

STATE OF MAINE  
HANCOCK, ss.

DISTRICT COURT  
DISTRICT FIVE  
Location: Ellsworth  
Docket No. ELL-RE-2009-152

CAMDEN NATIONAL BANK, )  
successor by merger to )  
UNION TRUST COMPANY, )  
 )  
Plaintiff )  
 )  
vs. )  
 )  
MARCELLA M. FLUBACHER, )  
 )  
Defendant )

\*\*\*\* DISCLAIMER \*\*\*\*

Camden National Bank and Keenan Auction Company have provided the information contained in this bid package to persons interested in bidding for the property described herein. Each believes the information contained herein to be accurate and complete. **However, neither Camden National Bank nor Keenan Auction Company, nor their respective agents, employees or attorneys, make any warranties of any kind as to the accuracy or completeness of the information contained herein.** Prospective bidders are urged to make such an independent investigation as to each of those matters to which an ordinary and prudent buyer would inquire.

For further information regarding the sale please contact Keenan Auction Company:

Keenan Auction Company ■ One Runway Road ■ South Portland,  
Maine 04106 ■ 207-885-5100 ■ [www.keenanauction.com](http://www.keenanauction.com) ■  
Auctioneer

Michael S. Haenn, Esq. ■ 88 Hammond Street ■ Bangor, Maine  
04401 ■ 207-990-4905 ■ [www.haennlaw.com](http://www.haennlaw.com) ■ Attorney for  
Camden National Bank

**TERMS AND CONDITIONS OF PUBLIC SALE**

*Camden National Bank v. Marcella M. Flubacher*

509 Main Street  
Birch Harbor (Gouldsboro), Maine

The following are the terms of the public sale of the property situated generally at 509 Main Street in Birch Harbor (Gouldsboro), Maine ("the Property"), and further as described in the mortgage deed of John S. Flubacher to to Union Trust Company, predecessor by merger to Camden National Bank ("CNB"), dated May 8, 2006 and recorded in the Hancock Registry of Deeds in Vol. 4485, Page 42. The mortgage interest being foreclosed is also described in more detail in the Order and Judgment of Foreclosure dated November 17, 2009 and entered by the Maine District Court (at Ellsworth) in the action docketed as *Camden National Bank v. Marcella M. Flubacher*, Docket No. ELL-RE-2009-152.

**Date/Place of Sale** - February 10, 2010 commencing at 11:00 a.m. at 509 Main Street, Birch Harbor (Gouldsboro), Maine.

**Nature of Sale** - CNB is foreclosing the real estate mortgage described above and granted by Marcella M. Flubacher. The public sale of the Property is pursuant to 14 M.R.S.A. § 6321 et seq. and the said judgment of foreclosure.

**Terms of Sale** - (a) All of those terms set forth in the Notice of Public Sale published in the *Bangor Daily News* on January 9, 16, and 23, 2010, including but not limited to (i) a deposit as a qualification to bid in the amount of \$5,000.00 in certified funds, payable to Keenan Auction Company; and (ii) the balance of the purchase price is due and payable within 30 days of the public sale. All deposit(s) from the highest bidder [as CNB may determine] are non-refundable.

(b) CNB makes no warranties of any kind whatsoever regarding its title to the Property; or the physical condition, location or value of the Property; or compliance with any applicable federal, state or local law, ordinance and regulation, including zoning or land use ordinances. Bidders must satisfy themselves as to each of those matters to which an ordinary and prudent buyer would inquire.

(c) The Property is sold subject to all outstanding tax liens and municipal encumbrances, whether or not of record in the Hancock Registry of Deeds, as well as all real estate transfer taxes.

(d) No personal property is being sold with the Property, and bidders must satisfy themselves as to the legal character of specific property as real or personal in nature.

(e) A record of bidding will be maintained by CNB for its own use. All persons present at the public sale and wishing to submit a bid must register with the auctioneer and submit the requisite deposit in cash or certified funds prior to the commencement of bidding. In the event that there is a failure to close the sale with any person who executes a Purchase and Sale Agreement, CNB reserves the right to either hold a new sale or to contact the next highest bidder and allow that party to purchase the Property for the next highest bid as the assignee of the highest bidder. CNB disclaims any responsibility for providing notice of any kind to any person subsequent to the public sale.

(f) CNB reserves the right to refuse or accept any irregular bid; to hold periodic recesses in the sale process; to continue the sale from time to time without notice to any person; and to amend the terms of sale as it deems in the best interests of CNB.

(g) The transfer of the Property by CNB will be by release deed in substantially the same form as that attached to the Purchase and Sale Agreement included in the bid package provided to registered bidders by the auctioneer.

**Purchase and Sale Agreement** - the highest bidder for the Property will be required to execute a Purchase and Sale Agreement with CNB, and which must be executed immediately after the close of bidding.

**ADDITIONAL TERMS AND CONDITIONS MAY BE ANNOUNCED BY THE AUCTIONEER ON THE DATE OF THE PUBLIC SALE AND ARE INCORPORATED HEREIN BY REFERENCE.**

Dated: February 10, 2010

Auctioneer: Keenan Auction Company ■ One Runway Road ■ South  
Portland, Maine 04106 ■ 207-885-5100 ■ [www.keenanauction.com](http://www.keenanauction.com)

Bank Counsel: Michael S. Haenn, Esq. ■ 88 Hammond Street ■  
Bangor, Maine 04401 ■ 207-990-4905 ■ [www.haennlaw.com](http://www.haennlaw.com) ■  
Attorney for Camden National Bank

**PURCHASE AND SALE AGREEMENT**

AGREEMENT made as of this 10<sup>th</sup> day of February, 2010 by and between the following parties:

**Seller:** Camden National Bank, a corporation organized under the laws of the United States of America with a place of business in Camden, Maine ("Seller"); and

**Buyer:** \_\_\_\_\_  
\_\_\_\_\_  
("Buyer").

1. **Purchase and Sale; Property.** Seller hereby agrees to sell, and Buyer hereby agrees to buy, a certain lot or parcel of land with any buildings thereon situated generally at 509 Main Street in Birch Harbor (Gouldsboro), Maine, and more particularly described in the mortgage deed of John S. Flubacher dated May 8, 2006 and recorded in the Hancock Registry of Deeds in Vol. 4485, Page 42 ("the Property").

2. **Basic Terms of Transfer.** Seller hereby agrees to transfer, and Buyer agrees to purchase, the Property on or before March 12, 2010 ("the Closing Deadline"). Seller will convey its interest in the Property subject to the following conditions and restrictions:

(a) conveyance of the Property at closing (on or before the Closing Deadline) will be by release deed from Seller to Buyer in substantially the same form as that annexed hereto. Unless otherwise indicated below, and if more than one Buyer executes this Agreement, the deed from Seller to Buyer will be a deed to Buyer as tenants in common.

Buyer's affirmative election as to the form of the deed of conveyance from Seller:

- joint tenancy
- tenancy in common

(b) the closing will take place at the Law Office of Michael S. Haenn, 88 Hammond Street, Bangor, Maine, or at such other place as may be agreed between the parties.

(c) Seller makes no representations of any kind or nature as to the physical condition or title to the Property, both of which are expressly and strictly sold on "AS IS, WHERE IS" basis.

(d) conveyance at closing will be subject to all outstanding property tax liens or other municipal or quasi-municipal encumbrances or assessments, whether or not of record in the

Hancock Registry of Deeds on the date of closing, and further subject to all real estate transfer taxes assessed by the State of Maine, all of which are entirely the responsibility of Buyer.

(e) Buyer specifically and affirmatively waives the right to request any writ of possession from Seller and for the Property.

(f) conveyance is further subject to the terms and conditions of sale as announced at the public sale of the Property on February 10, 2010 or as set forth in the Terms and Conditions of Public Sale distributed by the auctioneer to registered bidders at the time of registration to bid.

3. **Purchase Price.** (a) Buyer hereby agrees to pay to Seller the sum of

\_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) for the Property as follows:

(i) Five Thousand Dollars (\$10,000.00) at the time of the execution of this Agreement, all of which is non-refundable and the receipt thereof is hereby acknowledged by Seller; and

(ii) the balance (after such deposits) is due and payable at the time of closing in cash or certified funds.

(b) Should Buyer fail to tender the balance due at closing and on or before the Closing Deadline, all deposit(s) from Buyer shall be retained by Seller as Liquidated damages but which shall not limit the right of Seller to enforce any other right or remedy against Buyer, including an action to compel specific performance.

4. **Risk of Loss.** The risk of loss or damage to the Property by fire or otherwise until closing and the delivery of a deed is assumed by Buyer.

5. **Personal Property.** Buyer recognizes that there are or may be items of personal property situated on or in the Property, and that Seller is not conveying any interest in such personal property to Buyer. Buyer agrees that Seller has made and will make no representations as to the legal character of specific property as real or personal in nature. Further, Seller reserves the right, but not the obligation, to itself and its designees to remove any personal property from the Property without liability of any kind to Buyer for any loss, injury or damage sustained as a result of the storage or removal of such personal property.

6. **Broker.** Seller and Buyer agree that there is no real estate broker involved in this transaction, and that no one is due a commission in conjunction with the sale or purchase of the Property except to the auctioneer. Buyer is not liable, by virtue of this Agreement, for payment of any fees to the

auctioneer.

7. **Non-reliance; Construction.** Buyer acknowledges that Buyer has not relied upon any oral or written representations of any employee, agent, or attorney for Seller not expressly set forth in this Agreement as a basis for Buyer's decision to execute this Agreement. In express recognition thereof, Buyer agrees that in the event of any ambiguity as to the meaning or intent of the terms or obligations set forth herein, or any documents executed in connection herewith, such ambiguous term or provision shall not be construed more favorably to one party than to another.

8. **Limitation on Buyer Damages.** Buyer agrees that in any dispute or action arising out of this Agreement, or the matters described herein, the damages to which Buyer may be due at any time and as against Seller for any reason shall be specifically limited to the amount of Buyer's deposit, repayable without interest, and that under no circumstances may such damages include any claim for punitive damages, lost profits or investment opportunities, or attorneys' fees.

9. **Waiver of Jury Trial; Arbitration.** (a) Buyer agrees that in the event of any dispute as between Buyer and Seller and relating to the subject matter of this Agreement, or the property hereby contemplated to be transferred by Seller to Buyer, such dispute shall (unless Seller shall have demanded arbitration as set forth in this paragraph) be tried before a single Justice of the Superior Court in Knox County sitting without a jury.

(b) Buyer further agrees that in any dispute or controversy with Seller as to the terms of this Agreement, or with respect to the matters described herein, and whether sounding in contract or tort, shall, at the election of Seller and at any time, be resolved by binding arbitration in accordance with the applicable provisions of the Maine Uniform Arbitration Act, at 14 M.R.S.A. § 5927 et seq. and as the same may be amended from time to time. Seller may further elect to submit less than all disputes or controversies as between Buyer and Seller to binding arbitration. Nothing herein shall be construed as limiting the rights or remedies of Seller pursuant to this Agreement or any document or agreement as between Buyer and Seller and at any time, whether or not Seller shall have previously demanded such arbitration.

10. **Assignment.** Buyer may assign its rights under this Agreement to any third party by a writing approved by Seller, but such assignment may not mitigate or modify Buyer's obligations and liability to Seller pursuant to the terms hereof. Any such assignment, in a form approved by and acceptable to counsel for Seller, must be executed and delivered by Buyer and the proposed assignee(s) to counsel for Seller at least seven (7) calendar days prior to the date of closing.

11. **Amendments.** This Agreement contains the entire agreement of the parties, and it may not be amended subsequent to the execution hereof except by a writing executed by each of the parties to this Agreement.

12. **Binding Nature.** This Agreement shall be binding upon the respective heirs, successors, personal representatives and assigns of the parties hereto.

13. **Applicable Law.** This Agreement shall be enforced and construed in accordance with the laws of the State of Maine.

14. **TIME IS OF THE ESSENCE AND NOT A MERE RECITAL.** Should Buyer default in any obligation under this Agreement, Buyer agrees to indemnify and hold Seller harmless from any resulting or consequential loss, claim or damage of any kind whatsoever, including but not limited to any attorneys' fees incurred by Seller.

IN WITNESS WHEREOF, Seller and Buyer have executed this Agreement in duplicate original as of the day and year first above written.

Witness:

**CAMDEN NATIONAL BANK**

\_\_\_\_\_

By: \_\_\_\_\_  
John Frohock  
Its Asst. Vice President

\_\_\_\_\_

\_\_\_\_\_  
**Buyer** - SS#/EID

\_\_\_\_\_

\_\_\_\_\_  
**Buyer** - SS#/EID

**Disclaimer:** Please read this Purchase and Sale Agreement carefully. Neither Seller nor the auctioneer, nor their respective agents, employees or attorneys, make any warranties or representations of any kind to Buyer beyond those expressly set forth in this Agreement. Further, none of such persons offer any advice to you as to any aspect of the arrangement reflected by, or contemplated by, the foregoing.

Counsel for Seller: Michael S. Haenn, Esq., 88 Hammond Street,  
Bangor, Maine 04401 ■ 207-990-4905 ■ [www.haennlaw.com](http://www.haennlaw.com)

**RELEASE DEED**

**Camden National Bank**, successor by merger to **Union Trust Company**, a corporation organized under the laws of the United States of America with a place of business in Camden, County of Knox and State of Maine, for consideration paid, releases to \_\_\_\_\_ **[Buyer]** \_\_\_\_\_, certain real property situated in Birch Harbor (Gouldsboro), County of Hancock and State of Maine, and more particularly bounded and described as follows:

A certain lot or parcel of land, together with the buildings thereon, situated in the Town of Gouldsboro (village of Birch Harbor), Hancock County, Maine and bounded and described as follows: Commencing at a birch tree near the line now or formerly of Albert Winslow; thence running west twenty-two rods to the middle of the town road; thence by middle of said town road twenty rods to a stake and a stone wall; thence back to the place of beginning, containing one-fourth of an acre, more or less.

Also hereby conveying a Perpetual Easement to enter in, over and upon and to use for all purposes including, but not limited to, locating, constructing, maintaining and repairing a certain building as presently located on a certain lot or parcel of land bounded and described as follows:

Beginning at a point on said town line, so-called, between the Municipalities of Winter Harbor and Gouldsboro on the southerly bound of a lot of land of Alda W. Cole as described in deed from Alda W. Cole to Alda W. Cole and Arthur W. Cole dated June 9, 1948 and recorded at Book 721, Page 563 in said Registry of Deeds and on the northerly bound of a lot of land described as conveyed in deed to Carl S. Dutch recorded at Book 1565, Page 439 in said Registry of Deeds, said point bearing approximately South eighty-four degrees East (S 84° E) one hundred thirty-five (135) feet, more or less, along said town line from an iron bolt found on the northerly side of said Route 186, so-called, said point marking the intersection of a line (that is located fifteen (15) feet northwesterly of and parallel with the northwesterly side of Carl Dutch's garage) with said town line; thence approximately North thirty-two degrees East (N 32° E) thirty-five (35) feet, more or less, along a line located fifty (15)[sic.] feet northwesterly of and parallel with said garage, to the intersection with the northwesterly projection of a line located fifteen (15) feet northeasterly of and parallel with the northeasterly side of said garage; thence approximately South fifty-eight degrees East (S 58° E) sixty (60) feet, more or less, along a line fifteen (15) feet northeasterly of and parallel with the northeasterly side of said garage, to the northerly bound of said Dutch lot and said town line; thence approximately North eighty-four West sixty-nine (69) feet, along said town line, along said Cole/Dutch bound, through said garage, to the point of beginning, containing two hundredths (.02) acres, more or less.

Orientation is based on Magnetic North as observed in 1989. In the event that said building as presently located on the hereinabove described premises is demolished or removed, said easement and all rights granted thereunder shall terminate.

The premises described above is subject to a Perpetual Easement for all purposes over said land now or formerly of Carl S. Dutch and described in the deed from Harold Gramse and Anna B. Gramse to Carl S. Dutch dated December 12, 1985 and recorded in the Hancock County Registry of Deeds in Book 1565, Page 439 to be used in common with said Carl S. Dutch, his heirs, successors and assigns, and which said easement or right of way is twenty (20) feet in width, the center line thereof being described as follows:

Beginning at a point in the centerline of the traveled way of the paved driveway, said point being in the town line, so-called, between the Municipality of Winter Harbor and the Municipality of Gouldsboro and in the north line of land of the Grantor, said point further being approximately South eighty-four degrees East (S. 84° E.) thirty (30) feet from an iron bolt set in the ground on the northerly side of State Route 186, so-called; thence South fifty-two degrees West (S. 52° W.) fifty (50) feet following the centerline of said paved driveway to the centerline of the traveled way of State Route 186, so-called. Orientation is based on Magnetic North as observed in 1989.

Subject to all municipal liens and encumbrances, including but not limited to real property taxes, whether or not of record in the Hancock Registry of Deeds. Further subject to all real estate transfer taxes.

For Grantor's source of title reference may be had to the mortgage deed of John S. Flubacher dated May 8, 2006 and recorded in the Hancock Registry of Deeds in Vol. 4485, Page 42. John S. Flubacher conveyed the property to Marcella M. Flubacher by a deed dated June 23, 2006 and recorded in the Hancock Registry of Deeds in Vol. 4522, Page 326. The Grantor foreclosed said mortgage deed in an action commenced in the Maine District Court (at Ellsworth) in the action docketed as *Camden National Bank v. Marcella M. Flubacher*, Docket No. ELL-RE-2009-152, and pursuant to an Order and Judgment of Foreclosure entered by the said Court. This deed is a conveyance of all right, title and interest of the Grantor and all parties to said action and in and to the above property pursuant to 14 M.R.S.A. § 6323.

For purposes of compliance with 14 M.R.S.A. § 6323(1):  
Newspaper in which publication occurred: *Bangor Daily News*.  
Dates of publication: January 9, 16, and 23, 2010.  
Sale date: February 10, 2010. [If the public sale was continued from the date reflected in the notice of public sale as printed in such newspaper, such sale was continued in accordance with 14 M.R.S.A. § 6323(1)].

In witness whereof, Camden National Bank has caused this instrument to be executed by John Frohock, Its Asst. Vice President duly authorized as of this \_\_\_\_\_ day of February, 2010.

Witness:

**CAMDEN NATIONAL BANK  
successor by merger to  
Union Trust Company**

\_\_\_\_\_

By: \_\_\_\_\_  
John Frohock  
Its Asst. Vice President

State of Maine  
Knox, ss.

February \_\_\_\_, 2010

Personally appeared the above-named John Frohock, Asst. Vice President of Camden National Bank, and acknowledged the foregoing instrument by him signed to be his free act and deed in said capacity and the free act and deed of said corporation.

Before me,

\_\_\_\_\_  
Notary Public  
Printed Name:

**NOTICE OF PUBLIC SALE**

14 M.R.S.A. § 6323

Notice is hereby given that in accordance with an Order and Judgment of Foreclosure dated November 17, 2009 and entered by the Maine District Court (at Ellsworth) in the action entitled *Camden National Bank v. Marcella M. Flubacher*, Docket No. ELL-RE-2009-152, and wherein the Court adjudged a foreclosure of a mortgage deed granted by John S. Flubacher dated May 8, 2006 and recorded in the Hancock Registry of Deeds in Vol. 4485, Page 42; the period of redemption from said judgment having expired; a public sale will be conducted on February 10, 2010 commencing at 11:00 a.m. at 509 Main Street, Birch Harbor (Gouldsboro), Maine. The property is also described on the Gouldsboro Tax Maps as Map \_\_\_\_, Lot \_\_\_\_\_. Reference should be had to said mortgage deed for a more complete legal description of the property to be conveyed.

The property will be sold by public auction subject to all outstanding municipal assessments. The deposit to bid is \$5,000.00, and with the balance due and payable within 30 days of the public sale. Conveyance of the property will be by release deed. All other terms will be announced at the public sale.