OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

PITMAN PLACE DEVELOPMENT, LLC,	)	No. ED94456
Appellant,	)	Appeal from the Circuit Court of St. Louis County
vs.	)	Honorable David Lee Vincent III
HOWARD INVESTMENTS, LLC,	)	
Respondent.	)	FILED: November 23, 2010

Pitman Place Development, L.L.C. (Pitman) appeals from the judgment of the trial court finding that defendant, Howard Investments, L.L.C. (Howard), was entitled to enforce a promissory note and deed of trust against Pitman that had been executed by Pitman's designated manager, Matt Burghoff (Burgoff). After fraudulently altering Pitman's operating agreement, Burghoff entered into a loan transaction with Rockwood Bank whereby Burghoff executed a promissory note and deed of trust on behalf of Pitman. Rockwood Bank later transferred the promissory note and deed of trust to Howard.

AFFIRMED.

Division Four holds: 1) Burghoff had apparent authority to enter into the loan transaction with Rockwood Bank and bind Pitman to the promissory note and deed of trust. 2) Burghoff's actions in entering into the loan transaction with Rockwood Bank were consistent with the requirements of Section 347.065, as execution of the promissory note and deed of trust was "apparently for the carrying on the usual way of business or affairs" of Pitman. 3) Under the "shelter rule," Howard obtained rights as a holder in due course to enforce the promissory note and deed of trust from Rockwood Bank. 3) The Rockwood Bank deed of trust was a negotiable instrument. 4) Pitman abandoned its last point on appeal by failing to fully develop the argument.

Opinion by: Kurt S. Odenwald, P.J. Robert G. Dowd, Jr., J. and Nannette A. Baker, J., Concur.

Attorney for Appellant: Steven M. Cockriel

Attorney for Respondent: Richard A. Wunderlich, and Anne R. Kerns

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