

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

BERNSTEIN FAMILY REALTY, LLC,

Case No. 22-13009-EPK

Debtor.

Chapter 7

**MOTION FOR LIMITED ANNULMENT OF AUTOMATIC STAY
RETROACTIVE TO PETITION DATE**

Joanna Sahm, as personal representative of the estate of Walter Sahm, and Patricia Sahm (together, the "Secured Creditors"), by and through their undersigned counsel and pursuant to 11 U.S.C. § 362(d), hereby request that the Court, for one limited purpose, annul the automatic stay, retroactive to the petition date. In support, the Secured Creditors state as follows:

Relevant Facts

a. The Debtor

1. Beyond speculative litigation claims, the sole asset of Bernstein Family Realty, LLC (the "Debtor") is the non-income producing real property located at 2753 N.W. 34th Street, Boca Raton, Florida 33434 (the "Real Property").

2. The Debtor is a non-operating entity without an attorney representing it in this bankruptcy case.

3. The Debtor has no employees. *See* Schedule E, ECF No. 53.

4. The Debtor has few, if any, unsecured creditors. *See* Schedule F, ECF No. 53.

b. The Judgment and Resulting Efforts to Vacate and Reverse It

5. The Secured Creditors hold a claim against the Debtor that is secured by the Real Property. Specifically, the Secured Creditors are the holders of that certain *Final Judgment of*

Foreclosure (the “Judgment”) in the amount of \$353,574.68 against the Debtor—which also foreclosed on the Real Property—entered by the Circuit Court for the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (the “State Court”) in Case No. 2018-CA-002317AXX (the “State Court Case”). A copy of the Judgment is attached hereto as **Exhibit 3**.

6. The State Court Case was initiated by the Secured Creditors against the Debtor on February 23, 2018 via a one-count complaint seeking to foreclose on a mortgage on the Real Property.¹

7. The Defendants in the State Court case also include Eliot Bernstein, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein (the “Bernsteins”).

8. The Judgment was entered by the State Court on December 23, 2021. Pursuant to the Judgment, a public sale of the property was scheduled for April 20, 2022.

9. On January 5 and 6, 2022, the Bernsteins each filed a motion, in the State Court Case, for rehearing and to vacate the Judgment pursuant to Florida Rule of Civil Procedure 1.530 (the “Motions to Vacate”).

10. On January 24, 2022, Eliot Bernstein on the one hand, and Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein on the other hand, filed appeals of the Judgment with the Florida Fourth District Court of Appeal (the “Appellate Court”), thereby initiating Appellate Case Nos. 22-0264 and 22-0262 (the “Appellate Cases”).

11. On January 26, 2022, the Appellate Court entered an order in each Appellate Case holding such Appellate Case in abeyance pending the State Court’s disposition of the Motions to Vacate.

¹ As set forth in the operative Third Amended Complaint, on June 20, 2008, the Debtor made a promissory note in favor of Walter Sahm and Patricia Sahm, secured by a mortgage on the Real Property. A copy of such operative complaint is attached hereto as **Exhibit 2**.

12. On February 14, 2022, the Secured Creditors filed, in the State Court Case, a response addressing the arguments raised in the Motions to Vacate.

13. On February 10, 17, and March 4, 2022, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein filed replies to such response.

14. On February 23, 2022, the Appellate Court, *sua sponte*, dismissed Appellate Case 22-0262 filed by Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein for non-payment of the \$300 filing fee. On March 4, 2022, the Appellate Court reinstated Appellate Case 22-0262.

15. On April 2, 2022, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein filed, in the State Court Case, a further paper in support of the Motions to Vacate wherein the Bernsteins stated at the end:

WHEREFORE, it is respectfully prayed for an immediate Order Vacating [the Judgment] . . . and Dismissing this action with prejudice and for such other and further relief as may be just and proper.

16. On April 17 and 18, 2022, the Bernsteins filed motions in the State Court Case requesting an order canceling the April 20, 2022 foreclosure sale of the Real Property.

c. The Bankruptcy Case and the Subsequent State Court Action

17. On April 19, 2022 (the “Petition Date”), the Debtor’s beneficial owners, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein (the “Petitioning Bernsteins”) filed an involuntary chapter 11 bankruptcy petition (the “Petition”) against the Debtor, thereby commencing this case.² For the reasons set forth in the Secured Creditors’ *Motion to Dismiss with*

² The Petitioning Bernsteins are not creditors of the Debtor. The Petitioning Bernsteins own the Debtor as beneficiaries of several trusts that owns the Debtor. *See* ECF No. 1 at ECF Page 5, ¶3 and at ECF Pages 6-7, ¶¶12-14.

Prejudice, ECF No. 52, such involuntary petition was improper, contained false statements, and was filed in bad faith.

18. On April 19, 2022, Candice Bernstein and Eliot Bernstein each filed suggestions of bankruptcy advising the State Court of the pendency of this bankruptcy case.

19. May 25, 2022, the State Court entered its *Omnibus Order Denying Motions for Rehearing* (the “State Court Denial Order”) wherein the State Court denied the Motions to Vacate. A copy of State Court Denial Order is attached hereto as **Exhibit 1**.

20. On June 22, 2022, the Appellate Court entered an order acknowledging this bankruptcy case and the automatic stay.

d. Summary of Relevant Facts

21. In sum:

a. The underlying State Court Case between the Secured Creditors and the Debtor has been pending for over four years and has progressed to the point of post-judgment litigation and appeal.

b. The underlying State Court Case involves a complaint containing a single count for foreclosure of the Secured Creditors’ mortgage on the Real Property.

c. The Debtor has not sought to vacate, appeal, or reverse the Judgment.

d. Since the entry of the Judgment, the Bernsteins have actively sought, in the State Court and the Appellate Court, to vacate and reverse the Judgment.

e. The Bernsteins’ Motions to Vacate the Judgment had the effect of abating the consideration of the Bernsteins’ pending appeals of the Judgment.

f. The Petitioning Bernsteins—near the eve of their initiation of this bankruptcy case—sought an immediate order from the State Court vacating the Judgment.

g. The Petitioning Bernsteins initiated this bankruptcy case improperly, falsely, and in bad faith in an effort to prevent the April 20, 2022 foreclosure sale scheduled via the Judgment from going forward.

h. The Secured Creditors have taken no action whatsoever in violation of the automatic stay.

i. The State Court, postpetition and on its own volition without any prompting from any party, entered the State Court Denial Order, solely denying the relief repeatedly sought by the Bernsteins.

j. The State Court Denial Order did not cause a foreclosure sale of the Real Property to be rescheduled.

Relief Requested and Argument

22. The Secured Creditors request that the Court annul the 11 U.S.C. § 362(d) automatic stay—retroactive to the April 19, 2022—for the sole purpose of ensuring that the automatic stay shall have no effect on the validity of the State Court Denial Order.

23. While “actions taken in violation of the automatic stay are generally deemed void and without effect,” section 362(d) permits bankruptcy courts to annul, *i.e.*, retroactively modify or terminate, the automatic stay for cause. *In re Barr*, 318 B.R. 592, 597-98 (Bankr. M.D. Fla. 2004) (quoting and citing *In re Albany Partners, Ltd.*, 749 F.2d 670, 675 (11th Cir. 1984)). As explained by the *Barr* Court:

Several factors have been identified by Courts when determining whether circumstances are sufficiently compelling to warrant retroactive annulment of the

stay. Such factors include (1) whether the creditor had actual or constructive knowledge of the bankruptcy filing, (2) whether the debtor acted in bad faith, (3) whether grounds would have existed for modification of the stay if a motion had been filed before the violation, (4) whether the denial of retroactive relief would result in unnecessary expense to the creditor, and (5) whether the creditor has detrimentally changed its position on the basis of the action taken.

In re Barr, 318 B.R. at 598. Once the party seeking annulment of the automatic stay demonstrates “the presence of circumstances warranted annulment of the stay, the debtor then bears the ultimate burden of proving that the request for retroactive relief from the stay should be denied.” *Id.* at 599.

24. In this instance, compelling circumstances exist for the Court to annul the automatic stay in order to prevent the State Court Denial Order from being void.

25. First, while the Secured Creditors have had actual knowledge of the bankruptcy case since its outset, the Secured Creditors took no action in violation of the automatic stay. Second, and as set forth above, the Petitioning Bernsteins filed this bankruptcy case in bad faith. Third, denial of the limited retroactive stay relief requested herein would only serve to increase the expenses of the Secured Creditors by: (a) causing the Secured Creditors to inform the State Court that its State Court Denial Order is void, and (b) necessitating the reissuance of the State Court Denial Order once the automatic stay is no longer in effect.

26. Finally, if the Secured Creditors would have moved to modify the stay at the outset of this bankruptcy case in order to permit the State Court to rule on the pending Motions to Vacate, cause would have existed for the Court to grant such request. As set forth above, this bankruptcy case was initiated by the Petitioning Bernsteins improperly, falsely, and in bad faith, thereby supplying cause to modify the automatic stay. *See In re Dixie Broadcasting, Inc.*, 871 F.2d 1023, 1026 (11th Cir. 1989) (“[A] petition filed in bad faith . . . justifies relief from a stay.”). Separately, cause existed at the outset of this bankruptcy case to modify the automatic stay and thereby permit the State Court to rule on the pending Motions to Vacate, simply based on the unique posture of

the State Court Case. *See In re American Spectrum Realty, Inc.*, 540 B.R. 730, 737 (Bankr. 540 B.R. 730, 737 (Bankr. C.D. Cal. 2015) (listing factors to consider).³

³ “There are 12 non-exclusive factors that courts weigh to determine whether ‘cause’ exists to grant relief to allow an entity to continue pending litigation against a debtor in a non-bankruptcy forum, including:

1. Whether the relief will result in a partial or complete resolution of the issues;
2. The lack of any connection with or interference with the bankruptcy case;
3. Whether the foreign proceeding involves the debtor as a fiduciary;
4. Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases;
5. Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
6. Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
7. Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
8. Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);
9. Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
10. The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
11. Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
12. The impact of the stay on the parties and the ‘balance of hurt.’

In re American Spectrum Realty, Inc., 540 B.R. at 737 (emphasis added). “The most important factor in determining whether to grant relief from the automatic stay to permit litigation against the debtor in another forum is the effect of such litigation on the administration of the estate.” *Id.* at 739 (internal quotation marks omitted).

As applicable, such factors would have weighed in favor of limited-purpose modification of the automatic stay at the outset of the case because:

- a. The relief requested would have resulted in a complete resolution of the Motions to Vacate;
- b. Resolving the Motions to Vacate would in no way interfere with the bankruptcy case, as the Judgment has already been entered, remains valid and effective, and the appeals of the Judgment would remain stayed;
- c. The State Court, having entered the Judgment, and having presided over the State Court Case for over four years, is the most proper tribunal for a ruling on the Motions to Vacate;
- d. No other creditors would have been prejudiced by permitting the State Court to rule on the Motions to Vacate because the Motions to Vacate were already fully-briefed and pending, and a ruling denying the Motions to Vacate would only have the effect of reviving the abated appeals of the Judgment (with such appeals remaining stayed pursuant to section 362);
- e. Permitting the State Court to rule on the pending and fully briefed Motions to Vacate would serve the interests of judicial economy and the expeditious and economical determination of litigation for the parties;
- f. By the Petition Date, the State Court Case had already progressed, after four years, to the point of the post-judgment litigation and appeal; and
- g. No parties would have been unfairly prejudiced by such limited modification of the automatic stay because, as set forth above, the Motions to Vacate were already

fully-briefed and pending, and because the State Court Denial Order did not have any effect other than to revive the abated (but still stayed) appeals of the Judgment.

27. Accordingly, cause exists for the Court to grant this Motion and the limited annulment of the automatic stay requested herein.

WHEREFORE, the Secured Creditors respectfully request that the Court annul the 11 U.S.C. § 362(d) automatic stay—retroactive to the April 19, 2022—for the sole purpose of ensuring that the automatic stay shall have no effect on the validity of the State Court Denial Order.

ATTORNEY CERTIFICATION

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via Notice of Electronic Filing to those parties registered to receive electronic noticing in this case on July 15, 2022.

SHRAIBERG PAGE P.A.
Counsel for the Secured Creditors
2385 NW Executive Center Drive, #300
Boca Raton, Florida 33431
Telephone: 561-443-0800
Facsimile: 561-998-0047
bss@slp.law

By: /s/ Bradley S. Shraiberg
Bradley S. Shraiberg
Florida Bar. No. 121622

EXHIBIT 1

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CIVIL DIVISION DIV: "AF"
CASE NO.: 2018CA002317AXX

WALTER E. SAHM, and
PATRICIA SAHM,

Plaintiffs,

vs.

BERNSTEIN FAMILY REALTY, LLC, *et. al.*,

Defendants.

OMNIBUS ORDER DENYING MOTIONS FOR REHEARING

THIS CAUSE came before the Court on the following Motions: (1) Defendant, Eliot Bernstein's *Pro Se* Motion for Rehearing to Vacate Final Judgment of Foreclosure (DE #90, 98), filed January 5, 2022 and January 6, 2022, respectively; (2) Defendants Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein's Motion for Rehearing to Vacate Final Judgment of Foreclosure (DE ##91, 92), filed January 5, 2022; (3) Defendant, Candice Bernstein's *Pro Se* Motion for Rehearing to Vacate Final Judgment of Foreclosure (DE #93), filed January 5, 2022. The Court, having reviewed the Defendants' various Motions, the Plaintiffs' Response in Opposition (DE #119), filed February 10, 2022, Defendants Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein's Amended Reply thereto (DE #123), filed February 17, 2022, having reviewed the court file and record, including the Final Judgment of Foreclosure (DE #88), entered December 23, 2021, and the bases therefore, and after being otherwise duly advised in the premises, it is hereby

ORDERED and ADJUDGED that Defendants Eliot Bernstein, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein's Motions for Rehearing to Vacate Final Judgment of Foreclosure are all **DENIED**.

DONE and ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this 24 day of May, 2022.


JOHN S. KASTRENAKES
Circuit Judge

COPIES PROVIDED:

All counsel of Record

EXHIBIT 2

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2018-CA-002317-XXXX-MB

WALTER E. SAHM and
PATRICIA SAHM

Plaintiffs,

v.

BERNSTEIN FAMILY REALTY, LLC,
BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE
OF SIMON L. BERNSTEIN;
ALEXANDRA BERNSTEIN,
ERIC BERNSTEIN,
MICHAEL BERNSTEIN,
MOLLY SIMON,
PAMELA B. SIMON,
JILL IANTONI,
MAX FRIEDSTEIN,
LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN
REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND
RESTATE;
ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL
GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND
ALL UNKNOWN TENANTS.

Defendants

/

PLAINTIFFS' THIRD AMENDED COMPLAINT FOR FORECLOSURE

Plaintiffs, WALTER E. SAHM, an individual, and PATRICIA SAHM, an individual, by
and through their undersigned counsel, hereby sue BERNSTEIN FAMILY REALTY, LLC, a
Florida Limited Liability Company, BRIAN O'CONNELL, AS SUCCESSOR PERSONAL
REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN; ALEXANDRA
BERNSTEIN, ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON, PAMELA B.

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

SIMON, JILL IANTONI, MAX FRIEDSTEIN, LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED; ELIOT BERNSTEIN, AND CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND ALL UNKNOWN TENANTS and allege:

JURISDICTION AND VENUE

1. The Court has subject matter jurisdiction over this action because it is both an action in equity seeking to foreclose a mortgage on real property, and because it is an action seeking to enforce a promissory note for damages in excess of fifteen thousand dollars (\$15,000.00).

2. Venue is proper in Palm Beach County, pursuant to § 47.011, Florida Statutes, because Palm Beach County is the county in which the subject property is located.

3. All conditions precedent and necessary to bring this cause of action either have been performed, have occurred, have been waived, or otherwise excused.

PARTIES¹

4. Plaintiff, WALTER E. SAHM (“Mr. Sahm”), is an individual residing in Palm Beach County, Florida, and at all times material was *sui juris*.

5. Plaintiff, PATRICIA SAHM (“Mrs. Sahm”), is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

¹ Mr. Sahm and Mrs. Sahm may collectively be referred to as the “Sahms.”

LAW OFFICES OF SWEETAPPLE, BROEKER & VARKAS, P.L.

4800 N. FEDERAL HIGHWAY, SUITE B105, BOCA RATON, FLORIDA 33431

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

6. Defendant, BERNSTEIN FAMILY REALTY, LLC (“BFR”) is an administratively dissolved Florida Limited Liability, with its principal place of business in Boca Raton, Florida, and its registered agent, T&S Registered Agents, LLC, also located in Boca Raton, Florida.

7. BRIAN O’CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*, and is serving as the personal representative of the estate of Simon Bernstein, who was the second mortgage holder of the subject property.

8. ALEXANDRA BERNSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

9. ERIC BERNSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

10. MICHAEL BERNSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

11. MOLLY SIMON, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

AND RESTATED is an individual residing in Tuscon, Arizona, and all times material was *sui juris*.

12. PAMELA B. SIMON, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Chicago, Illinois, and all times material was *sui juris*.

13. JILL IANTONI, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Highland Park, Illinois and all times material was *sui juris*.

14. MAX FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

15. LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

16. ELIOT BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN; AND ALL UNKNOWN TENANTS BERNSTEIN is a known tenant of the subject property, and is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

17. CANDICE BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF OF MINOR CHILDREN JO., JA. AND D. BERNSTEIN, is a known tenant of the subject property, and is an individual residing in Palm Beach County, Florida, and all times material was *sui juris*.

18. All UNKNOWN TENANTS (“Tenants”) who are unidentified but are either residing on the subject property or may claim an interest in the subject property, as a spouse, heir, devisee, grantee, or other name, are joined as defendants, and whose interest is subordinate, junior, and inferior to Plaintiff’s interest.

COUNT I – FORECLOSURE OF MORTGAGE

19. This action seeks to foreclose a mortgage on real property which secures an outstanding debt owed under a promissory note between the parties.

20. On June 20, 2008, BFR entered into a Promissory Note (“Note”) with the Sahms, agreeing to pay the Sahms the sum of \$110,000.00 plus interest under terms set forth in the Note. **Exhibit “1”.**

21. On June 20, 2008, BFR executed a Mortgage on real property in favor of the Sahms as collateral to the debt owed under the Note. **Composite Exhibit “2”.**

22. The Mortgage was recorded on June 26, 2008 in the Public Records of Palm Beach County, Florida: O.R. Book 22723, Page 0691.

23. On February 15, 2012, BFR and the Sahms executed an Amendment to Mortgage and Promissory Note (“Amendment” to the Note and Mortgage). **Composite Exhibit “3”.**

24. The Amendment was recorded on April 12, 2012 in the Public Records of Palm Beach County, Florida: O.R. Book 25132, Page 1051.

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

25. The Sahms both own and hold both the Note and Mortgage.

26. Defendant BRIAN O'CONNELL, THE PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN is serving as the personal representative of the estate of Simon Bernstein, who was the second mortgage holder.

27. The Second Mortgage was recorded on September 4, 2008 in the Public Records of Palm Beach County, Florida: OR Book 22841, Page 1818.

28. BFR owns the subject property and is in possession of it.

29. BFR defaulted under, and subsequently breached its obligations under both the Note and Mortgage by failing to make all necessary payments under the Note, Mortgage, and Amendment.

30. As of the date of the filing of this Amended complaint, BFR owes the Sahms at least \$235,898.94, including \$110,000.00 in principal, \$102,838.00 in interest and default interest, \$23,060.94 in taxes paid by the Sahms, exclusive of both attorney's fees and costs.

31. The Defendants' interests in the land is subordinated to the mortgagee's.

WHEREFORE, Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, pray for a final judgment of foreclosure against Defendants BERNSTEIN FAMILY REALTY, LLC, a Florida Limited Liability Company, BRIAN O'CONNELL, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF SIMON L. BERNSTEIN; ALEXANDRA BERNSTEIN, ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON, PAMELA B. SIMON, JILL IANTONI, MAX FRIEDSTEIN, LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT DATED MAY 20, 2008, AS AMENDED AND RESTATED; ELIOT BERNSTEIN, AND CANDICE

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

BERNSTEIN, INDIVIDUALLY AND AS NATURAL GUARDIANS OF MINOR CHILDREN

JO., JA. AND D. BERNSTEIN; AND ALL UNKNOWN TENANTS:

- a. concluding that Plaintiffs' Mortgage is a valid Lien on the subject property and is superior to any lien of record;
- b. foreclosing Plaintiffs' Mortgage;
- c. foreclosing of all Defendants named in this action;
- d. delivering full possession of the subject property to Plaintiffs;
- e. retaining jurisdiction for the Court to determine any deficiency to which Plaintiffs may be entitled; and
- f. retaining jurisdiction to determine the reasonable amount of both attorney's fees and costs which Plaintiffs are entitled to recover against Defendant; and
- g. any other relief which the Court deems just and proper.

ATTORNEY FEE DEMAND

Plaintiffs, WALTER E. SAHM and PATRICIA SAHM, have retained the undersigned law firm to represent them in this action. The Note, which the Sahms are suing to enforce, contains an attorney's fees provision. Plaintiff hereby exercises that entitlement and prays for its attorney's fees and costs.

Respectfully submitted,

SWEETAPPLE, BROEKER & VARKAS, P.L.
Attorneys for Plaintiff/Counter-Defendant
4800 N. Federal Highway, Suite B105
Boca Raton, Florida 33431
Telephone (561) 392-1230
Email: pleadings@sweetapplelaw.com

Walter E. Sahm and Patricia Sahm v. Bernstein Family Realty, LLC. et al.

Case No.: 50-2018-CA-002317-XXXX-MB

Motion for Leave to File Third Amended Complaint for Foreclosure

By: /S/ Robert A. Sweetapple
ROBERT A. SWEETAPPLE
Florida Bar No. 0296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via the E-Filing Portal this 18th day of June, 2019 to: Eliot Ivan Bernstein, 2753 NW 34th St., Boca Raton, FL 33434, (iviewit@iviewit.tv); Brian O'Connell, Esq., and Ashley Crispin Ackal, Esq., O'Connell & Crispin, PLLC, 420 Royal Palm Way, Palm Beach, FL 33480 (boconnell@ocalawyers.com; acrispinackal@ocalawyers.com).

PROMISSORY NOTE

\$110,000.00

June 20, 2008
Boca Raton, Palm Beach County, Florida

FOR VALUE RECEIVED, the undersigned promise to pay to the order of Walter E. Sahm and Patricia Sahm, his wife at 8230 SE 177th Winterthru Loop, The Villages, FL 32162 or at such other address as may be indicated in writing, in the manner hereinafter specified, the principal sum of One Hundred Ten Thousand and 00/100 Dollars (\$110,000.00) with interest from the date hereof, at the rate of Six and One Half percent (6.5%) per annum on the balance from time to time remaining unpaid. The said principal and interest shall be payable in lawful money of the United States of America, on the date and in the following manner:

The sum of \$7,150.00 representing a payment of interest only shall be due and payable on June 19, 2009, and on June 19, 2010, and on June 19, 2011 at which time all unpaid principal and accrued but unpaid interest shall be due and payable in full.

All payments shall be first applied to late charges, if any, then to the payment of accrued interest, and the balance remaining, if any, shall be applied to the payment of the principal sum.

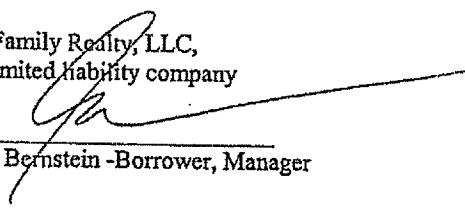
This note may be prepaid, in whole or in part, without penalty, at any time prior to maturity.

This note with interest is secured by a purchase money mortgage, of even date herewith, the terms of which are incorporated herein by reference, made by the makers hereof in favor of the said payee, is given as part of the purchase price of the real property described in the mortgage, and shall be construed and enforced according to the laws of the State of Florida.

If default be made in the payment of any installment under this note, and if such default is not made good within 15 days, the entire principal sum and accrued interest shall at once become due and payable without notice at the option of the holder of this Note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at a later time for the same default or for any subsequent default. Any payment not received within 10 days of the due date shall include a late charge of 5% of the payment due. In the event of default in the payment of this note, interest shall accrue at the highest rate permitted by law, and if the same is placed in the hands of any attorney for collection, the undersigned hereby agree to pay all costs of collection, including a reasonable attorneys' fee.

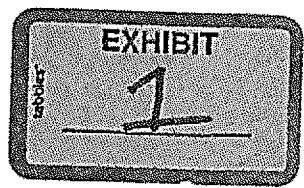
Makers waive demand, presentment for payment, protest, and notice of nonpayment and dishonor.

Bernstein Family Realty, LLC,
a Florida limited liability company

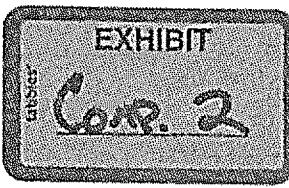
By: 
Simon Bernstein -Borrower, Manager

(Corporate Seal)

The state documentary tax due on this Note has been paid on the Mortgage securing this indebtedness.



DoubleTime®



Prepared by and return to:

John M. Cappeller, Jr.
Florida Title & Closing Co.
350 Camino Gardens Blvd. Suite 303
Boca Raton, FL 33432
561-392-3636

File Number: FT08-087 Will Call No.: 159

CFN 20080241511
OR BK 22723 PG 0691
RECORDED 06/26/2008 09:06:17
Palm Beach County, Florida
AMT 110,000.00
Deed Doc 385.00
Intang 220.00
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0691 - 694; (4pgs)

[Space Above This Line For Recording Data]

**THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT
OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$110,000.00,
TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL
ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF
THIS MORTGAGE.**

MORTGAGE

This Indenture, Made this June 20, 2008 by and between Bernstein Family Realty, LLC, a Florida limited liability company whose address is 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, FL 33431, hereinafter called the Mortgagor, and Walter E. Sahm and Patricia Sahm, his wife whose address is 8230 SE 177th Winterthru Loop, The Villages, FL 32162, hereinafter called the Mortgagee:

The terms "Mortgagor" and "Mortgagee" shall include heirs, personal representatives, successors, legal representatives and assigns, and shall denote the singular and/or the plural, and the masculine and/or the feminine and natural and/or artificial persons, whenever and wherever the context so admits or requires.

Witnesseth, that the said Mortgagor, for and in consideration of the aggregate sum named in the promissory note, a copy of which is attached hereto and made a part hereof, the receipt of which is hereby acknowledged, does grant, bargain and sell to the said Mortgagee, his successors and assigns, in fee simple, the following described land, situate, lying and being in Palm Beach County, Florida, to-wit:

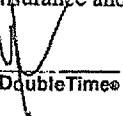
**Lot 68, Block G, BOCA MADERA UNIT 2, according to the Plat thereof, recorded in Plat Book 32,
Pages 59 AND 60, of the Public Records of Palm Beach County, Florida.**

And the said Mortgagor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

Provided always, that if said Mortgagor, his successors or assigns, shall pay unto the said Mortgagee, his successors or assigns, that certain promissory note, of which a true and correct copy is attached, and Mortgagor shall perform, comply with and abide by each and every stipulation, agreement, condition and covenant of said promissory note and of this mortgage, and shall duly pay all taxes, all insurance premiums reasonably required, all costs and expenses including reasonable attorneys fees that Mortgagee may incur in collecting money secured by this mortgage, and also in enforcing this mortgage by suit or otherwise, then this mortgage and the estate hereby created shall cease and be null and void.

Mortgagor hereby covenants and agrees:

1. To pay the principal and interest and other sums of money payable by virtue of said promissory note and this mortgage, or either, promptly on the days respectively the same severally come due.
2. To keep the buildings now or hereafter on the land insured for fire and extended coverage in a sum at least equal to the amount owed on the above described promissory note, and name the Mortgagee as loss payees, and to furnish Mortgagee with a copy of all current policies. If Mortgagor does not provide Mortgagee with copies of the policies showing Mortgagee as loss payees after 14 days written demand by Mortgagee, then Mortgagee may purchase such insurance and

Initials: 
Double Time

shall add any payments made for such policy to the principal balance owed on the mortgage, and such payments shall accrue interest at the maximum rate of interest allowed by law. In the event any sum of money becomes payable under such policy, Mortgagee, his legal representatives or assigns, shall have the option to receive and apply the same on account of the indebtedness hereby secured or to permit Mortgagor to receive and use it or any part thereof for repair or replacement, without hereby waiving or impairing any equity, lien or right under or by virtue of this mortgage. In the event of loss Mortgagor shall give immediate notice to Mortgagee.

3. To permit, commit or suffer no waste, impairment or deterioration of the property, or any part thereof.
4. To permit no other lien or mortgage to be placed ahead of this mortgage.
5. Mortgagor shall provide proof of payment of annual real estate taxes by March 15, for the preceding years taxes. In the event that Mortgagor does not pay the taxes by such date, the Mortgagee may pay the taxes and the full amount of such payment by Mortgagee shall be added to the principal balance owed on the mortgage, and shall accrue interest at the maximum rate allowed by law.
6. The Mortgagee may, at any time pending a suit upon this mortgage, apply to the court having jurisdiction thereof for the appointment of a receiver, and such court shall forthwith appoint a receiver, and such receiver shall have all the broad and effective functions and powers in anywise entrusted by a court to a receiver, and such appointment shall be made by such court as an admitted equity and a matter of absolute right to said Mortgagee. The rents, profits, income, issues, and revenues shall be applied by such receiver according to the lien of this mortgage.
7. If any of the sums of money due and owing to Mortgagee under the terms of the promissory note and this mortgage, including but not limited to any advance made by Mortgagee for the payment of insurance or taxes, are not paid within 15 days after the same become due and payable, or if each of the stipulations, agreements, conditions and covenants of the promissory note and this mortgage, or either, are not fully performed or complied with the aggregate sum owed on the promissory note shall become due and payable forthwith or thereafter at the option of Mortgagee, his successors, legal representatives, or assigns.

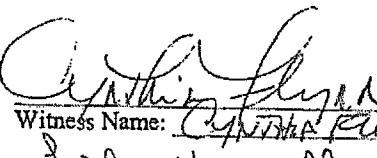
This mortgage and the note hereby secured shall be construed and enforced according to the laws of the State of Florida.

The principal sum secured hereby, along with any interest to be paid in accordance with the terms of the note secured hereby, shall immediately become due and payable without notice, if a transfer of title to the premises by sale or otherwise is made without the Mortgagee's written consent, while this mortgage remains a lien thereon, at the option of Mortgagee, his successors, legal representatives, or assigns.

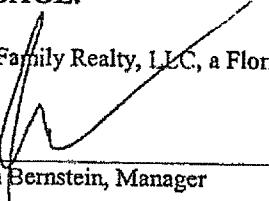
Executed at Palm Beach County, Florida on the date written above.

Signed, sealed and delivered in the presence of:

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OR THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$110,000.00, TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE.


 Witness Name: Cynthia Ryan

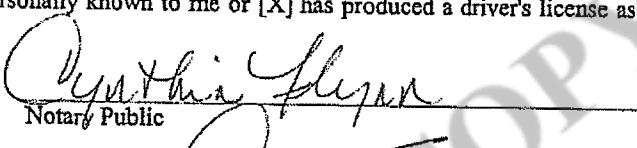
 Witness Name: Linda Marcell

Bernstein Family Realty, LLC, a Florida limited liability company
 By: 
 Simon Bernstein, Manager

State of Florida
County of Palm Beach

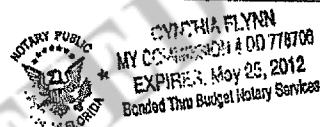
The foregoing instrument was acknowledged before me this 20th day of June, 2008 by Simon Bernstein of Bernstein Family Realty, LLC, on behalf of the corporation. He/she is personally known to me or has produced a driver's license as identification.

[Notary Seal]


Notary Public

Printed Name: Cynthia Flynn

My Commission Expires: _____



159
Prepared by and return to:

John M. Cappeller, Jr.
Cappeller Law
John M. Cappeller, Jr.
350 Camino Gardens Blvd., Suite 303
Boca Raton, FL 33432

CFN 20120143493
OR BK 25132 PG 1051
RECORDED 04/12/2012 09:21:00
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 1051 - 1054; (4pgs)

AMENDMENT TO MORTGAGE AND PROMISSORY NOTE

This AMENDMENT TO MORTGAGE AND PROMISSORY NOTE (this "Amendment") is entered into effective the 15 day of February, 2012, among BERNSTEIN FAMILY REALTY, LLC, a Florida limited liability company, having an address at 950 Peninsula Corporate Circle, Suite 3010, Boca Raton, FL 33487 (the "Mortgagor"), and WALTER E. SAHM and PATRICIA SAHM, having an address at 8230 SE 177th Winterthru Loop, The Villages, FL 32162 ("Mortgagee").

WITNESSETH

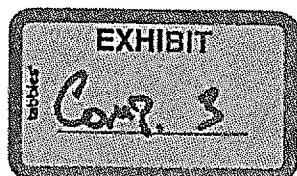
WHEREAS, Mortgagee granted Mortgagor a purchase money mortgage in the amount of \$110,000.00, evidenced by that certain Promissory Note dated June 20, 2008, (the "Promissory Note"); and

WHEREAS, the Promissory Note is secured, inter alia, by that certain Mortgage dated June 20, 2008 from Mortgagor in favor of Mortgagee, recorded on June 26, 2008 in Official Records Book 22723, Page 691, of the Public Records of Palm Beach County, Florida (the "Mortgage"); and

WHEREAS, Mortgagor has asked Mortgagee to extend the term of the Mortgage and the Promissory Note (the "Amendment"); and

WHEREAS, to document the Amendment, Mortgagor is executing and delivering to Mortgagee this Amendment to Mortgage and Promissory Note;

DOCUMENTARY STAMP TAXES AND INTANGIBLE TAXES ON THE ORIGINAL INDEBTEDNESS OF \$110,000.00 WERE PAID IN FULL UPON THE RECORDING OF THE MORTGAGE AND SECURITY AGREEMENT DATED JUNE 20, 2008 AND RECORDED ON JUNE 26, 2008 IN OFFICIAL RECORDS BOOK 22723 PAGE 691, IN THE PUBLIC RECORDS OF PALM BEACH, FLORIDA.



NOW THEREFORE, in consideration of the foregoing premises and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Amendment to Mortgage and Promissory Note. Effective June 19, 2011, the parties hereto amend the Mortgage and Promissory Note to provide that by agreement the date on which all principal is due and payable is hereby extended to June 19, 2014. Annual payments of interest only at the rate of 3.5% per annum shall continue to be due on the anniversary date of the Promissory Note until June 19, 2014 when all unpaid principal and accrued interest shall be due and payable in full.

2. Confirmation and Ratification. Mortgagor hereby ratifies and confirms all its obligations set forth in the Mortgage and Promissory Note. Mortgagor hereby certifies to Mortgagee that no event of default has occurred under such documents, nor any event which, with the giving of notice or the passage of time or both, would constitute such an event of default. Mortgagor hereby represents and warrants to Mortgagee that Mortgagor has no defense or offsets against the payment of any amounts due, or the performance of any obligations required by, the Loan Documents.

3. Miscellaneous.

(a) Except as expressly amended herein, the Mortgage and Promissory Note remain in full force and effect.

(b) This Amendment may be executed in multiple counterparts each of which, when taken together, shall constitute one and the same instrument.

(c) In the event of any inconsistency between the terms contained herein, and the provisions of Mortgage and Promissory Note, the terms of this Amendment shall govern.

(d) The individual executing this document hereby certifies that he has authority to engage in and execute this Amendment to Mortgage and Promissory Note.

SEE EXECUTION BLOCK ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

WITNESSES:

D. Banks
Print Name: Diana Banks

Shari Dunham
Print Name: Shari Dunham

MORTGAGOR:

BERNSTEIN FAMILY REALTY, LLC,
a Florida limited liability company

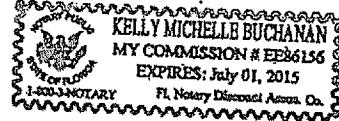
By: Simon Bernstein, Manager

STATE OF FLORIDA
COUNTY OF PALM BEACH

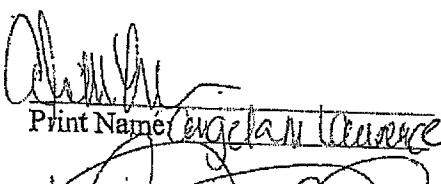
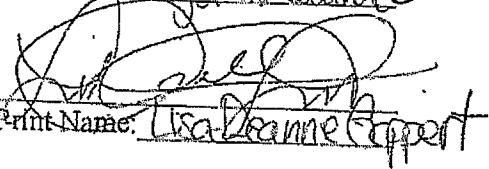
The foregoing instrument was acknowledged before me this 15th day of February, 2012, by Simon Bernstein, as Manager of Bernstein Family Realty, LLC, a Florida limited liability company. He is personally known to me or has produced a driver's license as identification.

(Seal)

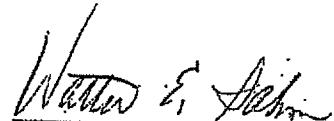
Kelly Michelle Buchanan
Notary Public, State of Florida
Name: Kelly Michelle Buchanan
Commission Expires: 7-1-2015
Commission No. EE 86156



WITNESSES:


Print Name: Angela M. Lawrence

Print Name: Linda Joanne Goppert

MORTGAGEE:

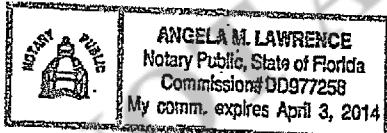

Walter E. Sahm
Walter E. Sahm

Patricia A. Sahm
Patricia Sahm

STATE OF FLORIDA
COUNTY OF SUMPTER

March, 2012 by Walter E. Sahm and Patricia Sahm. They are
The foregoing instrument was acknowledged before me this: 31 day of
personally known to me or have produced driver's licenses as identification.

(Seal)



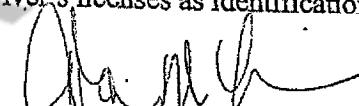

Notary Public, State of Florida
Name: Angela M. Lawrence
Commission Expires: April 3, 2014
Commission No.: 00977258

EXHIBIT 3

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CIVIL DIVISION DIV: "AF"
CASE NO.: 2018CA002317AXX

WALTER E. SAHM,
and PATRICIA SAHM

Plaintiffs,
vs.

BERNSTEIN FAMILY REALTY, LLC, BRIAN O'CONNELL,
AS SUCCESSOR PERSONAL REPRESENTATIVE OF
THE ESTATE OF SIMON L. BERNSTEIN, ALEXANDRA BERNSTEIN,
ERIC BERNSTEIN, MICHAEL BERNSTEIN, MOLLY SIMON,
PAMELA B. SIMON, JILL IANTONI, MAX FRIEDSTEIN,
LISA FRIEDSTEIN, INDIVIDUALLY AND TRUSTEES OF
THE SIMON L. BERNSTEIN REVOCABLE TRUST AGREEMENT
DATED MAY 20, 2008, AS AMENDED AND RESTATED,
ELIOT BERNSTEIN, CANDICE BERNSTEIN, INDIVIDUALLY AND AS
NATURAL GUARDIANS OF MINOR CHILDREN JO., JA. And
D. BERNSTEIN, and ALL UNKNOWN TENANTS,

Defendants.

/

FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE came before the Court on November 22, 2021 upon Plaintiffs' Motion for Summary Final Judgment of Foreclosure. The Court, having reviewed the Motion, the attached exhibits, affidavits, and evidence, having reviewed the court file and record, having heard argument of counsel, and after being otherwise duly advised in the premises, it is hereby

ORDERED and ADJUDGED that Plaintiffs' Motion is **GRANTED** as follows:

1. **Final Judgment.** The parties have consented to the entry of this Final Judgment.
2. **Value of Claim.** At the initiation of this action, in accordance with section 28.241(1)(a)2.b, Florida Statutes, Plaintiff estimated the amount in controversy to be \$110,000.00.

In accordance with section 28.241(1)(a)2.c, Florida Statutes, the Court identifies the actual value of the claim as set forth below. For any difference between the estimated amount in controversy and the actual value of the claim that requires the filing fee to be adjusted, the Clerk shall adjust the filing fee. In determining whether the filing fee needs to be adjusted, the graduated filing fee scale in section 28.241(1)(a)2.d, Florida Statutes, controls. In an excess filing fee was paid, the Clerk shall provide a refund of the excess fee. In an additional filing fee is owed, the plaintiff shall pay the additional filing fee at least five (5) business days prior to the judicial sale. In any additional filing fee owed is not paid prior to the judicial sale, the Clerk shall cancel the judicial sale without further order of the Court.

3. Amounts Due. Plaintiffs Walter E. Sahm and Patricia Sahm, are owed:

Principal:	\$110,000.00;
Interest at Note rate to 6/19/2014:	\$3,850.00;
Default Interest at 18% 6/20/2014 – 12/31/2021	\$149,122.56
Real Property Taxes paid by Lender	\$38,596.62
Attorney's Fees	\$52,005.50
TOTAL:	\$353,574.68

The interest on the **TOTAL SUM** shall bear at a rate pursuant of 18%.

4. Lien on Property. Plaintiff holds a lien for the total sum superior to any and all claims or estates of Defendant(s), on the following described property in Palm Beach County, Florida:

Lot 68, Block G, BOCA MADERA UNIT 2, according to the Plat thereof, recorded in Plat Book 32, Pages 59 and 60, of the Public Records of Palm Beach County, Florida

5. Sale of Property. If the total sum with interest at the rate described in Paragraph 1 and all costs accrued subsequent to this judgment are not paid, then the Clerk of the Court shall sell the property at public sale on April 20, 2022, beginning at 10:00 a.m. to the highest bidder for cash, except as prescribed in Paragraph 4, at the courthouse located at 205 North Dixie Highway Suite 323, West Palm Beach, FL 33401 in Palm Beach County, Florida, in accordance with § 45.031, Florida Statutes (2021), using the following method: <https://palmbeach.realforeclose.com>. The foreclosure sale can only be cancelled by Court Order.

6. Costs. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk of the Court in the event Plaintiff is not the buyer of the subject property for sale, provided, however, that the buyer of the subject property for sale shall be responsible for the documentary stamps payable on the certificate of title. If Plaintiff is the buyer of the subject property for sale, then the Clerk of the Court shall credit Plaintiff's bid with the total sum with interest and costs accruing subsequent to this Final Judgment, or such part of it as necessary to pay the bid in full.

7. Distribution of Proceeds. On filing the certificate of title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in Paragraph 3 from this date to the date of the sale; and by retaining any remaining amount pending further Order of Court.

8. Right of Redemption. On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be

foreclosed of all estate or claim in the property, except as to claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** Upon filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant or tenant remains in possession of the property, an Order Granting the Motion for Writ of Possession shall be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.561, Florida Statutes.

10. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment, writs of possession and such supplemental relief or judgments as may be appropriate.

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT. IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS UNCLAIMED. IF YOU FAIL TO FILE A TIMELY CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE ST. LUCIE CLERK OF THE COURT, WITHIN 10 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD

TO PAY AN ATTORNEY, YOU MAY CONTACT FLORIDA RURAL LEGAL SERVICES MONDAY THROUGH FRIDAY AT 1-888-582-3410 TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT FLORIDA RURAL LEGAL SERVICES AT 1-888-582-3410 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE and ORDERED in Chambers, at West Palm Beach, Palm Beach County, Florida, this 21 day of December, 2021.


502018CA002317XXXXMB 12/21/2021
John S. Kastrenakes Circuit Judge

502018CA002317XXXXMB 12/21/2021
John S. Kastrenakes
Circuit Judge

A COPY OF THIS ORDER IS BEING SERVED ON THE FOLLOWING PARTIES VIA THE E-FILING PORTAL:

Robert A. Sweetapple, Esquire, Sweetapple, Broeker & Varkas, PL, 4800 N. Federal Highway, Suite D306, Boca Raton, Florida 33431 (pleadings@sweetapplelaw.com)

Eliot Ivan Bernstein, 2753 NW 34th St., Boca Raton, FL 33434 (iviewit@iviewit.tv)

Brian O'Connell, Esquire, O'Connell & Crispin, PLLC, 420 Royal Palm Way, Palm Beach, FL 33480 (boconnell@ocalawyers.com)

Cary P. Sabol, Esquire, Law Offices of Cary P. Sabol, P.O. Box 15981, West Palm Beach, FL 33416 (Csabol@sabollaw.com)

Alan B. Rose, Esquire, Mrachek-law, Fitzgerald & Rose, PL (Arose@Mrachek-law.com)