

Subject: Settlement with Estate of Walter et al
Date: Saturday, March 11, 2023 at 9:27:42 AM Eastern Standard Time
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Attachments: 3.10.23 settlement agreement Bernstein sahm mortgage .docx

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IN THE CIRCUIT COURT OF THE 5TH JUDICIAL CIRCUIT,
IN AND FOR MARION COUNTY FLORIDA

CASE NO.: 21-CP-001223-CPAXXX

DIV AX

Judge Kristie Marie Healis

IN RE: ESTATE OF WALTER E. SAHM, JR.

Deceased

I

SETTLEMENT AGREEMENT

Interested Parties BERNSTEIN FAMILY REALTY LLC, a dissolved LLC, and the BERNSTEIN FAMILY Members, Eliot Bernstein, Candice Bernstein, Joshua Bernstein, Jacob Bernstein, and Daniel Bernstein (hereinafter known as “BFR” or “Bernstein” or “Interested Parties”) and The Estate of Walter E. Sahn, Jr, The Walter E. Sahn, Jr & Patricia A. Sahn Revocable Family Living Trust dated August 31, 1999, as amended, The P.R., trustee of the trust, and POA/Pre-need Guardian for Patricia A. Sahn: Joanna Sahn, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, enter into this Settlement Agreement (the “Agreement”) on this 10th day of March 2023.

RECITALS:

WHEREAS, ON June 24, 2021, filed on July 1, 2021, an Order Admitting Will to Probate and Appointing Personal Representative Johanna Sahn was entered for Walter E. Sahn, Jr., in Marion County, Case No. 21CP001223AX. The mortgage and note at issue in this settlement are part of the inventory of the estate of Walter E. Sahn, Jr., has not been assigned or transferred, and the estate has full authority to resolve the mortgage and note foreclosure matter. Walter E. Sahn, Jr. died on January 5, 2021. The original note is to be deposited with the attorney of the estate, and

will not be endorsed, transferred, or assigned pending this settlement, except as provided for in this settlement agreement.

WHEREAS, on February 23, 2018, Plaintiffs, Walter E. Sahn and his then wife Patricia A. Sahn, filed a lawsuit for foreclosure on a first mortgage and promissory note, as amended (recorded on April 12, 2012 in the Public Records of Palm Beach County, Florida O.R Book 25132, Page 1051) on Lot 68, Block G, Boca Madera Unit 2, according to the Plat thereof, as recorded in Plat Book 32, Pages 59 and 60, of the Public Records of Palm Beach County, Florida; 2753 NW 34th Street, Boca Raton, FL 33434; Case No. 50-2018-CA-002317, in Palm Beach County against Defendants Bernstein Family Realty, LLC, a dissolved LLC, Eliot Bernstein - individually, Candice Bernstein - individually, Eliot Bernstein and Candice Bernstein, As Natural Guardians Of Minor Children Jo., Ja. And D. Bernstein; And All Unknown Tenants, Joshua Bernstein, Daniel Bernstein, Jacob Bernstein, 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, and Lisa Friedstein, Individually And Trustees Of The Simon L. Bernstein Revocable Trust Agreement Dated May 20, 2008, As Amended And Restated, to foreclose on a first mortgage.

WHEREAS, Walter E. Sahn, Jr., is now deceased and his estate is pending in Marion County, and his now incapacitated wife, Patricia Sahn, has a POA/Trustee/Pre-need Guardian with her daughter Johanna Sahn, and are the true current parties in interest in that mortgage and note in the Palm Beach foreclosure case as "The Walter E. Sahn, Jr. & Patricia A. Sahn Revocable Family Living Trust dated August 31, 1999" and "the Estate of Walter E. Sahn, Jr.", Patricia A. Sahn, by and through POA/P.R./Pre-need Gaurdian Joanna Sahn, and the P.R. for the Walter E. Sahn, Jr. estate, as well as the POA/Pre-need Guardian for Patricia Sahn, daughter Joanna Sahn.

WHEREAS The estate, the trust and the incapacitated surviving spouse, and the Bernstein family and Bernstein Family Realty LLC, have reached a settlement of the foreclosure on the first mortgage claims between Plaintiffs and Defendants asserted in or relating to the foreclosure Lawsuit herein above, and the release of funds in the Shirley Bernstein trust case that will be partially used toward the satisfaction of this first mortgage.

WHEREAS, the Bernstein family home, the property at issue, to wit: 2753 NW 34th Street, Boca Raton, FL 33434, is set for sale in the West Palm Beach foreclosure case on April 4, 2023, at 10:00 a.m., based on a Final Judgment dated December 23, 2021, and this settlement will result in the sale being cancelled, and the foreclosure case being abated/stayed pending full and final payment of the settlement; which will then result in a full satisfaction of mortgage being recorded, and a dismissal with prejudice of the foreclosure case.

WHEREAS, BFR and the Bernstein family's counsel represents that the funds to pay the initial payment on the Settlement Amount referenced below is subject to a hearing for its release from the court registry on Tuesday March 14, 2023 in front of Judge Laura Johnson in West Palm Beach in Case No. 50-2014-CP-003698-XXXX-NB, in the Shirley Bernstein trust matter. The attorney for the estate and trust, and the P.R. Johana Sahm, John J. Raymond, Jr., Esq. will attend the zoom hearing on March 14, 2023, and fully support the settlement agreement, the release of funds, and will assist with the cancellation of the April 4, 2023 sale in the foreclosure case as the true Party in interest of this first mortgage and note.

WHEREAS the Bernstein Family Realty LLC is a dissolved Florida LLC and will be reinstated upon the release of funds from the court registry. Daniel, Jacob, and Joshua Bernstein are the majority owners with the right to receive distributions from the LLC. They will be winding up the company's activities and affairs, and are appointed to do so by the mutual unanimous

consent of the transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection has the powers of a sole manager under s. [605.0407\(3\)](#) and is deemed to be a manager for the purposes of s. [605.0304\(1\)](#). 605.0709. In winding up the affairs of the LLC, Daniel, Jacob, and Joshua Bernstein will take all necessary steps to effectuate this settlement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

2. Payment.

- a. BFR and the Bernstein family shall pay the Estate of Walter E. Sahn, Jr. through its attorney's trust account, John J. Raymond, Esq., the total amount of \$355,609.00 on or before March 14, 2024, as full and final payment and satisfaction toward the current first mortgage and final judgment. (the "Settlement Amount" or the "Payment").
- b. The initial payment shall be \$200,000.00. These funds are currently being held in the Palm Beach Court registry for the benefit of the three Bernstein young men, Daniel, Joshua, and Jacob Bernstein. The parties agree to cooperate at the hearing on March 14, 2023, to ensure that \$200,000.00 of the funds are released directly to the trust of account of John J. Raymond, Esq. as directed in the court

order. The entire remaining balance of the funds in the court registry will be released to the Trust Account of Inger M. Garcia IOTA.

- c. BFR and the Bernstein family shall pay the initial Settlement Amount via check issued directly from the clerk registry to the trust account of John J. Raymond, Esq.
- d. The balance of \$155,609.00 is payable within one year, to wit, March 14, 2024, to the trust account of John J. Raymond, Esq. There will be a simple interest rate charged of 6%, with no pre-payment penalty if paid sooner.
- e. If court orders are necessary in either the Walter E. Sham, Jr. probate case in Marion County, or the Palm Beach foreclosure case, or in the Shirley Bernstein trust case; the parties agree to fully cooperate and file any needed joint agreed motions to confirm the settlement, to release the funds as agreed, and to cancel the sale set for April 4, 2023. The Walter E. Sahn, Jr. estate and Johanna Sahn, as P.R. and POA/Pre-need Guardian for Patricia Sahn shall immediately substitute in as parties in the foreclosure case to effectuate this settlement, and shall file the joint motions and agreed orders to cancel the April 4, 2023 sale, as well as support the release of the funds in the Shirley Bernstein Trust case, so no other party or person can interfere with this agreement, cause any further delays in releasing said funds, or cause the property at issue to sell in the foreclosure sale set for April 4, 2023. There are no other interested parties to these funds or to the home at issue.

- f. The parties will cooperate jointly with any title company or lender to secure any additional funds needed for the second payment per this agreement, including partial satisfactions or disclosures.
- g. At the final payment clearance, a full satisfaction will be recorded, and the pending foreclosure lawsuit will be dismissed with prejudice. The parties will also appear before Judge Bell in the foreclosure action prior to the scheduled sale date, April 4, 2023, to inform the court of the settlement, to cancel the April 4, 2023 foreclosure sale, and to abate/stay the foreclosure case pending the final payment if the foreclosure court allows abatement or stays. If stays are not allowable by law, the sale will be cancelled forthwith regardless. No party or other person is to interfere with this settlement or cause the property to be sold.
- h. If BFR and the Bernstein family fail to make the second payment, the estate may proceed with the foreclosure case, amend the final judgment, reinstate the case, or file a new case, and set the property for sale.

3. Stay/Abatement/Dismissal of the Lawsuit. Within 3 days of the March 14, 2023, hearing in front on Judge Laura Johnson, parties shall file the substitution of party plaintiff in the foreclosure case, the Agreed Motion to Cancel Sale and Stay/abate the foreclosure matter, and have the agreement approved in the estate case, if necessary.

4. Costs and Expenses of the Lawsuit. The Parties each agree to bear their own attorneys' fees, costs, and expenses incurred in connection with this Agreement.

5. No Assignment. The Parties to this Agreement represent and affirm that neither has assigned to any third-party any of the claims or causes of action it has, had, or may have against each other.

6. Advice of Counsel. The Parties to this Agreement hereby acknowledge, agree, represent, and warrant: (i) that such Party has had the advice of counsel of such Party's own choosing in negotiations for, and in the preparation of, this Agreement; (ii) that such Party has read this Agreement or has had the same read to such Party by its counsel; and (iii) that such Party enters into this Agreement voluntarily and is fully aware of this Agreement's contents and legal effect.

7. Severability. If any provision of this Agreement is rendered invalid for any reason, or has been rendered unenforceable in any jurisdiction, all other provisions of this Agreement shall nevertheless remain in full force and effect in such jurisdiction, and all provisions of this Agreement shall remain in full force and effect in all other jurisdictions. Upon determination that any provision of this Agreement is invalid or unenforceable, this Agreement shall be amended to achieve the original intention of the Parties as closely as possible.

8. Entire Contract & Amendment. This Agreement supersedes all prior negotiations, settlement discussions, and representations and contains the complete and entire Agreement between the Parties to this Agreement with respect to the matters contained herein. This Agreement may be modified only by a written document, signed by all Parties hereto.

9. Governing Law. This Agreement shall be governed and interpreted under Florida law.

10. Forum Selection. Any dispute arising out of or relating to this Agreement shall be brought in the Fifteenth or Fifth Judicial Circuit Courts in and for Palm Beach or Marion County, Florida.

11. Attorneys' Fees. Should any Party to this Agreement need to resort to legal proceedings of any kind to enforce this Agreement, the prevailing party shall recover all costs and attorneys' fees from the non-prevailing party or parties.

12. Captions and Headings. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any terms, covenants, conditions, or agreements contained herein.

13. Counterparts. This Agreement may be executed in separate counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument. Facsimile copies, Portable Document Format (PDF) copies of signatures, and any signature made or delivered by a Party through electronic mail or other digital means (including any signature created, populated, or used by a Party through DocuSign or other similar electronic or digital signature program) shall be deemed effective and an original for all purposes.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

<p>The Estate of Walter E. Sahm, Jr</p> <hr/> <p>Date: _____</p>	<p>Johanna Sahm, P.R. of Walter E. Sahm, Jr Estate and P.O.A./Pre-Need Guardian for Patricia Sahm</p> <hr/> <p>Date: _____</p>
<p>Patricia Sahm</p> <hr/> <p>Date: _____</p>	

<p>The Walter E. Sahn, Jr. & Patricia A. Sahn Revocable Family Living Trust, Dated August 31, 1999, As Amended</p> <p>_____</p> <p>Date: _____</p>	

<p>Bernstein Family Realty LLC, a dissolved LLC</p> <p>_____</p> <p>Date: _____</p>	<p>Eliot Bernstein</p> <p>_____</p> <p>Date: _____</p>
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<p>Candice Bernstein</p> <p>_____</p> <p>Date: _____</p>	
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<p>Jacob Bernstein</p> <p>_____</p> <p>Date: _____</p>	<p>Joshua Bernstein</p> <p>_____</p> <p>Date: _____</p>
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<p>Daniel Bernstein</p> <p>_____</p> <p>Date: _____</p>	
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