 48.17 feet survey) easterly of the southeast corner of the Cotton Factory Lot; and

RUNNING THENCE easterly on the northerly line of said street, twenty feet and six inches, to a point opposite the centre line of the partition wall between the store on the premises hereby conveyed and the store now occupied by said party of the first part and known as No. 1, King's Block;

THENCE northerly along the centre line of said partition wall and the same continued, to the northerly line of premises conveyed and the same continued, to the northerly line of premises conveyed by Mary E. Flanagan and Alexander R. Flanagan, her husband, to Howard E. King, by deed dated on the 16th day of May, 1887, and recorded in the Office of the Clerk of the said County of Franklin, in Liber of deeds no. 80 at page 134;

THENCE westerly in the said northerly line of Flanagan premises, twenty feet and six inches to a point opposite the centre line of the partition wall between the store on the premises hereby conveyed and the store now owned by G. Casazza and known as no. 3, King's Block;

THENCE southerly to the north end of said centre line of said partition wall and, still southerly, along the same (record; South 09 degrees 41 minutes 15 seconds West 87.76 feet, survey) to the place of BEGINNING.

PARCEL III:

Also all that tract or parcel of land, situate in the Town and Village of Malone, Franklin County, N.Y., to wit:

BEING the premises known as No. 1, King's Block in said village and being the most easterly store in said block;

BEGINNING at the front of said store at the southerly end of the center of the east wall thereof, and being the west line of land now owned by Mary J. Flanagan, formerly owned by Philip B. Miller in 1860; and

RUNNING THENCE westerly along the outside of the front of said store 24 feet 1 inch to the center line of the partition wall between this store and the store next west of the same in said block, formerly owned by John P. Badger;

THENCE northerly along the center line of said partition wall and the same continued, to the northerly line of the premises conveyed by Mary E. Flanagan and Alexander R. Flanagan, her husband, to Howard E. King, by deed dated 05/16/1887 and recorded in the Office of the County Clerk of Franklin County in Liber 80 of Deeds at Page 134;

THENCE easterly in said northerly line of said Flanagan premises to a point north of the center line of the east wall of said store about 24 feet 2 inches more or less, and the west line of land now owned by Mary J. Flanagan and formerly owned by Philip B. Miller in the year 1860;

THENCE southerly along said west line and the center line of the east wall of said King Block to the place of BEGINNING THENCE southeast at an angle of 78 degrees 25 minutes to the left (record; South 62 degrees 30 minutes 44 seconds East, survey), 91.4 feet to an iron rail in the west line of Elm Street;

THENCE southwest in a line forming an angle of 57 degrees 53 minutes at this corner of the land hereby conveyed 99.4 feet (record; South 59 degrees 29 minutes 51 seconds West, survey) to the north line of Main Street;

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THENCE west at an angle of 51 degrees 35 minutes to the right (record; North 79 degrees 52 minutes 23 seconds West) along said north line of Main Street 92.5 feet to the place of BEGINNING.

ENTER:

J.S.C.

CONSENTED TO:

Village of Malone

By: _____

Town of Malone

By: _____

County of Franklin

By: _____

UICC Holding LLC

By: _____

Frank R. Cositore, Jr.

Aileen Cositore

Paul Abruzzi

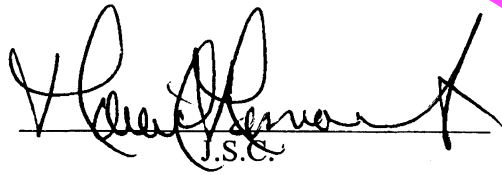
Arlene Schmitt

Robert Schmitt

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THENCE west at an angle of 51 degrees 35 minutes to the right (record; North 79 degrees 52 minutes 23 seconds West) along said north line of Main Street 92.5 feet to the place of BEGINNING.

ENTER:



David Demarest, J.S.C.

CONSENTED TO:

Village of Malone

By: _____

Town of Malone

By: _____

County of Franklin

By: _____

UICC Holding LLC

By: _____

Frank R. Cositore, Jr.

Aileen Cositore

Paul Abruzzi

Arlene Schmitt

Robert Schmitt

Robert Schmitt LLC,

By: _____
Robert Schmitt

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THENCE west at an angle of 51 degrees 35 minutes to the right (record; North 79 degrees 52 minutes 23 seconds West) along said north line of Main Street 92.5 feet to the place of BEGINNING.

ENTER:

J.S.C.

CONSENTED TO:

Village of Malone

By: _____

Town of Malone

By: _____

County of Franklin

By: _____

UICC Holding LLC

By: _____

Frank R. Cositore, Jr.

Aileen Cositore

Paul Abruzzi
Arlene Schmitt

Arlene Schmitt

Robert Schmitt

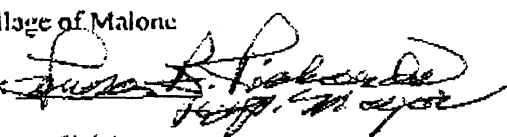
THENCE west at an angle of 51 degrees 35 minutes (to the right (record: North 79 degrees 52 minutes 23 seconds West) along said north line of Main Street 92.5 feet to the place of BEGINNING.

ENTER:

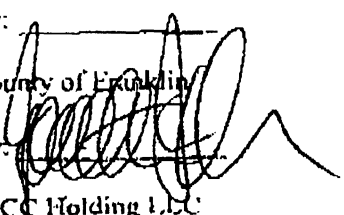
J.S.C.

CONSENTED TO:

Village of Malone

By: 
Susan B. Piacentini
Twp. of Malone

Town of Malone

By: 
County of Franklin
UICC Holding LLC

By: _____

Frank R. Cositore, Jr.

Aileen Cositore

Paul Abruzzi

Arlene Schmitt

Robert Schmitt

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THENCE west at an angle of 51 degrees 35 minutes to the right (record; North 79 degrees 52 minutes 23 seconds West) along said north line of Main Street 92.5 feet to the place of BEGINNING.

ENTER:

J.S.C.

CONSENTED TO:

Village of Malone

By: _____

Town of Malone

By: *Aileen Cositore*

County of Franklin

By: _____

UICC Holding LLC

By: _____

Frank R. Cositore, Jr.

Aileen Cositore

Paul Abruzzi

Arlene Schmitt

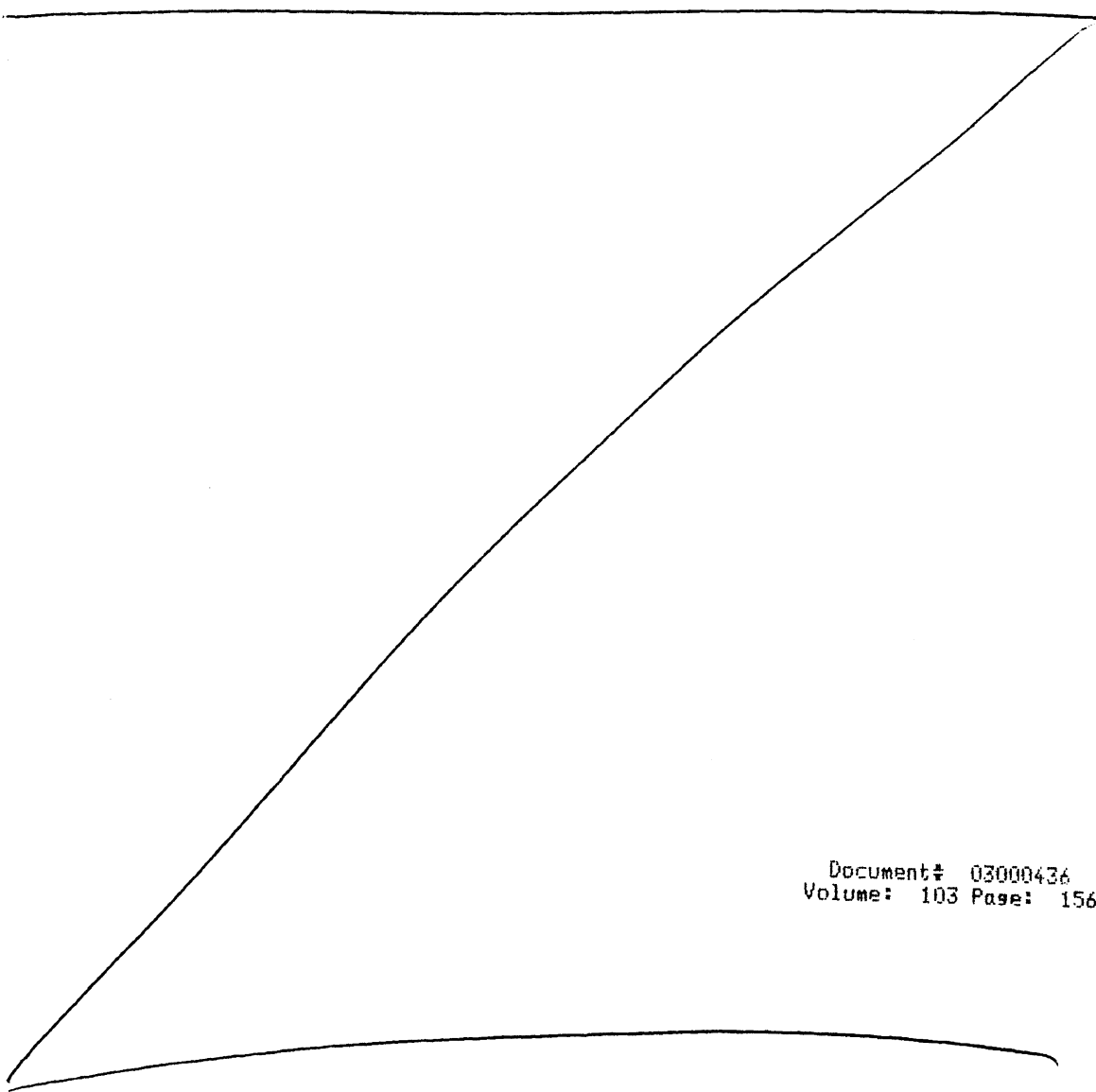
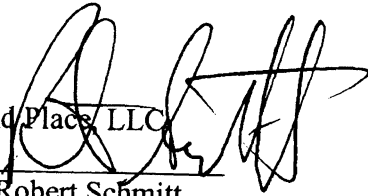
Robert Schmitt

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Island Place LLC

By:

Robert Schmitt



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