

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(West Palm Beach)**

Case No. 20-CV-81205-RAR

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

COMPLETE BUSINESS SOLUTIONS GROUP, INC.,
d/b/a PAR FUNDING, *et al.*

Defendants.

**NON-PARTY GRAND HOPE INVESTMENTS, INC'S MOTION TO
INTERVENE AND MOTION FOR LEAVE TO SUE RECEIVER
AND INCORPORATED MEMORANDUM OF LAW**

Non-Party, Grand Hope Investments, Inc. ("Grand Hope"), a Florida corporation, by counsel, hereby moves the Court for the entry of an order (i) allowing it to intervene in this action for the limited purpose of seeking leave to sue Ryan K. Stumphauzer, Esq. as Receiver for Eagle Six Consultants, Inc. ("Receiver") for breach of a settlement agreement¹ and (ii) granting Grand Hope leave to sue the Receiver pursuant to *Barton v. Barbour*, 104 U.S. 126, 127 (1881). In support, Grand Hope states as follows:

INTRODUCTION

Grand Hope and its elderly owners are the victims of a fraudulent satisfaction of mortgage relating to real property in Pinellas County, Florida. Grand Hope was actively litigating its claims to set aside the fraudulent satisfaction of mortgage and to

¹ This Court has permitted other non-parties to intervene in this action. *See* ECF 897 (granting in part motion to intervene), ECF 970 (same).

foreclose on the real property until the stay was issued as to the Receivership Entities, some of which were defendants in the case. Since that time, and given the uncertainty concerning the length of the Receivership, Grand Hope negotiated and entered into a settlement with the Receiver to resolve its claims against the Receivership Entities which was to result in Grand Hope obtaining title to the real property. After the Receiver partially performed the settlement agreement, the Receiver abruptly stopped performing and secretly negotiated a separate agreement with some of the same entities and individuals responsible for the fraudulent “satisfaction” of Grand Hope’s mortgage. However, the Receiver is not relieved of its contractual obligations merely because it later opted for a different deal. The Receiver’s actions should not be condoned, and Grand Hope should be permitted to sue the Receiver for breaching the parties’ enforceable settlement agreement. Therefore, the Court should permit Grand Hope to intervene and then grant it leave to file its breach of contract action in Hillsborough County state court.

FACTS

A. Historical Ownership of the Real Property Subject to the Settlement Agreement

1. Ronald N. Damico and Sandra Damico formed Grand Hope in 1995 to own and hold real property located in Pinellas County, Florida and commonly described as 1401 and 1501 Lake Ave. SE., Largo Florida (the “Real Property”). As of the filing of this Motion, Ronald N. Damico is 82 years old, and Sandra Damico is 81 years old.²

2. On July 25, 2013, Grand Hope executed a Warranty Deed conveying the Real Property to D&E Property Investments, Inc. (“D&E”).

3. In connection with the conveyance of the Real Property, D&E gave Grand Hope a Promissory Note in the amount of \$3,000,000 (the “Grand Hope

² Should the Court grant this motion, Grand Hope intends to seek an expedited trial pursuant to section 415.1115, Florida Statutes.

Note”), which was secured by a first Mortgage on the Real Property recorded on August 6, 2013, in O.R. Book 18113, Page 2327, Public Records of Pinellas County, Florida (the “Grand Hope Mortgage”) (the Grand Hope Note and the Grand Hope Mortgage are collectively referred to as the “First Mortgage Loan”).

4. On or about October 27, 2015, Lake Ave South East Real Estate, LLC (“Lake Ave”) purchased all the stock of D&E (*i.e.*, the Real Property) and, as consideration, Lake Ave assumed the First Mortgage Loan, including the obligation to pay the Grand Hope Note.

5. Stephen L. Gurba formed and was a managing member of Lake Ave and, upon information and belief, Gurba’s long-time business associate, Richard Welkowitz, who is now deceased, owned a majority interest in Lake Ave.

6. On January 26, 2016, a fraudulent Satisfaction of Mortgage related to the First Mortgage Loan was recorded in the public records of Pinellas County, Florida (“Satisfaction of Mortgage”).

7. Grand Hope and its owners did not know that the Satisfaction of Mortgage was being executed or recorded. Nor should they have known given that the First Mortgage Loan had not been satisfied. Indeed, at the time, the remaining balance on the Grand Hope Note was nearly \$2.8 million. Grand Hope did not receive any consideration for the purported satisfaction of the Grand Hope Mortgage.

8. The same day that the fraudulent Satisfaction of Mortgage was recorded, on January 26, 2016, Lake Ave executed and delivered a Promissory Note in the original principal amount of \$2,400,000.00 to Sunshine Bank (“Sunshine Note”).

9. Sunshine Bank had expressly advised Gurba that it would not advance funds under the Sunshine Note without satisfaction of the First Mortgage Loan.

10. The Sunshine Note was secured by that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (“Sunshine Mortgage”) executed and delivered by Lake Ave to Sunshine Bank on or about January 28, 2016, and subsequently recorded at Book 19068, Page 780 of the Public Records of Pinellas County, Florida.

11. The Sunshine Mortgage was secured by the Real Property.

12. In connection with the Sunshine Mortgage, Sunshine Bank was issued a title insurance policy underwritten by First American (the “Title Policy”), insuring the Sunshine Mortgage as a first mortgage on the Real Property.

13. Lake Ave subsequently defaulted under the Sunshine Note.

B. Litigation Involving the Real Property

14. On February 12, 2018, CenterState Bank, N.A. (“CenterState”), as successor by merger to Sunshine Bank, filed its Complaint for Foreclosure of Mortgage, Money Judgments and Other Relief related to, among other things, the Sunshine Note and Sunshine Mortgage, in the Sixth Judicial Circuit, in and for Pinellas County, Florida (the “CenterState Action”).

15. On February 14, 2018, Grand Hope filed its Complaint against Lake Ave., CenterState, Complete Business Solutions Group, Inc. (“CBSG”), Liftforward Inc. (“Liftforward”), and Stephen Gurba in the Sixth Judicial Circuit, in and for Pinellas County, Florida related to the January 16, 2018, fraudulent Satisfaction of Mortgage (the “Grand Hope Action”).

16. Centerstate made a claim against First American under the Title Policy based upon the Grand Hope Action (the “Title Claim”).

17. On January 15, 2019, CenterState obtained a Final Judgment for Money Damages in the CenterState Action against Lake Ave, as well as other defendants, related to the Sunshine Note (the “Final Judgment”).

18. The parties in the CenterState Action agreed with the parties in the Grand Hope Action that Grand Hope’s priority dispute would be resolved before any foreclosure proceedings. The validity of the Satisfaction of Judgment would determine whether the Grand Hope Mortgage had priority over the Sunshine Mortgage.

19. On March 27, 2019, CenterState assigned all its rights, title, and interest in the Final Judgment and the Title Claim to Zenith Express, LLC (“Zenith”) (the “Zenith Assignment”). A true, complete, and authentic copy of the Zenith Assignment is attached as **Exhibit A**.

20. Zenith shares the same principal address as Lake Ave (*i.e.*, the Real Property address) and Stephen Gurba is the Manager of Zenith. Zenith purchased the Zenith Assignment to avoid foreclosure of a property owned by Richard Welkowitz, who was an individual Defendant in the CenterState Action.³

21. On April 29, 2019, the Zenith Assignment was recorded at Book 20517, Page 796 of the public records of Pinellas County, Florida.

22. On May 7, 2019, Zenith was substituted as Plaintiff for CenterState in the CenterState Action.

23. On May 30, 2019, Zenith assigned and transferred its right, title, and interest to Eagle Six in the following:

- (1) The Sunshine Mortgage;
- (2) That certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 recorded at Book 19068, Page 803 of the land recorded of Pinellas County, Florida secured by the Real Property (“Second Mortgage”);
- (3) Any and all loans, and any and all notes, guarantees, and other obligation instruments or documents of any type, arising out of, relating to, or pertaining to the Sunshine Mortgage and the Second Mortgage;
- (4) Any and all lender’s title insurance policies relating to or pertaining to the Sunshine Mortgage or Second Mortgage;
- (5) The plaintiff’s interest in the CenterState Action and the plaintiff/judgment holder’s interest in any judgment(s) entered therein; and
- (6) Any and all title insurance claim(s) made relating to the Sunshine Mortgage or Second Mortgage, including the Title Claim, and any interest in any litigation arising out of, relating to, or pertaining to any such title insurance claim(s) (“Eagle Six Assignment”).

³ Gurba, Welkowitz, and Zenith did substantial business with Eagle Six. The Estate of Welkowitz claims that Welkowitz’s signature was forged on numerous contracts with Eagle Six. *See* Receivership Case, ECF 1541.

A true, complete, and authentic copy of the Eagle Six Assignment is attached as **Exhibit B**. The rights and interests assigned to Eagle Six pursuant to the Eagle Six Assignment shall collectively be referred to as the “Eagle Six Assigned Interests.”

24. On June 3, 2019, in the Grand Hope Action, Zenith was substituted as a Defendant in place of CenterState pursuant to an Agreed Order. Zenith did not advise the parties in the Grand Hope Action that it had just executed the Eagle Six Assignment.

25. On February 27, 2020, Grand Hope, Ronald Damico, and Sandra Damico filed the Second Amended Complaint in the Grand Hope Action, which includes counts for (i) Action to Cancel/Rescind Satisfaction of Mortgage; (ii) Declaratory Judgment; (iii) Foreclosure of Grand Hope Mortgage; (iv) Breach of Assumption Agreement; (v) Action on the Grand Hope Note; and (vi) Action on a Substitute Note (in the alternative).

26. On or about November 13, 2020, the principals of Grand Hope paid the property taxes on the Real Property for the tax years 2017, 2018, and 2019 in the amount of \$220,348.57 because the record owner of the Real Property, Lake Ave, had failed to do so. Grand Hope made the payments to prevent the Real Property from being sold at a tax deed sale, which would have extinguished all other interests in the Real Property. Had those interests been extinguished, Grand Hope would have lost its chance of recovering the Real Property through its foreclosure action and the Receiver would have lost its chance to recover any proceeds from a settlement involving the Real Property.

27. On or about February 2, 2021, the Grand Hope Action was indefinitely stayed as a result of the instant action.

28. On August 19, 2021, the CenterState Action was dismissed for lack of prosecution pursuant to a Master Order of Dismissal (“Master Order of Dismissal”), despite the fact that it should have also been stayed.

C. The Receivership

29. On July 27, 2020, Ryan K. Stumphauzer, Esq. (“Receiver”), was appointed as Receiver over various entities, including CBSG, in the case of *Securities and Exchange Commission v. Complete Business Solutions Group, Inc. d/b/a Part Funding*, pending in the United States District Court for the Southern District of Florida, Case No. 20-cv-81205 (the “Receivership Case”).

30. On December 16, 2020, Ryan K. Stumphauzer, Esq., was appointed as Receiver of Eagle Six pursuant to the following orders entered in the Receivership Case (collectively, the “Receivership Orders”):

- (1) The Amended Order Appointing Receiver, entered on August 13, 2020 (ECF 141);
- (2) The Order Granting Motion to Expand Receivership Estate, entered on December 16, 2020 (ECF 436); and
- (3) Order Granting motion to Correct Scrivener’s Errors in Prior Orders Expanding Receivership Estate, entered on February 2, 2021 (ECF 484);

31. Pursuant to the Receivership Orders, there is a stay of litigation, until further order of the Receivership Court, that applies to the CenterState Action and the Grand Hope Action, as those proceedings involve “any of the Receivership Entities” (ECF 141, ¶ 32) (the “Stay of Litigation”).

32. Pursuant to the Receivership Orders and applicable law, the Receiver has all powers, authorities, rights and privileges possessed by the officers, directors, managers, and general and limited partners of Eagle Six under applicable state and federal law, by the governing charters, by-laws, articles and/or agreement in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed. R. Civ. P. 66.

33. Therefore, the Receiver has the authority to settle claims on behalf of Eagle Six.

D. The Settlement Agreement

34. In mid-2021, the parties began discussing and negotiating a settlement concerning the Real Property as well as resolving other related claims and issues.

35. On October 8, 2021, counsel for Grand Hope emailed counsel for Eagle Six and the Receiver a settlement proposal which outlined the proposed material terms.

36. On April 5, 2022, following numerous telephone conferences negotiating a settlement, counsel for Grand Hope emailed counsel for Eagle Six and the Receiver a draft settlement agreement based on the material terms proposed on October 8, 2021 and the parties' ongoing discussions. Thereafter, the parties subsequently exchanged comments and revisions to the draft settlement agreement.

37. On August 8, 2022, counsel for the Receiver provided his final revisions to the settlement agreement and stated as follows:

Also, the **settlement agreement needs to include signature blocks**. If you'd like to send the Word document, **I can** make those final edits, **obtain the Receiver's signature**, and then return a partially-executed copy of the settlement agreement to you.

(emphasis supplied).

38. On August 9, 2022, Grand Hope accepted the Receiver's final revisions and provided confirmation of the same via email.

39. That same day, counsel for the Receiver emailed Grand Hope's counsel stating:

Here is what I expect to be the **final settlement agreement**, including the exhibits. Please confirm you are in agreement. **I will have the Receiver sign the agreement today** and will immediately get to work on a motion to lift the litigation injunction in the SEC Action.

(emphasis supplied). A true, complete, and authentic copy of the August 8 and 9, 2022 emails between the Receiver and Grand Hope, including the attached long-form

settlement agreement with exhibits (the “Settlement Agreement”) is attached as **Exhibit C**.

40. The next day, August 10, 2022, First American confirmed its acceptance of the settlement agreement via email: “First American has confirmed that it is in agreement with the final settlement agreement and exhibits.” First American’s email came from its authorized agent, counsel it appointed to represent the insured under the Title Policy. A true, complete, and authentic copy of First American’s acceptance of the Settlement Agreement is attached as **Exhibit D**.

41. The Settlement Agreement was fully agreed-upon by the Receiver, First American, and Grand Hope, contains all material terms, and constitutes an enforceable contract.

42. On August 10, 2022, the Receiver filed its Motion to Lift Litigation Injunction as to Certain Counterparties in Default Under Agreement with Complete Business Solutions Group, Inc. or Contract Financing Solutions, Inc., and **to Effectuate a Settlement** (Receivership Case, Doc. 1354) (emphasis added) (“Motion to Effectuate Settlement”). In the motion, the Receiver represented the following to this Court:

[T]he Receiver, on behalf of Eagle Six Consultants, Inc., intends to enter into a settlement agreement with Grand Hope Investments, Inc. As part of this anticipated settlement agreement, the Receiver seeks to lift the stay of litigation so as to move to reopen, dismiss, or otherwise take action in the following two cases: (i) *Centerstate Bank, N.A. v. Lake Avenue South East Real Estate, LLC, et al.*, Case No. 18-000897-CI-8 (18th Jud. Cir., Pinellas County, Florida) and (2) *Grand Hope Investments, Inc. v. Lake Avenue South East Real Estate, LLC, et al.*, Case No. 18-000954-CI (18th Jud. Cir., Pinellas County, Florida) (the “Pinellas Litigation”). **The Receiver has determined, in his professional judgment, that it is in the best interests of the Receivership Estate, to enter into this settlement and take the contemplated action within the Pinellas Litigation**, which requires the Litigation Injunction to be lifted as to those two cases.

(Receivership Case, ECF 1354) (emphasis added).

43. In the Proposed Order submitted with the Motion to Effectuate Settlement, the Receiver included the purpose as being “to effectuate a contemplated settlement he will be entering into in connection with certain litigation that is pending in the Sixth Judicial Circuit, in and for Pinellas County, Florida.” (Receivership Case, ECF 1354-1).

44. On August 11, 2022, the Court granted the Motion to Effectuate Settlement. (Receivership Case, ECF 1356).

45. On August 17, 2022, counsel for the Receiver emailed advising the parties as follows:

...Judge Ruiz entered the order lifting the stay in the receivership case **to allow us to take the steps required under the settlement agreement.** And **we filed the motion to substitute and the motion to set aside today in the CenterState case.** See attached. **Can you obtain your clients’ signatures on the settlement agreement and circulate those signature pages so that we can assembly a fully-executed copy** of the settlement agreement?

(emphasis supplied).

46. On August 28, 2022, counsel for Grand Hope provided the executed signature pages for Grand Hope to the Defendants.

47. The Settlement Agreement required Grand Hope and First American to make payments to an escrow account which would be released to the Receiver upon the Receiver’s compliance with its obligations. At all material times, Grand Hope was ready, willing, and able to deposit its portion of the settlement payment into the Receiver’s escrow account. In fact, Grand Hope wired the money to the undersigned’s trust account for the purpose of funding the Receiver’s escrow account pursuant to the Settlement Agreement.

48. Thereafter, First American and the Receiver apparently had separate discussions regarding the length of time that First American’s settlement payment would remain in escrow pending the Receiver’s performance under the Settlement

Agreement, despite no such time restriction being set forth in the Settlement Agreement.

49. Grand Hope was notified of the ongoing discussions on September 22, 2022. In the meantime, the Receiver continued to act in accordance with the Settlement Agreement, as evidenced by his counsel's billing entries:

- a. Oct. 3, 2022: Emails with counsel for Grand Hope to discuss efforts to obtain final judgment.
- b. Oct. 4, 2022: Call with co-counsel and with counsel for Grand Hope to discuss ongoing discussions and strategy regarding obtaining of final judgment.

See Receivership Case, ECF 1509-8.

50. Ultimately, in an effort to resolve the issue between First American and the Receiver with respect to the payment of First American's portion of the settlement payment, and despite First American's contractual obligation and Grand Hope being under no obligation to do so, Grand Hope agreed to deposit the full settlement payment into the Receiver's escrow account.

51. However, the Receiver repeatedly ignored Grand Hope's offer and attempts to contact the Receiver because the Receiver was secretly negotiating a different settlement agreement relating to the Real Property with the party who originally defrauded Grand Hope,⁴ while intentionally delaying its performance under the Settlement Agreement and ignoring Grand Hope's requests for status updates.

52. On March 22, 2023, due to the Receiver's refusal to respond and despite the Settlement Agreement, Grand Hope filed its notice of claim against Eagle Six in the Receivership relating to the Real Property. *See* Claim No. 000002076.

53. On May 17, 2023, counsel for the Receiver finally responded to Grand Hope's counsel and emailed stating that, despite the Receiver's performance under the

⁴ *See* Receiver's billing entry: Feb. 1, 2023: "Emails and call with M. Markham regarding potential settlement of Grand Hope case and follow up with review of potential impact of settlement on status of two pending lawsuits and send email to R. Stumphauzer and G. Alfano with recommendation for settlement proposal. (Receivership Case, ECF 1567)

Settlement Agreement and its numerous representations that the Receiver was executing the Settlement Agreement, that the parties had not entered a “final settlement.” The Receiver has since refused to continue its performance pursuant to the Settlement Agreement and informed Grand Hope that it intends to enter into another settlement agreement with another party concerning the Real Property which will make it impossible to perform the Settlement Agreement.

54. The Receiver’s partial performance under the Settlement Agreement is undisputed and evidenced by, among other things, the following:

- Settlement Agreement, ¶ 3: Receiver filed its Motion to Effectuate Settlement (Receivership Case, Doc. 1354);
- Settlement Agreement, ¶ 3: Receiver obtained an Order Granting the Motion to Effectuate Settlement (Receivership Case, Doc. 1356);
- Settlement Agreement, ¶ 4: Receiver filed its “Motion to Substitute Plaintiff” dated August 17, 2022 (Foreclosure Case, Doc. 119); and
- Settlement Agreement, ¶ 5: Receiver filed its “Motion to Set Aside Order of Dismissal and Incorporated Memorandum of Law” dated August 17, 2022 (Foreclosure Case, Doc. 120).

55. Based on the foregoing and for the reasons set forth below, the Settlement Agreement is valid and enforceable. Accordingly, the Court should enter an order allowing Grand Hope to intervene and granting leave for Grand Hope to sue the Receiver or, alternatively, enter an Order enforcing the Settlement Agreement and requiring the Receiver to comply with its terms.

MOTION TO INTERVENE

“Rule 24 of the Federal Rules of Civil Procedure provides that the Court must permit someone to intervene who brings a timely motion and who ‘claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s

ability to protect its interest, unless existing parties adequately represent that interest.’’
Qantum Communs. Corp. v. Star Broad., Inc., No. 05-21772-CIV, 2009 U.S. Dist. LEXIS 92868, 2009 WL 3055371 (S.D. Fla. Sept. 14, 2009).

Thus, to establish a right to intervene under Fed. R. Civ. P. 24(a), the prospective intervenor must only establish: “1) that the application to intervene is timely; 2) that the intervenor has an interest relating to the property or transaction that is the subject of the action; 3) that the intervenor is situated so disposition of the action, as a practical matter, may impede or impair his ability to protect that interest; and 4) that the intervenor’s interest is not adequately represented by the existing parties to the suit.” *Id.* (citing *Purcell v. BankAtlantic Financial Corp.*, 85 F. 3d 1508, 1512 (11th Cir. 1996)). Further, under Fed. R. Civ. P. 24(c), a motion to intervene must “be accompanied by a pleading that sets out the claim or defense for which intervention is sought.” Fed. R. Civ. P. 24(c).

A. Compliance with FED. R. CIV. P. 24(c)

Grand Hope’s proposed Complaint against the Receiver and First American for breach of the Settlement Agreement is attached as **Exhibit E**. The pleading sets out Grand Hope’s claim against the Receiver for which it seeks intervention, thereby satisfying the requirements of Fed. R. Civ. P. 24(c).

B. Compliance with FED. R. CIV. P. 24(A)

Next, Grand Hope has also satisfied all requirements of Fed. R. Civ. P. 24(a) to establish its right to intervene in this case. As a threshold matter, Grand Hope’s intervention would not interfere with the Receiver’s ability to administer the Receivership and to recover assets because, as set forth above, Grand Hope is simply asking the Receiver to comply with the Settlement Agreement it entered into and which is for the benefit of the Receivership. Further, on March 22, 2023, Grand Hope filed a claim in the Receivership Case while it was waiting on the Receiver to respond about the continued performance of the Settlement Agreement. As such, Grand Hope should be allowed to intervene as a party Defendant in this action.

1. Timeliness of Motion

In determining whether a motion to intervene is timely, courts consider the following four factors: “(1) the length of time during which the would-be intervenor knew or reasonably should have known of his interest in the case before he petitioned for leave to intervene; (2) the extent of prejudice to the existing parties as a result of the would-be intervenor’s failure to apply as soon as he knew or reasonably should have known of his interest; (3) the extent of prejudice to the would-be intervenor if his petition is denied; and (4) the existence of unusual circumstances militating either for or against a determination that the application is timely. *Campbell v. Hall-Mark Elecs. Corp.*, 808 F. 2d 775, 777 (11th Cir. 1987). Each of these factors establishes the timeliness of the Motion to Intervene.

First, Grand Hope is filing this Motion just approximately two weeks after the Receiver advised that it was no longer honoring its obligations under the Settlement Agreement. Second, given that Grand Hope is seeking information within days of learning of the Receiver’s repudiation of the Settlement Agreement, the parties to this case did not suffer any prejudice by the filing of its Motion to Intervene. Third, Grand Hope, itself, would suffer prejudice if its request for intervention is denied. Indeed, Grand Hope would have no mechanism to enforce the Receiver’s obligations under the Settlement Agreement or any remedy for the Receiver’s breach. Fourth, there are no unusual circumstances in this case militating either for or against a determination that the Motion to Intervene was timely. In the simplest terms, Grand Hope seeks to enforce the Receiver’s obligations under the Settlement Agreement.

2. Interest Relating to the Property

The litigation involving the Real Property is an “asset” of the Receivership. However, as set forth the Grand Hope Action, the First Mortgage Loan has first priority on the Real Property because Eagle Six’s alleged priority is based upon the fraudulent Satisfaction of Mortgage. To that end, Grand Hope’s interest in the Real Property is a legally protectable interest deriving from its rights under the First Mortgage Loan. Its interest is more than just an economic or general interest; it relates

to the protection, preservation, possession, and ownership of the Real Property itself.

3. Impediment to Protection of Interest

There is no question that, without intervention, Grand Hope's ability to protect its interest in the Real Property as granted by the Settlement Agreement is impossible. A primary purpose of the Settlement Agreement was to release all other claims against the Real Property which might compete with Grand Hope's first priority position and to clear the path for Grand Hope to obtain a foreclosure judgment and ownership interest in the Real Property. Grand Hope will lose the benefit of the negotiated Settlement Agreement if it is not permitted to intervene and sue the Receiver for breach of the Settlement Agreement (or otherwise compel the Receiver's performance under the Settlement Agreement). In that case, Grand Hope will have spent many months and incurred significant expenses negotiating and executing the Settlement Agreement for no benefit. Further, while Grand Hope has waited on the Receiver to perform the rest of its obligations under the Settlement Agreement, Gurba has collected rent from tenants of the Real Property and taxes have continued to accrue while Grand Hope has not had the benefit of ownership and possession of the Real Property.

4. Lack of Adequate Representation by Existing Parties

Grand Hope's interest in this case is the protection and preservation of its rights in the Real Property by virtue of enforcing the Settlement Agreement. To the contrary, the Receiver intends to take action directly adverse to Grand Hope's interests in the Real Property. Grand Hope's interest is not represented by any of the existing parties to this case.

MOTION FOR LEAVE TO SUE RECEIVER

Pursuant to the *Barton Doctrine*, leave of the appointing Court to file suit against the receiver must be obtained before suit can be filed against the receiver or other officers appointed by the Court to oversee administration of the receivership. *Patco Energy Express, LLC v. Lambros*, 353 Fed. Appx. 379, No. 09-10790 at *2 (11th Cir. 2000) ("the Barton Doctrine is a creature of... Federal common law; it teaches, 'that before a suit can be maintained against a receiver... it is necessary that the consent of the

court appointing him be first obtained’”). (Quoting *Bugg v. Lang*, 134 S.E. 623 (Ga. App. 1926)). Generally, before leave to sue a receiver or trustee is granted, the plaintiff must demonstrate that he has a *prima facie* case against the trustee or receiver.” *United States Commodity Futures Trading Comm’n v. Hunter Wise Commodities, LLC*, No. 12-CV-81311, 2020 WL 13413703, at *1 (S.D. Fla. Mar. 5, 2020).

In demonstrating a *prima facie* case, a party must only show “that its claim is not without foundation.” *In re National Molding Co.*, 230 F.2d 69, 71 (3rd Cir.1956) (citing *Dunscombe v. Loftin*, 154 F.2d 963, 966 (5th Cir.1946) and *Driver–Harris Co. v. Industrial Furnace Corp.*, 12 F.Supp. 918, 919 (W.D.N.Y.1935)). Put another way:

It seems that the court appointing a receiver is not always required to grant permission to those who apply for leave to sue its receiver, but that the discretion to refuse such permission when seasonably requested is exercised only when it is clear that the claim is without foundation.

Dunscombe v. Loftin, 154 F.2d at 966.

Here, Grand Hope has demonstrated a *prima facie* case – *i.e.*, it’s claims are not without foundation – against the Receiver for breach of the Settlement Agreement and specific performance of the Settlement Agreement. First, the Settlement Agreement is an enforceable contract. Although Grand Hope is not required to prove its case at this stage, Florida law supports the enforceability of the Settlement Agreement.

The requirements to establish a cause of action for breach of contract are: (1) the existence of a valid contract, (2) a material breach of that contract, and (3) resulting damages. *See Rollins, Inc. v. Butland*, 951 So.2d 860, 876 (Fla. 2nd DCA 2006).

Under Florida law, it has long been recognized that “[a] contract may be binding on a party despite the absence of a party's signature.” *Integrated Health Services of Green Briar, Inc. v. Lopez-Silvero*, 827 So. 2d 338, 339 (Fla. 3d DCA 2002). “The object of a signature is to show mutuality or assent, but these facts may be shown in other ways, for example, by the acts or conduct of the parties.” *Id.*; *see also Vital Pharm., Inc. v. S.A.N. Nutrition Corp.*, No. 06–60646–CIV–COHN, 2007 WL 1655421, at *5 (S.D. Fla. June 6, 2007) (enforcing unexecuted settlement agreement despite arguments that

it had to be signed by both parties to be binding and effective); *Sosa v. Shearform Mfg.*, 784 So.2d 609 (Fla. 5th DCA 2001) (holding that parties may be bound to the provisions of an unsigned contract if they acted as though the provisions of the contract were in force); *Gateway Cable T. V., Inc. v. Vikoa Const. Corp.*, 253 So. 2d 461, 464 (Fla. 1st DCA 1971) quoting *Silvey v. Wynn*, 115 S.E.2d 774, 775 (Ga. Ct. App. 1960) (“A Contract signed by one of the parties only, but accepted and acted on by the other party to it, may be just as binding as if it were signed by both parties, if the obligations of the parties are mutual. ”); *Siegel v. NewAgeCities.Com, Inc.* 920 So. 2d 1274, 1276 (Fla. 4th DCA 2006) (“[A] series of cases ... establish the premise that an unsigned contract may be binding and enforceable where the parties perform under the contract, because assent may be shown by the parties’ conduct.”).

A party’s partial performance is further evidence of the existence and enforceability of a settlement agreement. *See Seal Products v. Mansfield*, 705 So. 2d 973 (Fla. 3d DCA 1998) (finding binding settlement agreement existed where, although the agreement was not memorialized in a written settlement stipulation as originally contemplated, agreement was reached on material terms and the parties partially performed under the agreement).

As set forth above, the conduct and manifestations of the parties and the Receiver’s performance demonstrate mutuality and assent to the Settlement Agreement even if the Receiver did not formally execute the Settlement Agreement.

Accordingly, Grand Hope should be granted leave to sue the Receiver in Hillsborough County, Florida—the exclusive venue the parties agreed upon in the Settlement Agreement – to enforce its rights under the Settlement Agreement.

CONCLUSION AND RELIEF REQUESTED

Grand Hope is owed millions of dollars and its only realistic chance of recovery is by foreclosing on the Real Property. It was pursuing that remedy by establishing its priority due to the fraudulent nature of a Satisfaction of Mortgage when its case was abruptly stayed. The Receiver agreed to facilitate Grand Hope’s recovery as part of the Settlement Agreement. After partially performing, the Receiver has now refused to

comply with the terms of the Settlement Agreement. Grand Hope should be permitted to pursue a remedy against the Receiver in the form of a breach of contract action. Accordingly, Grand Hope respectfully requests that the Court grant Grand Hope's motion to intervene and motion to sue the Receiver, and for such further relief as the Court deems just and proper.

CERTIFICATE OF GOOD FAITH

Before filing this motion, the undersigned conferred with counsel for the Receiver and counsel for the SEC, each of whom opposes the relief requested herein.

Respectfully submitted,

/s/ Brad F. Barrios

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*Attorneys for Non-Party Grand Hope
Investments, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of June, 2023, the foregoing document was filed with the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Brad F. Barrios

Kenneth G. Turkel

Florida Bar No. 867233

kturkel@tcb-law.com

Brad F. Barrios

Florida Bar No. 0035293

bbarrios@tcb-law.com

Anthony J. Severino

Florida Bar No. 93452

aseverino@tcb-law.com

TURKEL CUVA BARRIOS, P.A.

100 North Tampa Street, Suite 1900

Tampa, FL 33602

Phone: (813) 834-9191

Fax: (813) 443-2193

*Attorneys for Non-Party Grand Hope
Investments, Inc.*

SEC v. Par Funding

Case No. 20-CV-81205-RAR

EXHIBIT A

*(to Non-Party Grand Hope Investments, Inc.'s Motion to
Intervene and Motion for Leave to Sue Receiver and Incorporated
Memorandum of Law)*

Filing # 87909871 E-Filed 04/12/2019 02:14:28 PM

IN THE CIRCUIT COURT, SIXTH
JUDICIAL CIRCUIT, IN AND FOR
PINELLAS COUNTY, FLORIDA

CASE NO.: 18-000897-CI

CENTERSTATE BANK, N.A., a national banking
association, as successor by merger with Sunshine
Bank,

Plaintiff,

vs.

**LAKE AVENUE SOUTH EAST REAL
ESTATE, LLC**, a Florida limited liability
company, **STEPHEN GURBA**, an individual,
RICHARD WELKOWITZ, an individual, **BT-
TWISS TRANSPORT, LLC**, a Florida limited
liability company, **TWISS TRANSPORT, INC.**, a
Florida profit corporation, **TWISS LOGISTICS,
INC.**, a Florida profit corporation, **TWISS COLD
STORAGE, INC.**, a Florida profit corporation,
**COMPLETE BUSINESS SOLUTIONS
GROUP, INC.**, a foreign corporation,
LIFTFORWARD, INC., a foreign corporation,
KEYSTONE TILE & MARBLE, INC., a Florida
profit corporation, **DADE PAPER & BAG, LLC**,
f/k/a Dade Paper & Bag Co., a Florida limited
liability company, **JANE DOE AND JOHN DOE**,
as unknown parties in possession of 1401 Lake
Avenue Southeast, Largo, Florida, and **JANE DOE
AND JOHN DOE**, as unknown parties in
possession of 1501 Lake Avenue Southeast, Largo,
Florida,

Defendants.

**ASSIGNMENT OF FINAL JUDGMENT FOR MONEY DAMAGES,
MORTGAGES, & POTENTIAL RELATED RIGHTS**

This Assignment of Final Judgment for Money Damages, Mortgages, and Potential
Related Rights ("Assignment") is made as of the 27th day of March, 2019, by CENTERSTATE
BANK, N.A., as successor by merger to Sunshine Bank (the "Assignor"), to ZENITH

EXPRESS LLC, a Florida limited liability company, also known as ZENITH EXPRESS, LLC (the "Assignee").

RECITALS:

A. On or about February 2, 2018, Assignor, as plaintiff, filed a lawsuit against, *inter alia*, LAKE AVENUE SOUTH EAST REAL ESTATE, LLC, a Florida limited liability company ("Lake Ave"), STEPHEN GURBA, an individual ("Gurba"), RICHARD WELKOWITZ, an individual ("Welkowitz"), BT-TWISS TRANSPORT, LLC, a Florida limited liability company ("BT Twiss"), TWISS TRANSPORT, INC., a Florida profit corporation ("Twiss Transport"), TWISS LOGISTICS, INC., a Florida profit corporation ("Twiss Logistics"), and TWISS COLD STORAGE, INC., a Florida profit corporation ("Twiss Cold Storage") (Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage all collectively, the "Obligors"), as defendants, for their defaults under certain loans from Assignor to Obligors (the "Loans"), seeking money damages against Obligors, and foreclosure of certain real property located in Pinellas County, Florida. This lawsuit is styled as *CenterState Bank, N.A. v. Lake Avenue South East Real Estate, LLC, et al.*, and is pending in the Circuit Court, Sixth Judicial Circuit, in and for Pinellas County, Florida (the "Court") as Case No. 18-00897-CI (the "Lawsuit").

B. The Lawsuit relates to Loans made by Assignor which are secured by, among other things, (i) that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 780 of the current public records of Pinellas County, Florida; and (ii) that certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 803 of the current public records of Pinellas County, Florida (collectively, the "Mortgages"). The Mortgages secure the Loans and mortgage certain real property (the "Pinellas County Real Property") owned by Lake Ave located in Pinellas County, Florida, as more particularly described in the Mortgages.

C. On or about January 15, 2019, the Court entered a Final Judgment for Money Damages (the "Judgment") against Obligors and in favor of Assignor in the amount of \$4,103,866.90 plus post-judgment interest at the rate of 6.33% per year through March 31, 2019, and thereafter at the rate set forth in section 55.03, Florida Statutes, reserving jurisdiction to award Assignor its reasonable attorneys' fees and costs to be recovered from Obligors. The Judgment is recorded in the Public Records of Pinellas County, Florida in Official Record Book 20409, Page 2611, re-recorded in the Public Records of Pinellas County, Florida in Official Record Book 20412, Page 1323, and recorded in the Public Records of Palm Beach County, Florida in Official Record Book 30422, Page 894.

D. Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Assignor's title insurance claim relating to the Mortgages (the "Title Claim"). Assignor makes no representation or warranty that its title insurance claim relating to the Mortgages is assignable, and assigns said claim without representation or warranty of any kind.

NOW THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment of the Judgment, Mortgages, and Title Claim. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
2. Assumption by Assignee. Assignee hereby assumes Assignor's assignment of the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
3. Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon the successors and assigns of Assignor and Assignee.
4. Responsibility for Costs of Judicial Sale. Assignee shall bear any and all costs of, and responsibility for, satisfaction of notice and/or publication requirements in connection with any judicial sale of the Pinellas County Real Property if so ordered.
5. No Assignor Responsibility for Tax Ramifications. To the extent that this Assignment may be the cause of any local, state, or federal tax ramifications impacting Assignee, Assignor shall have no responsibility for such tax ramifications, and such tax ramifications shall be the responsibility of the Assignee.

[the remainder of this page is intentionally blank]

This Assignment is executed by Assignor and Assignee as of the 27th day of March, 2019.

Signed, sealed and delivered
in the presence of:

Susan G Smith
Susan Smith

[Print or type name]

Robert E. Dodd
Robert E. Dodd

[Print or type name]

ASSIGNOR:

CENTERSTATE BANK, N.A., successor by
merger to Sunshine Bank:

By: Robert E. Dodd

Name: Robert E. Dodd

Its: E. V. P. & Director of Credit
Administration

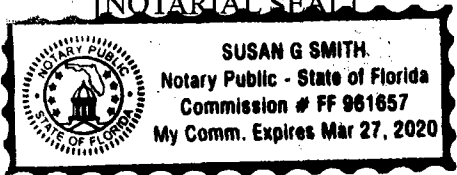
STATE OF FLORIDA)

) ss:

COUNTY OF POLK)

~~APRIL~~ The foregoing instrument was executed and acknowledged before me on the 10th day of ~~March~~, 2019, by ROBERT E. DODD, as the E. V. P. & Director of Credit Administration of **CENTERSTATE BANK, N.A.**, as successor by merger to Sunshine Bank, on behalf of said financial institution, who is personally known to me.

NOTARIAL SEAL



Susan G Smith

Print Name: Susan G Smith

Notary Public, State and County Aforesaid

Commission #:

My Commission Expires: 3.27.20

This Assignment is executed by Assignor and Assignee as of the 27th day of March, 2019.

Signed, sealed and delivered
in the presence of:

Cindy Gwynn
Cindy Gwynn
[Print or type name]

Shelzi A Paul
Shelzi A Paul
[Print or type name]

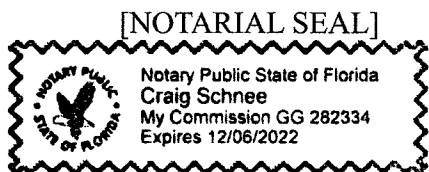
ASSIGNEE:

ZENITH EXPRESSLLC, a Florida
limited liability company, also known
as ZENITH EXPRESS LLC:

By: Stephen L. Gunba
Its: Manager

STATE OF FLORIDA)
) ss:
COUNTY OF Pinellas)

The foregoing instrument was executed and acknowledged before me on the 9th day
of April, 2019, by Stephen L. Gunba, as
Manager of ZENITH EXPRESSLLC, a Florida limited liability company,
also known as ZENITH EXPRESS LLC on behalf of said entity, who is personally known to me
or has produced _____ as identification.



Print Name: Craig Schnee
Notary Public, State and County Aforesaid
Commission #: GG 282334
My Commission Expires: 12/6/22

SEC v. Par Funding

Case No. 20-CV-81205-RAR

EXHIBIT B

*(to Non-Party Grand Hope Investments, Inc.'s Motion to
Intervene and Motion for Leave to Sue Receiver and Incorporated
Memorandum of Law)*

ORDER# CBS00186
Record & Return to : SearchTec
314 N 12th St, Suite 100 Phila, Pa. 19107
215-963-0888



Prepared By/After Recording Return to:
Brian H. Smith, Esquire
20 North 3rd Street
Philadelphia, PA 19106

IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

CASE NO. 18-000897-CI

CENTERSTATE BANK, N.A., a national
banking association, as successor by merger with
Sunshine Bank,

Plaintiff

v.

LAKE AVENUE SOUTH EAST REAL ESTATE, LLC, a
Florida limited liability company, et al.

Defendants

ASSIGNMENT

For and in consideration of the amount of Three Million Seven Hundred Thousand Dollars (\$3,700,000.000) and intending to be legally bound, ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS, LLC, a Florida limited liability company ("Assignor"), hereby sells, assigns, and transfers (subject to the provisions of this Assignment) all of its right, title and interest in and to the following items, to EAGLE SIX CONSULTANTS INC. with an address of 20900 NE 30th Avenue, Suite 307, Miami, FL 33180 ("Assignee"):

- (1) That certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016, recorded at Book 19068, Page 780 of the land records of Pinellas County, FL, secured by premises described on Exhibit "A" hereto;
- (2) That certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 recorded at Book 19068, Page 803 of the land records of Pinellas County, FL, secured by premises described on Exhibit "A" hereto;
- (3) Any and all loans, and any and all notes, guarantys, and other obligation instruments or documents of any type, arising out of, relating to, or pertaining to (1) and (2) above;
- (4) Any and all lender's title insurance policies relating to or pertaining to (1) and/or (2) above;
- (5) The plaintiff's interest in the lawsuit filed to the above caption and docket number, and the plaintiff/judgment holder's interest in any judgment(s) entered therein;

(6) Any and all title insurance claim(s) made relating to (1) and/or (2) above, and any interest in any litigation arising out of, relating to, or pertaining to any such title insurance claim(s).

Should it transpire that: (a) any of the aforementioned items are not in fact assignable to Assignee, and/or (b) that any losses to Assignee (including but not limited to attorney's fees and/or legal costs) are not paid by the title insurer in connection with (4) or (6) above, Assignor agrees to indemnify and hold harmless Assignee for any losses to Assignee arising out of, relating to, or pertaining to (a) or (b) above.

This Assignment shall be filed with the Court under the above caption and docket number, and shall also be recorded with the land records of Pinellas County, FL.

IN WITNESS WHEREOF, the parties have set their hands and seals below as of this

30th day of MAY, 2019.

ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS
LLC a/k/a ZENITH EXPRESS, LLC

By: [Signature]
Stephen L. Gurba, Manager

EAGLE SIX CONSULTANTS INC.

By: [Signature]
Joe Cole, CFO

State of Florida
County of P. DALLAS

I, a Notary Public, in and for said County in said State, hereby certify that Stephen L. Gurba, whose name as Manager of ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS, LLC, is signed to the foregoing instrument and who is known to me or satisfactorily proven, acknowledged before me on this 30TH day of MAY, 2019 that, being informed of the contents of the instrument, he, as such title/officer and with full authority, executed the same voluntarily for and as the act of said entity.


Notary Public



Commonwealth of Pennsylvania
County of Philadelphia

I, a Notary Public, in and for said County in said Commonwealth, hereby certify that Joe Cole, whose name as CFO of EAGLE SIX CONSULTANTS INC., is signed to the foregoing instrument and who is known to me or satisfactorily proven, acknowledged before me on this 31st day of MAY, 2019 that, being informed of the contents of the instrument, he, as such officer/title and with full authority, executed the same voluntarily for and as the act of said entity.

Denise Derlin
Notary Public

My commission expires: October 15, 2021

Commonwealth of Pennsylvania - Notary Seal
Denise Derlin, Notary Public
Bucks County
My commission expires October 15, 2021
Commission number 1279657

The land referred to herein below is situated in the County of Pinellas, State of FL, and is described as follows:

PARCEL A

That portion of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 2, Township 30 South, Range 15 East, as a point of reference, proceed North 88 degrees 40'43" West along the South line of said Section 2, 2731.07 feet; said point being the South 1/4 corner of said Section 2; thence North 01 degrees 37'29" East along the North/South centerline of said Section 2, 1988.88 feet, said point also being South 01 degrees 37'29" West, 663.24 feet from the center of said Section 2, thence South 88 degrees 49' 25" East, 40.00 feet to the Point of Beginning.

From said Point of Beginning proceed South 88 degrees 49'26" East, 316.27 feet, said line being the North Line of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, thence South 01 degrees 28'19" West, 610.93 feet to an intersection with a line 23.00 feet North of and parallel to the centerline of an A.C.L. Railroad Spur Line; thence North 88 degrees 46'29" West, along said line 317.90 feet to an intersection with the Easterly right-of-way of County Road 110 (Lake Avenue) an 80 foot right-of-way; thence North 01 degree 37'29" East along said line 610.66 feet to the Point of Beginning.

PARCEL B

That portion of Lots 7 and 8, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, contained within the following description:

From the center corner of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, as a point of reference; run thence South 1 degree 37'29" West, 40.00 feet along the North and South 1/4 line of Section 2; thence South 88 degrees 52'23" East, 40.00 feet to the Point of Beginning; Thence South 88 degrees 52'23" East, 132.22 feet to a point on the Southerly line of a 175 foot wide Florida Power Corporation right of way; thence along said right of way line South 71 degrees 15'07" East, 189.14 feet; thence South 1 degree 29'20" West, 566.06 feet; thence North 88 degrees 49'25" West, 314.33 feet to a point on the East right of way line of County Road No. 110 (Lake Avenue); thence along said right of way line North 1 degree 37'29" East, 623.07 feet to the Point of Beginning.

EXHIBIT "A"

SEC v. Par Funding

Case No. 20-CV-81205-RAR

EXHIBIT C

(to Non-Party Grand Hope Investments, Inc.'s Motion to Intervene and Motion for Leave to Sue Receiver and Incorporated Memorandum of Law)

From: Timothy Kolaya <tkolaya@sflaw.com>
Sent: Tuesday, August 9, 2022 3:00 PM
To: Anthony Severino; Brad Barrios
Cc: Lisa Meriwether; Michael Cohn
Subject: RE: Grand Hope / Eagle Six
Attachments: Grand Hope - Confidential Settlement Agreement and Mutual Release (FINAL).docx; Grand Hope - Settlement Agreement and Mutual Release (FINAL).pdf; Exhibit A to Settlement Agreement-Description of Property.pdf; Exhibit B to Settlement Agreement - Assignment to Zenith 03.27.19.pdf; Exhibit C to Settlement Agreement - Assignment of Mortgage 05.30.19 - Zenith to Eagle Six.pdf; Exhibit D to Settlement Agreement - Motion to Substitute.pdf; Exhibit E to Settlement Agreement - Motion to Set Aside Dismissal.pdf; Exhibit F - Motion for Final Summary Judgment of Foreclosure.pdf; Exhibit G - Assignment of Final Judgment of Foreclosure, Final Judgment for Money Damages, Mortgages, & Potential Related Rights (Eagle Six to Grand Hope).pdf

Anthony:

Here is what I expect to be the final settlement agreement, including the exhibits. Please confirm you are in agreement. I will have the Receiver sign the agreement today and will immediately get to work on a motion to lift the litigation injunction in the SEC Action.

Regards,

Tim

Timothy A. Kolaya

Stumphauzer Kolaya Nadler & Sloman, PLLC

One Biscayne Tower

2 South Biscayne Boulevard, Suite 1600

Miami, FL 33131

E-mail: tkolaya@sflaw.com

Direct: 305-614-1405

Mobile: 305-321-3055

[Bio](#) | [VCard](#) | sflaw.com



From: Anthony Severino <aseverino@tcb-law.com>
Sent: Tuesday, August 9, 2022 1:52 PM
To: Timothy Kolaya <tkolaya@sflaw.com>; Brad Barrios <bbarrios@tcb-law.com>
Cc: Lisa Meriwether <lmeriwether@tcb-law.com>; Michael Cohn <mac@awerbachcohn.com>
Subject: RE: Grand Hope / Eagle Six

Agreed it should be limited in paragraph 36. That was an oversight on our end with the draft.

-Anthony

From: Timothy Kolaya <tkolaya@sfslaw.com>
Sent: Tuesday, August 9, 2022 1:50 PM
To: Anthony Severino <aseverino@tcb-law.com>; Brad Barrios <bbarrios@tcb-law.com>
Cc: Lisa Meriwether <lmeriwether@tcb-law.com>; Michael Cohn <mac@awerbachcohn.com>
Subject: RE: Grand Hope / Eagle Six

My concern with the term "Defendants" mostly related to paragraph 36, which states:

As of July 22, 2022, Defendants, jointly and severally, owe Eagle Six \$4,898,771.70 in principal and interest which continues to accrue at the current rate of \$487.96 per diem (adjusted quarterly), plus all costs and expenses of this suit including, without limitation, reasonable attorneys' fees.

If we limit that paragraph to the Defendants that are liable under the Final Money Judgment (Defendants Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage), that should be fine.

I will give it another read-through this afternoon to confirm that this edit will work, but I expect it will.

Regards,

Tim

Timothy A. Kolaya

Stumphauzer Kolaya Nadler & Sloman, PLLC

One Biscayne Tower

2 South Biscayne Boulevard, Suite 1600

Miami, FL 33131

E-mail: tkolaya@sfslaw.com

Direct: 305-614-1405

Mobile: 305-321-3055

[Bio](#) | [VCard](#) | sfslaw.com



From: Anthony Severino <aseverino@tcb-law.com>
Sent: Tuesday, August 9, 2022 1:35 PM
To: Timothy Kolaya <tkolaya@sfslaw.com>; Brad Barrios <bbarrios@tcb-law.com>
Cc: Lisa Meriwether <lmeriwether@tcb-law.com>; Michael Cohn <mac@awerbachcohn.com>
Subject: RE: Grand Hope / Eagle Six

Tim,

We agree to your proposed revision to paragraph 2. Attached is the word version of the settlement agreement. You can make that change and add signature blocks. We also agree to your proposed changes to Exhibit D. As to Exhibit E, I think we need all the Defendants to foreclose. If any of the Defendants have an inferior lien/priority, they would still be entitled to money if the property were sold at auction and money remained after the judgment was satisfied from the proceeds of the sale. The intent was always for our clients to ultimately obtain clear title to the property. Let me know the reasoning behind not including all of the Defendants so that we can quickly resolve that last remaining issue.

Thanks,

Anthony

Anthony J. Severino

Turkel Cuva Barrios

100 N. Tampa Street, Suite 1900

Tampa, FL 33602

813-834-9191 (office)

813-868-6167 (direct)

TCB | Turkel
Cuva
Barrios

From: Timothy Kolaya <tkolaya@sflaw.com>

Sent: Monday, August 8, 2022 6:01 PM

To: Anthony Severino <aseverino@tcb-law.com>; Brad Barrios <bbarrios@tcb-law.com>

Cc: Lisa Meriwether <lmeriwether@tcb-law.com>; Michael Cohn <mac@awerbachcohn.com>

Subject: RE: Grand Hope / Eagle Six

Anthony:

In paragraph 2 of the Terms of the Agreement, we'd like to make one additional edit by adding the additional language in bold/underlined font:

Upon receipt of the Settlement Sum, the Receiver, on behalf of Eagle Six, acknowledges and agrees that the Title Policy is terminated and of no further force and effect; **notwithstanding the foregoing, the Title Policy shall remain in full force and effect in the event that the conditions set forth in Paragraphs 3-7 are not satisfied, and the escrowed funds are returned to Grand Hope and First American, as provided in Paragraph 8.**

That concept seems to be understood and implied by the language in Paragraph 8, which states that the settlement agreement is "null and void" if the conditions are not satisfied, but we wanted to make that abundantly clear.

Also, the settlement agreement needs to include signature blocks. If you'd like to send me the Word document, I can make those final edits, obtain the Receiver's signature, and then return a partially-executed copy of the settlement agreement to you.

Exhibit D – Attached are some minor edits.

With those final edits, we should be ready to proceed with finalizing the settlement and moving forward with trying to obtain the final judgment of foreclosure.

Given that the Master Order of Dismissal was entered on August 18, 2021, we potentially only have another 10 days to file the motion to set aside that order. I think the one year doesn’t apply, given that the dismissal order should be deemed void. But, in any event, we should move forward now.

As a result, I am going to prepare and file a motion in the SEC Action to request that the litigation injunction be lifted.

In the meanwhile, hopefully we can get this settlement finalized and move forward with resolving this.

Regards,

Tim

Timothy A. Kolaya

Stumphauzer Kolaya Nadler & Sloman, PLLC

One Biscayne Tower

2 South Biscayne Boulevard, Suite 1600

Miami, FL 33131

E-mail: tkolaya@sfslaw.com

Direct: 305-614-1405

Mobile: 305-321-3055

[Bio](#) | [VCard](#) | sfslaw.com



From: Anthony Severino <aseverino@tcb-law.com>

Sent: Thursday, July 21, 2022 9:53 AM

To: Timothy Kolaya <tkolaya@sfslaw.com>; Brad Barrios <bbarrios@tcb-law.com>

Cc: Lisa Meriwether <lmeriwether@tcb-law.com>; Michael Cohn <mac@awerbachcohn.com>

Subject: RE: Grand Hope / Eagle Six

Tim,

Thank you for your patience while we put together the rest of the documents to quickly carry out the steps upon finalizing the settlement agreement. As to your revisions, we accepted all of them and made a few further revisions (i.e., fixing paragraph numbers, adding reference to an exhibit, and one word change). Attached is the redlined version in along with a clean version. I have also attached all the draft exhibits. We may still tweak some of the exhibits, but they

Let me know if you have any questions.

Thanks,

Anthony

Anthony J. Severino

Turkel Cuva Barrios

100 N. Tampa Street, Suite 1900

Tampa, FL 33602

813-834-9191 (office)

813-868-6167 (direct)

TCB | Turkel
Cuva
Barrios

From: Timothy Kolaya <tkolaya@sfslaw.com>

Sent: Tuesday, May 31, 2022 7:16 PM

To: Anthony Severino <aseverino@tcb-law.com>; Brad Barrios <bbarrios@tcb-law.com>

Cc: Lisa Meriwether <lmeriwether@tcb-law.com>

Subject: RE: Grand Hope / Eagle Six

Anthony:

My apologies for the delay. Between two appellate arguments and two big summary judgment motions that I am finally wrapping up, I'm just now able to come up for some air.

Here are some comments and edits to the settlement agreement. These should be pretty straightforward. The two concepts I removed were confidentiality and indemnification. Those are things the Receiver is not able to provide, given that he is an officer of the court in carrying out these duties.

Would you like to review the edits and provide me an updated draft, together with drafts of the documents you would like the Receiver to file in the Pinellas County case, as well as the Assignment? It would be helpful if you could let us know exactly what it is you'd like us to file, and simply attach those documents to the settlement agreement, so that we can quickly carry out these steps once the agreement is finalized.

We will prepare the motion that will need to be filed in the receivership case to lift the litigation stay.

Regards,

Tim

TIMOTHY A. KOLAYA
PARTNER

DIRECT 305. 614. 1405
MAIN 305. 614. 1400
MOBILE 305. 321. 3055
E-MAIL TKOLAYA@SFSLAW.COM
WEB WWW.SFSLAW.COM

ONE BISCAYNE TOWER
2 SOUTH BISCAYNE BOULEVARD
SUITE 1600
MIAMI, FL 33131

From: Anthony Severino <aseverino@tcb-law.com>
Sent: Tuesday, May 31, 2022 10:22 AM
To: Timothy Kolaya <tkolaya@sfslaw.com>; Brad Barrios <bbarrios@tcb-law.com>
Cc: Lisa Meriwether <lmeriwether@tcb-law.com>
Subject: RE: Grand Hope / Eagle Six

Tim,

Any update? If we don't get this moving, we are going to need to file a motion which we would like to avoid. Please let us know the status.

Thanks,

Anthony
Anthony J. Severino
Turkel Cuva Barrios
100 N. Tampa Street, Suite 1900
Tampa, FL 33602
813-834-9191 (office)
813-868-6167 (direct)
 **Turkel
Cuva
Barrios**

From: Timothy Kolaya <tkolaya@sfslaw.com>
Sent: Monday, May 9, 2022 2:51 PM
To: Brad Barrios <bbarrios@tcb-law.com>
Cc: Anthony Severino <aseverino@tcb-law.com>; Lisa Meriwether <lmeriwether@tcb-law.com>
Subject: RE: Grand Hope / Eagle Six

Sorry; I've been overloaded the past few weeks. This is on my list of things to address and will be back to you soon.

TIMOTHY A. KOLAYA
PARTNER

DIRECT 305. 614. 1405
MAIN 305. 614. 1400
MOBILE 305. 321. 3055

ONE BISCAYNE TOWER
2 SOUTH BISCAYNE BOULEVARD
SUITE 1600

E-MAIL

TKOLAYA@SFSLAW.COM

MIAMI, FL 33131

WEB

WWW.SFSLAW.COM

From: Brad Barrios <bbarrios@tcb-law.com>
Sent: Monday, May 9, 2022 2:50 PM
To: Timothy Kolaya <tkolaya@sfslaw.com>
Cc: Anthony Severino <aseverino@tcb-law.com>; Lisa Meriwether <imeriwether@tcb-law.com>
Subject: Grand Hope / Eagle Six

Tim,

Can you please provide us with an update? We'd really like to move this forward.

Thanks,
Brad

Brad F. Barrios
Turkel Cuva Barrios, PA
100 N. Tampa Street, Suite 1900
Tampa, FL 33602
813-834-9191 (office)
813-868-6168 (direct)
bbarrios@tcb-law.com



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**SETTLEMENT AGREEMENT
AND MUTUAL RELEASE**

This Settlement Agreement and Release (“Agreement”) is made and entered into by Grand Hope Investments, Inc. (“Grand Hope”), Ryan K. Stumphauzer, Esq. as Receiver for Eagle Six Consultants, Inc. (“Eagle Six”), and First American Title Insurance Company (“First American”) on the date of the last signature below. Grand Hope, Eagle Six, and First American are collectively referred to herein as the “Parties” and individually as a “Party.”

RECITALS

Real Property Ownership History

WHEREAS, Ronald N. Damico and Sandra Damico formed Grand Hope in 1995 to own and hold real property located in Pinellas County, Florida and commonly described as 1401 and 1501 Lake Ave. SE., Largo Florida (the “Real Property”). A true, complete, and authentic copy of the legal description for the Real Property is attached as **Exhibit A**;

WHEREAS, on July 25, 2013, Grand Hope executed a Warranty Deed conveying the Real Property to D&E Property Investments, Inc. (“D&E”);

WHEREAS, in connection with the conveyance of the Real Property, D&E gave Grand Hope a Promissory Note in the amount of \$3,000,000 (the “Grand Hope Note”), which was secured by a first Mortgage on the Real Property recorded on August 6, 2013, in O.R. Book 18113, Page 2327, Public Records of Pinellas County, Florida (the “Grand Hope Mortgage”) (the Grand Hope Note and the Grand Hope Mortgage are collectively referred to as the “First Mortgage Loan”);

WHEREAS, on or about October 27, 2015, Lake Ave South Real Estate, LLC (“Lake Ave”) purchased all the stock of D&E (*i.e.*, the Real Property) and, as consideration, Lake Ave assumed the First Mortgage Loan;

WHEREAS, on or about December 11, 2015, Lake Ave and D&E filed Articles of Merger with Florida's Secretary of State, with Lake Ave continuing as the surviving entity;

WHEREAS, pursuant to an Assumption Agreement dated October 27, 2015, Lake Ave agreed to assume the outstanding balance of the Grand Hope Note;

WHEREAS, on January 26, 2016, a Satisfaction of Mortgage related to the First Mortgage Loan was recorded in the public records of Pinellas County, Florida ("Satisfaction of Mortgage").

WHEREAS, it is Grand Hope's position that neither Ronald or Sandra Damico, nor anyone else affiliated with Grand Hope, had knowledge that the Satisfaction of Mortgage was being executed or recorded;

WHEREAS, on January 26, 2016, Lake Ave executed and delivered a Promissory Note in the original principal amount of \$2,400,000.00 to Sunshine Bank ("Sunshine Note");

WHEREAS, the Sunshine Note was secured by that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing ("Sunshine Mortgage") executed and delivered by Lake Ave to Sunshine Bank on or about January 28, 2016, and subsequently recorded at Book 19068, Page 780 of the public records of Pinellas County, Florida;

WHEREAS, the Sunshine Mortgage was secured by the Real Property;

WHEREAS, in connection with the Sunshine Mortgage, Sunshine Bank was issued a title insurance policy underwritten by First American (the "Title Policy"), insuring the Sunshine Mortgage as a first mortgage on the Real Property.

WHEREAS, Lake Ave defaulted under the Sunshine Note;

Litigation Involving the Real Property

WHEREAS, on February 12, 2018, CenterState Bank, N.A. ("CenterState"), as successor by merger to Sunshine Bank, filed its Complaint for Foreclosure of Mortgage, Money Judgments and Other Relief related to, among other things, the

Sunshine Note and Sunshine Mortgage, in the Sixth Judicial Circuit, in and for Pinellas County, Florida (the “CenterState Action”);

WHEREAS, on February 14, 2018, Grand Hope filed its Complaint against CenterState, Complete Business Solutions Group, Inc. (“CBSG”), Liftforward Inc. (“Liftforward”), and Stephen Gurba in the Sixth Judicial Circuit, in and for Pinellas County, Florida related to the January 16, 2018, fraudulent Satisfaction of Mortgage (the “Grand Hope Action”);

WHEREAS, Centerstate made a claim against First American under the Title Policy based upon the Grand Hope Action (the “Title Claim”).

WHEREAS, on January 15, 2019, CenterState obtained a Final Judgment for Money Damages in the CenterState Action against Lake Ave, as well as other defendants, related to the Sunshine Note (the “Final Judgment”);

WHEREAS, on March 27, 2019, CenterState assigned all its rights, title, and interest in the Final Judgment and the Title Claim to Zenith Express, LLC (“Zenith”) (the “Zenith Assignment”). A true, complete, and authentic copy of the Zenith Assignment is attached as **Exhibit B**;

WHEREAS, on April 29, 2019, the Zenith Assignment was recorded at Book 20517, Page 796 of the public records of Pinellas County, Florida;

WHEREAS, on May 7, 2019, Zenith was substituted as Plaintiff for CenterState in the CenterState Action;

WHEREAS, on May 30, 2019, Zenith assigned and transferred its right, title, and interest to Eagle Six in the following (“Eagle Six Assignment”):

- (1) The Sunshine Mortgage;
- (2) That certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 recorded at Book 19068, Page 8093 of the land recorded of Pinellas County, Florida secured by the Real Property (“Second Mortgage”);
- (3) Any and all loans, and any and all notes, guarantees, and other obligation instruments or documents of any type, arising out of, relating to, or pertaining to the Sunshine Mortgage and the Second Mortgage;

- (4) Any and all lender's title insurance policies relating to or pertaining to the Sunshine Mortgage or Second Mortgage;
- (5) The plaintiff's interest in the CenterState Action and the plaintiff/judgment holder's interest in any judgment(s) entered therein; and
- (6) Any and all title insurance claim(s) made relating to the Sunshine Mortgage or Second Mortgage, including the Title Claim, and any interest in any litigation arising out of, relating to, or pertaining to any such title insurance claim(s).

A true, complete, and authentic copy of the Eagle Six Assignment is attached as **Exhibit C**.

WHEREAS, the rights and interests assigned to Eagle Six pursuant to the Eagle Six Assignment shall collectively be referred to as the "Eagle Six Assigned Interests;"

WHEREAS, on June 3, 2019, in the Grand Hope Action, Zenith was substituted as a Defendant in place of CenterState pursuant to an Agreed Order;

WHEREAS, on February 27, 2020, Grand Hope, Ronald Damico, and Sandra Damico filed the Second Amended Complaint in the Grand Hope Action;

WHEREAS, on or about February 2, 2021, the Grand Hope Action was indefinitely stayed;

WHEREAS; on August 19, 2021, the CenterState Action was dismissed for lack of prosecution pursuant to a Master Order of Dismissal ("Master Order of Dismissal");

The Receivership

WHEREAS, on July 27, 2020, Ryan K. Stumphauzer, Esq. ("Receiver"), was appointed as Receiver over various entities, including CBSG, in the case of *Securities and Exchange Commission v. Complete Business Solutions Group, Inc. d/b/a Part Funding*, pending in the United States District Court for the Southern District of Florida, Case No. 20-cv-81205 (the "Receivership Case");

WHEREAS, on December 16, 2020, Ryan K. Stumphauzer, Esq., was appointed as Receiver of Eagle Six pursuant to the following orders entered in the Receivership Case (collectively, the “Receivership Orders”):

- (1) The Amended Order Appointing Receiver, entered on August 13, 2020 (ECF 141);
- (2) The Order Granting Motion to Expand Receivership Estate, entered on December 16, 2020 (ECF 436); and
- (3) Order Granting motion to Correct Scrivener’s Errors in Prior Orders Expanding Receivership Estate, entered on February 2, 2021 (ECF 484);

WHEREAS, pursuant to the Receivership Orders, there is a stay of litigation, until further order of the Receivership Court, that applies to the CenterState Action and the Grand Hope Action, as those proceedings involve “any of the Receivership Entities” (ECF 141, ¶ 32) (the “Stay of Litigation”);

WHEREAS, pursuant to the Receivership Orders and applicable law, the Receiver has all powers, authorities, rights and privileges possessed by the officers, directors, managers, and general and limited partners of Eagle Six under applicable state and federal law, by the governing charters, by-laws, articles and/or agreement in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed. R. Civ. P. 66;

WHEREAS, the Receiver has the authority to settle claims on behalf of Eagle Six;

Summary

WHEREAS, pursuant to the Zenith Assignment and Eagle Six Assignment, Eagle Six possesses all right, title, and interest in the Eagle Six Assigned Interests and is the insured under the Title Policy;

WHEREAS, the Parties are in dispute over the order of priority and their respective mortgages concerning the Real Property (the “Priority Dispute”);

WHEREAS, the Receiver represents and warrants that he has the authority to enter into and perform the obligations under this Agreement;

WHEREAS, the Grand Hope Action remains pending and stayed, while the CenterState Action remains dismissed;

WHEREAS, the Parties have considered that the interests of all concerned are best served by compromise, and have concluded that the terms of this Agreement are fair, reasonable, adequate, and in their mutual best interests; and

WHEREAS, the Parties have engaged in settlement negotiations and, as a result, have agreed to settle the issues, matters and things in dispute among them pursuant to the terms of this Agreement,

NOW THEREFORE, in consideration of the mutual promises, terms, and conditions contained herein, and for other good and valuable consideration hereby deemed received, the Parties agree as follows:

TERMS OF AGREEMENT

1. **Incorporation of Recitals.** The foregoing recitals are incorporated herein by this reference.

2. **Settlement Amount.** In order to completely resolve the Priority Dispute and the Title Claim, Grand Hope and First American have agreed to pay to the Receiver, and the Receiver, on behalf of Eagle Six, has agreed to accept, the settlement sum of Five Hundred Thousand DOLLARS AND 00/100 (\$500,000.00) (“Settlement Sum”), inclusive of all damages, prejudgment interest, attorney fees and costs as follows:

- a. Grand Hope shall deposit by wire transfer the sum of \$275,000.00 to the trust account of counsel for the Receiver, Stumphauzer Foslid Sloman Ross & Kolaya, PLLC to be held in escrow, within five (5) business days of the execution of this Agreement;
- b. First American shall deposit by wire transfer the sum of \$225,000.00 to the trust account of counsel for the Receiver, Stumphauzer Foslid

Sloman Ross & Kolaya, PLLC, to be held in escrow, within five (5) business days of the execution of this Agreement;

- c. The Settlement Sum shall be released from escrow to the Receiver as set forth below in Paragraph 8.

Upon receipt of the Settlement Sum, the Receiver, on behalf of Eagle Six, acknowledges and agrees that the Title Policy is terminated and of no further force and effect; notwithstanding the foregoing, the Title Policy shall remain in full force and effect in the event that the conditions set forth in Paragraphs 3-7 are not satisfied, and the escrowed funds are returned to Grand Hope and First American, as provided in Paragraph 8.

3. **Lifting Stay of CenterState Action and Grand Hope Action.** Within three (3) business days of the execution of this Agreement, the Receiver shall file a motion in the Receivership Case to lift the Stay of Litigation of the CenterState Action and the Grand Hope Action.

4. **Eagle Six Substitution for Zenith.** Within three (3) business days of the stay being lifted as set forth above in Paragraph 3, the Receiver shall move to substitute Eagle Six for Zenith as Plaintiff in the CenterState Action, or otherwise intervene as the real party in interest in the CenterState Action, in the form substantially similar to **Exhibit D** attached hereto.

5. **Setting Aside Master Order of Dismissal in CenterState Action.** As part of the Motion for Substitution described in Paragraph 4, or within three (3) business days of Eagle Six being substituted as Plaintiff or otherwise intervening, the Receiver shall file a motion to set aside the Master Order of Dismissal in the CenterState Action, in the form substantially similar to **Exhibit E** attached hereto.

6. **Eagle Six to Obtain Final Judgment of Foreclosure.** Within three (3) business days of the CenterState Action being reopened and the Master Order of Dismissal vacated as set forth above in Paragraph 5, Eagle Six will diligently pursue a final judgment of foreclosure of the Sunshine Mortgage by filing a motion for final

summary judgment of foreclosure in the form substantially similar to **Exhibit F** attached hereto.

7. **Eagle Six Assignment to Grand Hope.** Within three (3) business days of obtaining a Final Judgment of Foreclosure as set forth above in Paragraph 6, including all applicable time periods to appeal and no appeal has been initiated, the Receiver, on behalf of Eagle Six, shall execute an Assignment to assign all of rights, title, and interests in the Final Judgment of Foreclosure to Grand Hope, in the form substantially similar to **Exhibit G** attached hereto.

8. **Release of Escrow.** Within three (3) business days of Grand Hope being assigned the Final Judgment of Foreclosure as set forth above in Paragraph 7, Grand Hope and First American shall direct the escrow agent to release the Settlement Sum to the Receiver. If the conditions set forth above in Paragraphs 3-7 are not satisfied, Grand Hope and First American shall be entitled to recover their respective portions of the Settlement Sum, Eagle Six shall consent to the release of the escrowed funds, and this Agreement will be null and void.

9. **Notice.** For purposes of this Agreement, written notice to Grand Hope and the Receiver shall be provided by Certified Mail with a copy by email (email will not be deemed notice) to Grand Hope and the Receiver at:

Grand Hope

c/o Turkel Cuva Barrios, P.A.

attn: Brad F. Barrios, Esq.

100 N. Tampa St., Suite 1900

Tampa, Florida 33602

Email: bbarrios@tcb-law.com; aseverino@tcb-law.com

Receiver

c/o Stumphauzer Foslid Sloman Ross & Kolaya, PLLC
attn: Timothy A. Kolaya, Esq.
Two South Biscayne Boulevard, Suite 1600
Miami, Florida 33131
Email: tkolaya@sfslaw.com

10. **Dismissal.** Within three (3) business days of the release of the escrowed Settlement Sum to the Receiver, pursuant to Paragraph 8 of this Agreement, Grand Hope shall dismiss the Grand Hope Action with prejudice.

11. **No Admission of Liability.** Nothing contained in this Agreement is to be construed as an admission by any of the Parties with respect to any matter.

12. **Entire Agreement.** This Agreement contains the entire, complete and integrated statement of each and every term and provision agreed to by and among the Parties hereto relating to the transactions contemplated by this Agreement and all prior or contemporaneous agreements, understandings, conditions, representations and settlements, oral or written, are merged herein; it is not subject to any condition not provided for in this Agreement and shall not be modified in any respect except by a writing executed by all the Parties hereto.

13. **Full Satisfaction of Claims:** The Parties acknowledge and agree that the amount being paid pursuant to this Agreement is in full satisfaction of the Title Claim and any and all real and potential claims for equitable and or monetary damages, including, but not limited to, compensatory damages, incidental damages, consequential damages, punitive damages, statutory damages, sanctions, interest, penalties, assessments, fines, attorney's fees, costs, and all other damages from the beginning of time until the date of this Agreement arising out of the Grand Hope Action, CenterState Action, and the Receivership Case.

14. **Mutual Release.** Upon receipt of the Settlement Sum by the Receiver as set forth above in Paragraph 8, each of the Parties to this Agreement on behalf of themselves, their executors, administrators, predecessors, assigns, successors, and

agents, stockholders, employees, representatives, hereby fully releases and discharges the other Party and their executors, administrators, assigns, successors, and agents, stockholders, employees, representatives, from all rights, claims, and actions, whether known or unknown, which each party and their above-mentioned successors now have against the other Party and/or any Party's above-mentioned successors, arising under any federal, state or local, laws and/or regulations relating to the Real Property, the Grand Hope Note and Mortgage, the Satisfaction of Mortgage, the Sunshine Note and Mortgage, the Title Policy or the Title Claim from the beginning of time to the date this Agreement is executed by the Parties.

15. **Severability**: If any one or more of the numbered provisions or terms of this Agreement are found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining numbered provisions or Terms contained herein will not in any way be affected or impaired thereby.

16. **Venue and Governing Law**: All terms of this Agreement shall be governed by and interpreted according to the laws of the State of Florida without regard to its choice of law or conflict of laws principles. Exclusive venue for any action arising from an alleged breach of this Agreement shall be in Hillsborough County, Florida.

17. **Counterparts**: Execution of this Agreement by facsimile or other identical copy shall bind the Parties to this Agreement just as if the Parties had signed original counterparts.

18. **Attorney's Fees**: ALL PARTIES TO THIS AGREEMENT ARE TO BEAR THEIR OWN RESPECTIVE ATTORNEYS' FEES AND COSTS. Notwithstanding anything to the contrary set forth above, the prevailing party in any litigation arising from any breach or alleged breach of this Agreement shall be entitled to recover its attorneys' fees and costs incurred in the litigation from the non-prevailing party, including fees and costs incurred at the trial and appellate levels.

19. **No Oral Modification:** This Agreement shall not be modified, altered, or amended except by a document in writing, executed by the Parties.

20. **Negotiated Agreement:** This Agreement was negotiated between the Parties and/or their respective counsel. Accordingly, in the event of a dispute about the meaning, construction or interpretation of this Agreement, the language shall be deemed to have been drafted equally by the Parties.

21. **No Reliance.** The undersigned representatives of the respective Parties represent, warrant, and acknowledge that they have received the proper and necessary authority to execute this Agreement. Further, the Parties represent and acknowledge that in executing this Agreement, they do not rely and have not relied upon any representation or statement made by any Party regarding the subject matter, basis, or effect of this Agreement, other than those representations expressly set forth herein. The Parties agree that this written Agreement constitutes the entire agreement between them regarding the subject matter described herein.

22. **Voluntary.** The Parties hereby acknowledge that they have freely, voluntarily, and knowingly entered the negotiations which preceded the execution of this Agreement, and that each party knowingly and voluntarily, of its own free will without any duress, being fully informed and after due deliberation, accepts the terms of this Agreement.

23. **Severability Clause.** If any term or provision of this Agreement and Release, or the application thereof to any person or circumstance, shall to any extent be found invalid or unenforceable, the remainder of the Agreement, or the applications of such term or provisions to persons or circumstances other than to those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

24. **Cooperation.** Except as specifically set forth in this Agreement, the Parties agree to cooperate in good faith to effectuate any other documents reasonably necessary to carry out the terms and purpose of this Agreement.

25. **Headings.** The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

IN WITNESS WHEREOF, each of the Parties have duly executed this Settlement Agreement and Mutual Release either on their own behalf, or through a duly authorized agent who represents that he or she possesses such authority, as of the date here below written:

GRAND HOPE INVESTMENTS, INC.

By: _____

Name: _____

Title: _____

Dated: _____

**RYAN K. STUMPHAUZER, ESQ.,
RECEIVER FOR EAGLE SIX CONSULTANTS, INC.**

By: _____

Name: Ryan K. Stumphauzer, Esq.

Title: Court-Appointed Receiver

Dated: _____

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____

Name: _____

Title: _____

Dated: _____

EXHIBIT A

PARCEL A:

That portion of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 2, Township 30 South, Range 15 East, as a point of reference, proceed North $88^{\circ}40'43''$ West along the South line of said Section 2, 2731.07 feet; said point being the South 1/4 corner of said Section 2; thence North $01^{\circ}37'29''$ East along the North/South centerline of said Section 2, 1988.88 feet, said point also being South $01^{\circ}37'29''$ West, 663.24 feet from the center of said Section 2, thence South $88^{\circ}49'25''$ East, 40.00 feet to the Point of Beginning.

From said Point of Beginning proceed South $88^{\circ}49'26''$ East, 316.27 feet, said line being the North line of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, thence South $01^{\circ}28'19''$ West 610.93 feet to an intersection with a line 23.00 feet North of and parallel to the centerline of an A.C.L. Railroad Spur Line; thence North $88^{\circ}46'29''$ West, along said line 317.90 feet to an intersection with the Easterly right-of-way of County Road 110 (Lake Avenue) an 80 foot right-of-way; thence North $01^{\circ}37'29''$ East along said line 610.66 feet to the Point of Beginning.

PARCEL B

That portion of Lots 7 and 8, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public records of Pinellas County, Florida, lying in Southeast 1/4 of Section 2, Township 30 South, Range 15 East, contained within the following description:

From the center corner of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, as a point of reference; run thence South $1^{\circ}37'29''$ West, 40.00 feet along the North and South 1/4 line of Section 2; thence South $88^{\circ}52'23''$ East, 40.00 feet to the Point of Beginning; Thence South $88^{\circ}52'23''$ East, 132.22 feet to a point on the Southerly line of a 175 foot wide Florida Power Corporation right of way; thence along said right of way line South $71^{\circ}15'07''$ East, 189.14 feet; thence South $1^{\circ}29'20''$ West, 566.06 feet; thence North $88^{\circ}49'25''$ West, 314.33 feet to a point on the East right of way line of County Road No. 110 (Lake Avenue); thence along said right of way line North $1^{\circ}37'29''$ East, 623.07 feet to the Point of Beginning.

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IN THE CIRCUIT COURT, SIXTH
JUDICIAL CIRCUIT, IN AND FOR
PINELLAS COUNTY, FLORIDA

CASE NO.: 18-000897-CI

CENTERSTATE BANK, N.A., a national banking
association, as successor by merger with Sunshine
Bank,

Plaintiff,

vs.

**LAKE AVENUE SOUTH EAST REAL
ESTATE, LLC**, a Florida limited liability
company, **STEPHEN GURBA**, an individual,
RICHARD WELKOWITZ, an individual, **BT-
TWISS TRANSPORT, LLC**, a Florida limited
liability company, **TWISS TRANSPORT, INC.**, a
Florida profit corporation, **TWISS LOGISTICS,
INC.**, a Florida profit corporation, **TWISS COLD
STORAGE, INC.**, a Florida profit corporation,
**COMPLETE BUSINESS SOLUTIONS
GROUP, INC.**, a foreign corporation,
LIFTFORWARD, INC., a foreign corporation,
KEYSTONE TILE & MARBLE, INC., a Florida
profit corporation, **DADE PAPER & BAG, LLC**,
f/k/a Dade Paper & Bag Co., a Florida limited
liability company, **JANE DOE AND JOHN DOE**,
as unknown parties in possession of 1401 Lake
Avenue Southeast, Largo, Florida, and **JANE DOE
AND JOHN DOE**, as unknown parties in
possession of 1501 Lake Avenue Southeast, Largo,
Florida,

Defendants.

**ASSIGNMENT OF FINAL JUDGMENT FOR MONEY DAMAGES,
MORTGAGES, & POTENTIAL RELATED RIGHTS**

This Assignment of Final Judgment for Money Damages, Mortgages, and Potential
Related Rights ("Assignment") is made as of the 27th day of March, 2019, by CENTERSTATE
BANK, N.A., as successor by merger to Sunshine Bank (the "Assignor"), to ZENITH

EXPRESSLLC, a Florida limited liability company, also known as ZENITH EXPRESS, LLC (the "Assignee").

RECITALS:

A. On or about February 2, 2018, Assignor, as plaintiff, filed a lawsuit against, *inter alia*, LAKE AVENUE SOUTH EAST REAL ESTATE, LLC, a Florida limited liability company ("Lake Ave"), STEPHEN GURBA, an individual ("Gurba"), RICHARD WELKOWITZ, an individual ("Welkowitz"), BT-TWISS TRANSPORT, LLC, a Florida limited liability company ("BT Twiss"), TWISS TRANSPORT, INC., a Florida profit corporation ("Twiss Transport"), TWISS LOGISTICS, INC., a Florida profit corporation ("Twiss Logistics"), and TWISS COLD STORAGE, INC., a Florida profit corporation ("Twiss Cold Storage") (Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage all collectively, the "Obligors"), as defendants, for their defaults under certain loans from Assignor to Obligors (the "Loans"), seeking money damages against Obligors, and foreclosure of certain real property located in Pinellas County, Florida. This lawsuit is styled as *CenterState Bank, N.A. v. Lake Avenue South East Real Estate, LLC, et al.*, and is pending in the Circuit Court, Sixth Judicial Circuit, in and for Pinellas County, Florida (the "Court") as Case No. 18-00897-CI (the "Lawsuit").

B. The Lawsuit relates to Loans made by Assignor which are secured by, among other things, (i) that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 780 of the current public records of Pinellas County, Florida; and (ii) that certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 803 of the current public records of Pinellas County, Florida (collectively, the "Mortgages"). The Mortgages secure the Loans and mortgage certain real property (the "Pinellas County Real Property") owned by Lake Ave located in Pinellas County, Florida, as more particularly described in the Mortgages.

C. On or about January 15, 2019, the Court entered a Final Judgment for Money Damages (the "Judgment") against Obligors and in favor of Assignor in the amount of \$4,103,866.90 plus post-judgment interest at the rate of 6.33% per year through March 31, 2019, and thereafter at the rate set forth in section 55.03, Florida Statutes, reserving jurisdiction to award Assignor its reasonable attorneys' fees and costs to be recovered from Obligors. The Judgment is recorded in the Public Records of Pinellas County, Florida in Official Record Book 20409, Page 2611, re-recorded in the Public Records of Pinellas County, Florida in Official Record Book 20412, Page 1323, and recorded in the Public Records of Palm Beach County, Florida in Official Record Book 30422, Page 894.

D. Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Assignor's title insurance claim relating to the Mortgages (the "Title Claim"). Assignor makes no representation or warranty that its title insurance claim relating to the Mortgages is assignable, and assigns said claim without representation or warranty of any kind.

NOW THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment of the Judgment, Mortgages, and Title Claim. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
2. Assumption by Assignee. Assignee hereby assumes Assignor's assignment of the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
3. Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon the successors and assigns of Assignor and Assignee.
4. Responsibility for Costs of Judicial Sale. Assignee shall bear any and all costs of, and responsibility for, satisfaction of notice and/or publication requirements in connection with any judicial sale of the Pinellas County Real Property if so ordered.
5. No Assignor Responsibility for Tax Ramifications. To the extent that this Assignment may be the cause of any local, state, or federal tax ramifications impacting Assignee, Assignor shall have no responsibility for such tax ramifications, and such tax ramifications shall be the responsibility of the Assignee.

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This Assignment is executed by Assignor and Assignee as of the 27th day of March, 2019.

Signed, sealed and delivered
in the presence of:

Susan G Smith
Susan Smith

[Print or type name]

Robert E. Dodd
Robert E. Dodd

[Print or type name]

ASSIGNOR:

CENTERSTATE BANK, N.A., successor by
merger to Sunshine Bank:

By: Robert E. Dodd

Name: Robert E. Dodd

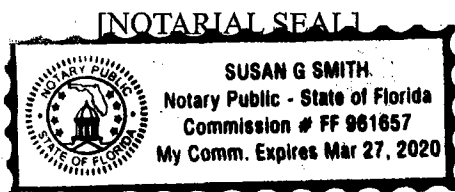
Its: E. V. P. & Director of Credit
Administration

STATE OF FLORIDA)

) ss:

COUNTY OF POLK)

~~APRIL~~ The foregoing instrument was executed and acknowledged before me on the 10th day of ~~March~~, 2019, by ROBERT E. DODD, as the E. V. P. & Director of Credit Administration of **CENTERSTATE BANK, N.A.**, as successor by merger to Sunshine Bank, on behalf of said financial institution, who is personally known to me.



Susan G Smith

Print Name: Susan G Smith

Notary Public, State and County Aforesaid

Commission #:

My Commission Expires: 3.27.20

This Assignment is executed by Assignor and Assignee as of the 27th day of March, 2019.

Signed, sealed and delivered
in the presence of:

Cindy Gwynn
Cindy Gwynn
[Print or type name]

Shelzi A Paul
Shelzi A Paul
[Print or type name]

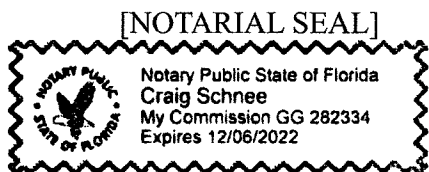
ASSIGNEE:

ZENITH EXPRESSLLC, a Florida
limited liability company, also known
as ZENITH EXPRESS LLC:

By: Stephen L. Gunba
Its: Manager

STATE OF FLORIDA)
) ss:
COUNTY OF Pinellas)

The foregoing instrument was executed and acknowledged before me on the 9th day
of April, 2019, by Stephen L. Gunba, as
Manager of ZENITH EXPRESSLLC, a Florida limited liability company,
also known as ZENITH EXPRESS LLC on behalf of said entity, who is personally known to me
or has produced _____ as identification.



Print Name: Craig Schnee
Notary Public, State and County Aforesaid
Commission #: GG 282334
My Commission Expires: 12/6/22

ORDER# CBS00186
Record & Return to : SearchTec
314 N 12th St, Suite 100 Phila, Pa. 19107
215-963-0888



Prepared By/After Recording Return to:
Brian H. Smith, Esquire
20 North 3rd Street
Philadelphia, PA 19106

IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

CASE NO. 18-000897-CI

CENTERSTATE BANK, N.A., a national
banking association, as successor by merger with
Sunshine Bank,

Plaintiff

v.

LAKE AVENUE SOUTH EAST REAL ESTATE, LLC, a
Florida limited liability company, et al.

Defendants

ASSIGNMENT

For and in consideration of the amount of Three Million Seven Hundred Thousand Dollars (\$3,700,000.000) and intending to be legally bound, ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS, LLC, a Florida limited liability company ("Assignor"), hereby sells, assigns, and transfers (subject to the provisions of this Assignment) all of its right, title and interest in and to the following items, to EAGLE SIX CONSULTANTS INC. with an address of 20900 NE 30th Avenue, Suite 307, Miami, FL 33180 ("Assignee"):

- (1) That certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016, recorded at Book 19068, Page 780 of the land records of Pinellas County, FL, secured by premises described on Exhibit "A" hereto;
- (2) That certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 recorded at Book 19068, Page 803 of the land records of Pinellas County, FL, secured by premises described on Exhibit "A" hereto;
- (3) Any and all loans, and any and all notes, guarantys, and other obligation instruments or documents of any type, arising out of, relating to, or pertaining to (1) and (2) above;
- (4) Any and all lender's title insurance policies relating to or pertaining to (1) and/or (2) above;
- (5) The plaintiff's interest in the lawsuit filed to the above caption and docket number, and the plaintiff/judgment holder's interest in any judgment(s) entered therein;

(6) Any and all title insurance claim(s) made relating to (1) and/or (2) above, and any interest in any litigation arising out of, relating to, or pertaining to any such title insurance claim(s).

Should it transpire that: (a) any of the aforementioned items are not in fact assignable to Assignee, and/or (b) that any losses to Assignee (including but not limited to attorney's fees and/or legal costs) are not paid by the title insurer in connection with (4) or (6) above, Assignor agrees to indemnify and hold harmless Assignee for any losses to Assignee arising out of, relating to, or pertaining to (a) or (b) above.

This Assignment shall be filed with the Court under the above caption and docket number, and shall also be recorded with the land records of Pinellas County, FL.

IN WITNESS WHEREOF, the parties have set their hands and seals below as of this

30th day of MAY, 2019.

ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS
LLC a/k/a ZENITH EXPRESS, LLC

By: [Signature]
Stephen L. Gurba, Manager

EAGLE SIX CONSULTANTS INC.

By: [Signature]
Joe Cole, CFO

State of Florida
County of P. DALLAS

I, a Notary Public, in and for said County in said State, hereby certify that Stephen L. Gurba, whose name as Manager of ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS, LLC, is signed to the foregoing instrument and who is known to me or satisfactorily proven, acknowledged before me on this 30TH day of MAY, 2019 that, being informed of the contents of the instrument, he, as such title/officer and with full authority, executed the same voluntarily for and as the act of said entity.



Notary Public



Commonwealth of Pennsylvania
County of Philadelphia

I, a Notary Public, in and for said County in said Commonwealth, hereby certify that Joe Cole, whose name as CFO of EAGLE SIX CONSULTANTS INC., is signed to the foregoing instrument and who is known to me or satisfactorily proven, acknowledged before me on this 31st day of MAY, 2019 that, being informed of the contents of the instrument, he, as such officer/title and with full authority, executed the same voluntarily for and as the act of said entity.

Denise Derlin
Notary Public

My commission expires: October 15, 2021

Commonwealth of Pennsylvania - Notary Seal
Denise Derlin, Notary Public
Bucks County
My commission expires October 15, 2021
Commission number 1279657

The land referred to herein below is situated in the County of Pinellas, State of FL, and is described as follows:

PARCEL A

That portion of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 2, Township 30 South, Range 15 East, as a point of reference, proceed North 88 degrees 40'43" West along the South line of said Section 2, 2731.07 feet; said point being the South 1/4 corner of said Section 2; thence North 01 degrees 37'29" East along the North/South centerline of said Section 2, 1988.88 feet, said point also being South 01 degrees 37'29" West, 663.24 feet from the center of said Section 2, thence South 88 degrees 49' 25" East, 40.00 feet to the Point of Beginning.

From said Point of Beginning proceed South 88 degrees 49'26" East, 316.27 feet, said line being the North Line of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, thence South 01 degrees 28'19" West, 610.93 feet to an intersection with a line 23.00 feet North of and parallel to the centerline of an A.C.L. Railroad Spur Line; thence North 88 degrees 46'29" West, along said line 317.90 feet to an intersection with the Easterly right-of-way of County Road 110 (Lake Avenue) an 80 foot right-of-way; thence North 01 degree 37'29" East along said line 610.66 feet to the Point of Beginning.

PARCEL B

That portion of Lots 7 and 8, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, contained within the following description:

From the center corner of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, as a point of reference; run thence South 1 degree 37'29" West, 40.00 feet along the North and South 1/4 line of Section 2; thence South 88 degrees 52'23" East, 40.00 feet to the Point of Beginning; Thence South 88 degrees 52'23" East, 132.22 feet to a point on the Southerly line of a 175 foot wide Florida Power Corporation right of way; thence along said right of way line South 71 degrees 15'07" East, 189.14 feet; thence South 1 degree 29'20" West, 566.06 feet; thence North 88 degrees 49'25" West, 314.33 feet to a point on the East right of way line of County Road No. 110 (Lake Avenue); thence along said right of way line North 1 degree 37'29" East, 623.07 feet to the Point of Beginning.

EXHIBIT "A"

Exhibit “D”

IN THE CIRCUIT COURT OF THE SIXTH
JUDICIAL CIRCUIT IN AND FOR
PINELLAS COUNTY, FLORIDA
CIVIL DIVISION
CASE NO. 18-000897-CI

CENTERSTATE BANK, N.A., A NATIONAL
BANKING ASSOCIATION, AS SUCCESSOR
BY MERGER WITH SUNSHINE BANK,

Plaintiff,

v.

LAKE AVENUE SOUTH EAST REAL
ESTATE, LLC, A FLORIDA LIMITED
LIABILITY COMPANY, *et al.*,

Defendants.

MOTION TO SUBSTITUTE PLAINTIFF

Proposed Substitute Plaintiff, Eagle Six Consultants, Inc. ("Eagle Six"), pursuant to Florida Rule of Civil Procedure 1.260, moves to substitute Eagle Six, in place of Zenith Express, LLC ("Zenith") as Plaintiff in this action based upon the following:

1. CenterState Bank, successor by merger with Sunshine Bank ("CenterState"), initiated this action by filing a Complaint for Foreclosure of Mortgage, Money Judgments and Other Relief, in which it sought, among other things, to foreclose a mortgage it held (the "CenterState Mortgage").

2. The CenterState Mortgage was subsequently assigned to Zenith by the Assignment of Final Judgment for Money Damages, Mortgages and Potential Related Rights (the "First Assignment") recorded in Official Records Book 20517, Page 796, of

the Official Records of Pinellas County, Florida. A copy of the First Assignment is attached hereto as Exhibit "A."

3. Accordingly, on May 7, 2019, Zenith was substituted as Plaintiff in this action in place of CenterState. A copy of the Order Granting Joint Motion for Substitution of Party is attached hereto as Exhibit "B."

4. Since that time, the CenterState Mortgage has been assigned by Zenith to Eagle Six by the Assignment recorded in Official Records Book 20580, Page 480, of the Official Records of Pinellas County, Florida (the "Second Assignment"). A copy of the Second Assignment is attached hereto as Exhibit "C."

5. Accordingly, Eagle Six, rather than CenterState, is now the real party in interest in this action, as owner and holder of the CenterState Mortgage.

6. Therefore, Eagle Six should be substituted as Plaintiff in this action in place of Zenith.

WHEREFORE, Proposed Substitute Plaintiff Eagle Six Consultants, Inc., requests this Court to enter an Order substituting Eagle Six Consultants, Inc., in place of Zenith Express, LLC, as Plaintiff in this action, together with such other and further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail or U.S. Mail this _____ day of June, 2022, to the following:

Christian P. George, Esquire
Aleksas A. Barauskas, Esquire
aleksas.barauskas@akerman.com
christian.george@akerman.com
jennifer.meehan@akerman.com
Counsel for Plaintiff,
CenterState Bank, N.A.

Kenneth G. Turkel, Esquire
kturkel@bajocuva.com
Brad F. Barrios, Esquire
bbarrios@bajocuva.com
Anthony J. Severino, Esquire
Anthony.Severino@bajocuva.com
dori.camacho@bajocuva.com
Counsel for Grand Hope Investments, Inc.

Craig A. Huffman, Esquire
Craig@securuslawgroup.com
Counsel for Stephen Gurba and
Lake Ave South East Real Estate, LLC
and Co-Counsel for Zenith Express, LLC

Matthew Ciccio, Esquire
servicemail@aldridgepite.com
Counsel for LiftForward, Inc.

Luis Martinez-Monfort, Esquire
lmonfort@gbmmlaw.com
litigation@gbmmlaw.com
Counsel for Dade Paper & Bag, LLC

Michael C. Markham, Esquire
mikem@jpfirm.com
minervag@jpfirm.com
Counsel for Lake Ave South East Real Estate, LLC,
Stephen Gurba, Richard Welkowitz, BT-Twiss Transport, Inc.,
Twiss Transport, Inc., Twiss Logistics, Inc. and Twiss Cold Storage, Inc.

Timothy A. Kolaya, Esquire
tkolaya@sflaw.com
electronicservice@sflaw.com
Counsel for Ryan K. Stumphauzer, Esquire,
Court-Appointed Receiver for Proposed Substitute
Defendant Eagle Six Consultants, Inc.

Complete Business Solutions Group, Inc.
c/o Registered Office Service Co.
614 N. Dupont Hwy., Suite 210
Dover, DE 19901

s/

MICHAEL A. COHN
FBN 937746
mac@AwerbachCohn.com
JACQUELINE F. PEREZ
FBN 52730
jfp@AwerbachCohn.com
AWERBACH | COHN
Primary e-mail: service@AwerbachCohn.com
28100 U.S. Hwy. 19 North, Suite 104
Clearwater, FL 33761
(727) 725-3227 Telephone
(727) 724-1245 Facsimile
Counsel for proposed Substitute Plaintiff,
Eagle Six Consultants, Inc.

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Filing # 87909871 E-Filed 04/12/2019 02:14:28 PM

IN THE CIRCUIT COURT, SIXTH
JUDICIAL CIRCUIT, IN AND FOR
PINELLAS COUNTY, FLORIDA

CASE NO.: 18-000897-CI

CENTERSTATE BANK, N.A., a national banking
association, as successor by merger with Sunshine
Bank,

Plaintiff,

vs.

**LAKE AVENUE SOUTH EAST REAL
ESTATE, LLC**, a Florida limited liability
company, **STEPHEN GURBA**, an individual,
RICHARD WELKOWITZ, an individual, **BT-
TWISS TRANSPORT, LLC**, a Florida limited
liability company, **TWISS TRANSPORT, INC.**, a
Florida profit corporation, **TWISS LOGISTICS,
INC.**, a Florida profit corporation, **TWISS COLD
STORAGE, INC.**, a Florida profit corporation,
**COMPLETE BUSINESS SOLUTIONS
GROUP, INC.**, a foreign corporation,
LIFTFORWARD, INC., a foreign corporation,
KEYSTONE TILE & MARBLE, INC., a Florida
profit corporation, **DADE PAPER & BAG, LLC**,
f/k/a Dade Paper & Bag Co., a Florida limited
liability company, **JANE DOE AND JOHN DOE**,
as unknown parties in possession of 1401 Lake
Avenue Southeast, Largo, Florida, and **JANE DOE
AND JOHN DOE**, as unknown parties in
possession of 1501 Lake Avenue Southeast, Largo,
Florida,

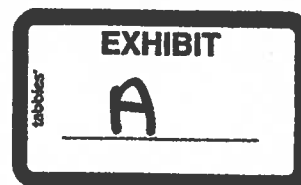
Defendants.

**ASSIGNMENT OF FINAL JUDGMENT FOR MONEY DAMAGES,
MORTGAGES, & POTENTIAL RELATED RIGHTS**

This Assignment of Final Judgment for Money Damages, Mortgages, and Potential
Related Rights ("Assignment") is made as of the 27th day of March, 2019, by **CENTERSTATE
BANK, N.A.**, as successor by merger to Sunshine Bank (the "Assignor"), to **ZENITH**

48410286;1

1



EXPRESSLLC, a Florida limited liability company, also known as ZENITH EXPRESS, LLC (the "Assignee").

RECITALS:

A. On or about February 2, 2018, Assignor, as plaintiff, filed a lawsuit against, *inter alia*, LAKE AVENUE SOUTH EAST REAL ESTATE, LLC, a Florida limited liability company ("Lake Ave"), STEPHEN GURBA, an individual ("Gurba"), RICHARD WELKOWITZ, an individual ("Welkowitz"), BT-TWISS TRANSPORT, LLC, a Florida limited liability company ("BT Twiss"), TWISS TRANSPORT, INC., a Florida profit corporation ("Twiss Transport"), TWISS LOGISTICS, INC., a Florida profit corporation ("Twiss Logistics"), and TWISS COLD STORAGE, INC., a Florida profit corporation ("Twiss Cold Storage") (Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage all collectively, the "Obligors"), as defendants, for their defaults under certain loans from Assignor to Obligors (the "Loans"), seeking money damages against Obligors, and foreclosure of certain real property located in Pinellas County, Florida. This lawsuit is styled as *CenterState Bank, N.A. v. Lake Avenue South East Real Estate, LLC, et al.*, and is pending in the Circuit Court, Sixth Judicial Circuit, in and for Pinellas County, Florida (the "Court") as Case No. 18-00897-CI (the "Lawsuit").

B. The Lawsuit relates to Loans made by Assignor which are secured by, among other things, (i) that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 780 of the current public records of Pinellas County, Florida; and (ii) that certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 803 of the current public records of Pinellas County, Florida (collectively, the "Mortgages"). The Mortgages secure the Loans and mortgage certain real property (the "Pinellas County Real Property") owned by Lake Ave located in Pinellas County, Florida, as more particularly described in the Mortgages.

C. On or about January 15, 2019, the Court entered a Final Judgment for Money Damages (the "Judgment") against Obligors and in favor of Assignor in the amount of \$4,103,866.90 plus post-judgment interest at the rate of 6.33% per year through March 31, 2019, and thereafter at the rate set forth in section 55.03, Florida Statutes, reserving jurisdiction to award Assignor its reasonable attorneys' fees and costs to be recovered from Obligors. The Judgment is recorded in the Public Records of Pinellas County, Florida in Official Record Book 20409, Page 2611, re-recorded in the Public Records of Pinellas County, Florida in Official Record Book 20412, Page 1323, and recorded in the Public Records of Palm Beach County, Florida in Official Record Book 30422, Page 894.

D. Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Assignor's title insurance claim relating to the Mortgages (the "Title Claim"). Assignor makes no representation or warranty that its title insurance claim relating to the Mortgages is assignable, and assigns said claim without representation or warranty of any kind.

NOW THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment of the Judgment, Mortgages, and Title Claim. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
2. Assumption by Assignee. Assignee hereby assumes Assignor's assignment of the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
3. Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon the successors and assigns of Assignor and Assignee.
4. Responsibility for Costs of Judicial Sale. Assignee shall bear any and all costs of, and responsibility for, satisfaction of notice and/or publication requirements in connection with any judicial sale of the Pinellas County Real Property if so ordered.
5. No Assignor Responsibility for Tax Ramifications. To the extent that this Assignment may be the cause of any local, state, or federal tax ramifications impacting Assignee, Assignor shall have no responsibility for such tax ramifications, and such tax ramifications shall be the responsibility of the Assignee.

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This Assignment is executed by Assignor and Assignee as of the 27th day of March, 2019.

Signed, sealed and delivered
in the presence of:

Susan G. Smith
Susan G. Smith

[Print or type name]

Robert E. Dodd
Robert E. Dodd

[Print or type name]

ASSIGNOR:

CENTERSTATE BANK, N.A., successor by
merger to Sunshine Bank:

By: Robert E. Dodd

Name: Robert E. Dodd

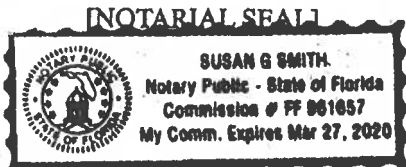
Its: E. V. P. & Director of Credit
Administration

STATE OF FLORIDA)

) ss:

COUNTY OF POLK)

~~APRIL~~ The foregoing instrument was executed and acknowledged before me on the 10TH day of ~~March~~, 2019, by ROBERT E. DODD, as the E. V. P. & Director of Credit Administration of CENTERSTATE BANK, N.A., as successor by merger to Sunshine Bank, on behalf of said financial institution, who is personally known to me.



Susan G. Smith

Print Name: Susan G. Smith

Notary Public, State and County Aforesaid

Commission #:

My Commission Expires: 3.27.20

This Assignment is executed by Assignor and Assignee as of the 27th day of March, 2019.

Signed, sealed and delivered
in the presence of:

Cindy Gwynn
[Print or type name]

Shelley A Paul
[Print or type name]

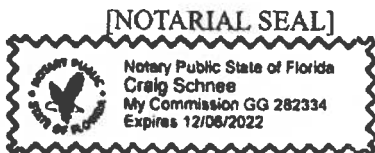
ASSIGNEE:

ZENITH EXPRESSLLC, a Florida
limited liability company, also known
as ZENITH EXPRESS LLC:

By: [Signature]
Its: Manager

STATE OF FLORIDA)
) ss:
COUNTY OF Pinellas)

The foregoing instrument was executed and acknowledged before me on the 9th day
of April, 2019, by Stephen L. Gurba, as
Manager of ZENITH EXPRESSLLC, a Florida limited liability company,
also known as ZENITH EXPRESS LLC on behalf of said entity, who is personally known to me
or has produced _____ as identification.



Print Name: Craig Schnee
Notary Public, State and County Aforesaid
Commission #: GG 282334
My Commission Expires: 12/6/22

**CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

CENTERSTATE BANK, N.A., a national
Banking association, as successor by merger
With Sunshine Bank,

Plaintiff,
v.

Case No.: 18-000897-CI-8
UCN: 522018CA000897XXCICI

**LAKE AVENUE SOUTH EAST REAL
ESTATE, LLC**, a Florida limited liability
Company, **STEPHEN GURBA**, an individual,
RICHARD WELKOWITZ, an individual, **BT-
TWISS TRANSPORT, LLC**, a Florida limited
Liability company, **TWISS TRANSPORT, INC.**,
a Florida profit corporation, **TWISS LOGISTICS,
INC.**, a Florida profit corporation, **TWISS COLD
STORAGE, INC.**, a Florida profit corporation,
LIFTFORWARD, INC., a foreign corporation,
KEYSTONE TILE & MARBLE, INC., a Florida
profit corporation, **DADE PAPER & BAG, LLC**,
f/k/a Dade Paper & Bag Co., a Florida limited
liability company, **JANE DOE AND JOHN DOE**,
as unknown parties in possession of 1401 Lake
Avenue Southeast, Largo, Florida, and **JANE DOE
AND JOHN DOE**, as unknown parties in possession
of 1501 Lake Avenue Southeast, Largo, Florida,

Defendants.

ORDER GRANTING JOINT MOTION FOR SUBSTITUTION OF PARTY

THIS CAUSE having come before the Court for consideration on the Joint Motion
For Substitution Of Party and the Court having been fully advised in the premises,

IT IS THEREFORE ORDERED AND ADJUDGED that the Joint Motion For
Substitution Of Party has been granted.



FILED
ST. PETERSBURG BRANCH
2019 MAY -7 PM 1:05
CLERK OF CIRCUIT COURT

IT IS FURTHER ORDERED AND ADJUDGED that Assignee, ZENITH EXPRESS LLC, is hereby substituted as plaintiff for the Plaintiff, CENTERSTATE BANK, N.A., in this matter.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this 7 day of May, 2019.


CIRCUIT COURT JUDGE

cc: David C. Levenreich, Esquire
Aleksas A. Barauskas, Esquire
Christian P. George, Esquire
Craig Schnee, Esquire
Michael C. Markham, Esquire
Luis Martinez-Monfort, Esquire
Keith W. Meehan, Esquire
Perry G. Gruman, Esquire
Fred E. Moore, Esquire
Craig A. Huffman, Esquire
Complete Business Solutions Group, Inc.
Keystone Tile & Marble, Inc.
John Doe and Jane Doe

I#: 2019191321 BK: 20580 PG: 480, 06/17/2019 at 04:21 PM, RECORDING 6 PAGES
\$52.50 KEN BURKE, CLERK OF COURT AND COMPTROLLER PINELLAS COUNTY, FL BY
DEPUTY CLERK: CLKDU10

ORDER# CBS00186
Record & Return to : SearchTec
314 N 12th St, Suite 100 Phila, Pa. 19107
215-963-0888



Prepared By/After Recording Return to:
Brian H. Smith, Esquire
20 North 3rd Street
Philadelphia, PA 19106

IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT,
IN AND FOR PINELLAS COUNTY, FLORIDA

CASE NO. 18-000897-CI

CENTERSTATE BANK, N.A., a national
banking association, as successor by merger with
Sunshine Bank,

Plaintiff

v.

LAKE AVENUE SOUTH EAST REAL ESTATE, LLC, a
Florida limited liability company, et al.

Defendants



ASSIGNMENT

For and in consideration of the amount of Three Million Seven Hundred Thousand Dollars (\$3,700,000.000) and intending to be legally bound, ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS, LLC, a Florida limited liability company ("Assignor"), hereby sells, assigns, and transfers (subject to the provisions of this Assignment) all of its right, title and interest in and to the following items, to EAGLE SIX CONSULTANTS INC. with an address of 20900 NE 30th Avenue, Suite 307, Miami, FL 33180 ("Assignee"):

- (1) That certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016, recorded at Book 19068, Page 780 of the land records of Pinellas County, FL, secured by premises described on Exhibit "A" hereto;
- (2) That certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 recorded at Book 19068, Page 803 of the land records of Pinellas County, FL, secured by premises described on Exhibit "A" hereto;
- (3) Any and all loans, and any and all notes, guarantys, and other obligation instruments or documents of any type, arising out of, relating to, or pertaining to (1) and (2) above;
- (4) Any and all lender's title insurance policies relating to or pertaining to (1) and/or (2) above;
- (5) The plaintiff's interest in the lawsuit filed to the above caption and docket number, and the plaintiff/judgment holder's interest in any judgment(s) entered therein;

(6) Any and all title insurance claim(s) made relating to (1) and/or (2) above, and any interest in any litigation arising out of, relating to, or pertaining to any such title insurance claim(s).

Should it transpire that: (a) any of the aforementioned items are not in fact assignable to Assignee, and/or (b) that any losses to Assignee (including but not limited to attorney's fees and/or legal costs) are not paid by the title insurer in connection with (4) or (6) above, Assignor agrees to indemnify and hold harmless Assignee for any losses to Assignee arising out of, relating to, or pertaining to (a) or (b) above.

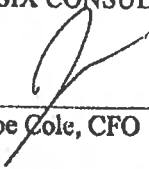
This Assignment shall be filed with the Court under the above caption and docket number, and shall also be recorded with the land records of Pinellas County, FL.

IN WITNESS WHEREOF, the parties have set their hands and seals below as of this 30th day of MAY, 2019.

ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS
LLC a/k/a ZENITH EXPRESS, LLC

By: 
Stephen L. Gurba, Manager

EAGLE SIX CONSULTANTS INC.

By: 
Joe Cole, CFO

State of Florida
County of Palm Beach

I, a Notary Public, in and for said County in said State, hereby certify that Stephen L. Gurba, whose name as Manager of ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS LLC a/k/a ZENITH EXPRESS, LLC, is signed to the foregoing instrument and who is known to me or satisfactorily proven, acknowledged before me on this 30TH day of MAY, 2019 that, being informed of the contents of the instrument, he, as such title/officer and with full authority, executed the same voluntarily for and as the act of said entity.



Notary Public

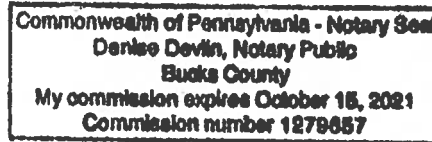


Commonwealth of Pennsylvania
County of Philadelphia

I, a Notary Public, in and for said County in said Commonwealth, hereby certify that Joe Cole, whose name as CFO of EAGLE SIX CONSULTANTS INC., is signed to the foregoing instrument and who is known to me or satisfactorily proven, acknowledged before me on this 31st day of MAY, 2019 that, being informed of the contents of the instrument, he, as such officer/title and with full authority, executed the same voluntarily for and as the act of said entity.

Denise Derlin
Notary Public

My commission expires: October 15, 2021



The land referred to herein below is situated in the County of Pinellas, State of FL, and is described as follows:

PARCEL A

That portion of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 2, Township 30 South, Range 15 East, as a point of reference, proceed North 88 degrees 40'43" West along the South line of said Section 2, 2731.07 feet; said point being the South 1/4 corner of said Section 2; thence North 01 degrees 37'29" East along the North/South centerline of said Section 2, 1988.88 feet, said point also being South 01 degrees 37'29" West, 663.24 feet from the center of said Section 2, thence South 88 degrees 49' 25" East, 40.00 feet to the Point of Beginning.

From said Point of Beginning proceed South 88 degrees 49'26" East, 316.27 feet, said line being the North Line of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, thence South 01 degrees 28'19" West, 610.93 feet to an intersection with a line 23.00 feet North of and parallel to the centerline of an A.C.L. Railroad Spur Line; thence North 88 degrees 46'29" West, along said line 317.90 feet to an intersection with the Easterly right-of-way of County Road 110 (Lake Avenue) an 80 foot right-of-way; thence North 01 degree 37'29" East along said line 610.66 feet to the Point of Beginning.

PARCEL B

That portion of Lots 7 and 8, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, contained within the following description:

From the center corner of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, as a point of reference; run thence South 1 degree 37'29" West, 40.00 feet along the North and South 1/4 line of Section 2; thence South 88 degrees 52'23" East, 40.00 feet to the Point of Beginning; Thence South 88 degrees 52'23" East, 132.22 feet to a point on the Southerly line of a 175 foot wide Florida Power Corporation right of way; thence along said right of way line South 71 degrees 15'07" East, 189.14 feet; thence South 1 degree 29'20" West, 566.06 feet; thence North 88 degrees 49'25" West, 314.33 feet to a point on the East right of way line of County Road No. 110 (Lake Avenue); thence along said right of way line North 1 degree 37'29" East, 623.07 feet to the Point of Beginning.

EXHIBIT "A"

Exhibit “E”

CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

CENTERSTATE BANK, N.A., a National
Banking Association, as successor by merger
with Sunshine Bank,

Plaintiff,

v.

Case No. 18-000897-CI-8
UCN: 522018CA000897XXCICI

LAKE AVENUE SOUTH EAST REAL
ESTATE, LLC, a Florida limited liability
Company, STEPHEN GURBA, an
Individual, RICHARD WELKOWITZ,
an individual, BT-TWISS TRANSPORT,
LLC, a Florida limited liability company,
TWISS TRANSPORT, INC., a Florida
profit corporation, TWISS LOGISTICS, INC.,
a Florida profit corporation, TWISS COLD
STORAGE, INC., a Florida profit corporation,
COMPLETE BUSINESS SOLUTIONS GROUP,
INC., a foreign corporation, LIFTFORWARD, INC.,
a foreign corporation, KEYSTONE TILE & MARBLE,
INC., a Florida profit corporation, DADE PAPER &
BAG, LLC, f/k/a Dade Paper & Bag Co., a Florida limited
liability company, JANE DOE AND JOHN DOE,
as unknown parties in possession of 1401 Lake
Avenue Southeast, Largo, Florida and JANE DOE
AND JOHN DOE, as unknown parties in possession
of 1501 Lake Avenue Southeast, Largo, Florida,

Defendants.

**MOTION TO SET ASIDE ORDER OF DISMISSAL AND
INCORPORATED MEMORANDUM OF LAW**

Ryan K. Stumphauzer, as Court-Appointed Receiver (the “Receiver”) for Eagle Six Consultants, Inc. (“Eagle Six”), by counsel and pursuant to Rule 1.540(b), Florida Rules of Civil Procedure, moves to set aside the Master Order Dismissal for lack of prosecution entered on August 18, 2021. In support, Eagles Six states as follows:

Basis for Relief

Pursuant to an order entered on August 13, 2020 by the Honorable Rodolfo A. Ruiz II in the case of *Securities and Exchange Commission v. Complete Business Solutions Group, Inc. d/b/a Par Funding*, pending in the United States District Court for the Southern District of Florida, as Case No. 20-cv-81205 (the “SEC Action”), the instant action was automatically stayed as to (1) assignee Eagle Six, the proper Plaintiff and real party in interest (*see* Doc. 107) and (2) Defendant Complete Business Solutions Group, Inc. Therefore, Eagle Six respectfully requests that the Master Order of Dismissal for lack of prosecution be set aside, the case be reopened, and the case stayed pending further order from the Court in the SEC Action.

Background and Procedural History

1. On February 12, 2018, CenterState Bank, N.A., as successor by merger with Sunshine Bank (“CenterState”), filed its Complaint for Foreclosure of Mortgage, Money Judgments and Other Relief (the “Complaint”) in this matter seeking, among other things, damages for breach of certain loan documents by each of the Defendants.

2. On January 15, 2019, the Court entered its Final Judgment for Money Damages in favor of CenterState and against Defendants.

3. Shortly after entry of the Final Judgment for Money Damages, the Final Judgment was assigned and CenterState was substituted out as Plaintiff in this action. Subsequently, the Final Judgment was assigned a second time and another new Plaintiff substituted.

Assignment of Final Judgment and Substitution of Plaintiffs

4. On March 27, 2019, CenterState assigned the Final Judgment for Money Damages, among other things, to Zenith Express, LLC (“Zenith”).

5. Zenith was substituted as Plaintiff for CenterState on May 7, 2019. (*See* Doc. 105).

6. On May 30, 2019, Zenith assigned to Eagle Six all of the rights and interests Zenith

had received from CenterState. (*See* Doc. 107)

7. Pursuant to the May 30, 2019 assignment, Eagle Six is the proper Plaintiff and real party in interest.

Receivership and Automatic Stay

8. On July 24, 2020, the Securities and Exchange Commission (“SEC”) filed a Complaint for Injunctive and Other Relief against Defendant, Complete Business Solutions d/b/a Par Funding (“CBSG”), *et al.*, in the United States District Court for the Southern District of Florida, Case No. 20-CIV-81205-RAR (the “SEC Action”).

9. In the SEC Action, the Receiver was appointed as receiver for Complete Business Solutions and Eagle Six, among others, pursuant to: (1) the Amended Order Appointing Receiver (the “Receivership Order”) entered on August 13, 2020, in the SEC action, at ECF No. 141, a copy of which is attached as “**Exhibit A**,” (2) the Order Granting Motion to Expand Receivership Estate entered in the Receivership Case on December 16, 2020, at ECF No. 436 (the “Expansion Order”), a copy of which is attached as “**Exhibit B**,” and (3) Order Granting Motion to Correct Scrivener’s Errors in Prior Orders Expanding Receivership Estate, entered in the Receivership Case on February 2, 2021, at ECF No. 484 (the “Corrective Order”) a copy of which is attached as “**Exhibit C**.” (collectively, the “Orders”).

10. Through the Receivership Order, the Court in the SEC Action entered a stay of all litigation involving certain “Receivership Entities.” Thereafter, the Court in the SEC Action added Eagle Six as one of the Receivership Entities through the Expansion Order and corrected the name of Eagle Six from Eagle Six Consulting, Inc. to Eagle Six Consultants, Inc. through the Corrective Order.

11. Pursuant to the Orders, there is a stay of all litigation involving Eagle Six (the proper Plaintiff and real party in interest) and CBSG (Defendant). Specifically, the Receivership

Order provides:

32. [T]he following proceedings are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in his capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Entities, including subsidiaries and partnerships; or, (d) any of the Receivership Entities' past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

33. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

34. All Ancillary Proceedings are stayed in their entirety, and all Courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the Receivership Entities against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

12. Accordingly, any litigation involving Eagle Six and CBSG, which is defined in the Orders, and any litigation involving any Receivership Property, which includes any "claims, rights and other assets, . . . which the Receivership Entities own, possess, have a beneficial interest in, or control directly or indirectly," Receivership Order at 7(A), is enjoined from proceeding further until and unless leave of court is granted by the United States District Court for the Southern District of Florida.

13. The SEC Action continues to be litigated in the United States District Court for the

Southern District of Florida, before the Honorable Rodolfo A. Ruiz II. As of the date of this Motion, the SEC Action is still pending, and, thus, the automatic stay is still in place.

Notice of Lack of Prosecution and Master Order of Dismissal

14. On June 16, 2021, the Court issued its Notice of Lack of Prosecution which was mailed to the parties. (*See* Doc. 114)

15. The Notices of Lack of Prosecution were returned unserved on both Eagle Six and CBSG. (*See* Doc Nos. 115, 116)

16. On August 18, 2021, the Court entered a Master Order of Dismissal dismissing this case for lack of prosecution. (*See* Doc. No. 117)

17. However, at the time that the Notice of Lack of Prosecution was issued, and the Master Order of Dismissal entered, the case was automatically stayed pursuant to the Orders in the SEC Action.

18. As a result, the Master Order of Dismissal should not have been entered and, thus, should be set aside.

Lifting of Stay of Litigation to File this Motion

19. On _____, the Receiver filed a motion in the SEC Action, requesting that Court to lift the litigation stay from the Receivership Order (the “Motion to Lift”), so as to allow the Receiver, on behalf of Eagle Six, to file the instant motion.

20. On _____, the Court in the SEC Action entered an Order granting the Receiver’s Motion to Lift. A copy of that Order is attached as “**Exhibit D.**”

MEMORANDUM OF LAW

Florida Rule of Civil Procedure 1.540(b) authorizes a trial court, within one year of its order, to grant relief for mistake, inadvertence, surprise, or excusable neglect. “Because a trial court is accorded broad discretion in determining rule 1.540(b) motions, the standard of review of an

order on a rule 1.540(b) motion for relief from judgment is whether there has been an abuse of the trial court's discretion." *Tikhomirov v. Bank of New York Mellon*, 223 So. 3d 1112, 1116 (Fla. 3d DCA 2017) (quoting *Freemon v. Deutsche Bank Trust Co. Americas*, 46 So. 3d 1202, 1204 (Fla. 4th DCA 2010)).

"Excusable neglect" includes "inaction result[ing] from clerical or secretarial error, reasonable misunderstanding, a system gone awry or any other of the foibles to which human nature is heir." *Somero v. Hendry Gen. Hosp.*, 467 So.2d 1103, 1106 (Fla. 4th DCA 1985). It is a gross abuse of discretion for a trial court to deny relief under 1.540(b) "upon timely application accompanied by a reasonable and credible explanation" for such inaction. *Id.*

Additionally, pursuant to Florida Rules of Civil Procedure 1.540(b)(5), the trial court may, at any time, provided the motion is filed within a "reasonable time," grant relief from a prior order on the basis that the order is void.

Given that this case was subject to the stay of litigation from the Receivership Order in the SEC Litigation, the Master Order of Dismissal should not have been entered and, therefore, is void. Moreover, the Receiver never received the Notices of Lack Prosecution on behalf of Eagle Six or CBSG as evidenced by the fact that they were both returned unserved. (*See* Doc. Nos. 115, 116). The Receiver first learned of the Notices of Lack of Prosecution and Master Order of Dismissal while attempting to resolve related matters in the SEC Action. Therefore, the Court should set aside the Master Order of Dismissal.

WHEREFORE, Eagle Six Consultants, Inc., respectfully requests that the Court enter an order (1) setting aside its Master Order of Dismissal for lack of prosecution, (2) reopening the case, and (3) granting such other and further relief as the Court deems just and appropriate.

Dated: _____

Respectfully submitted,

Timothy A. Kolaya
Florida Bar No. 056140
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*Counsel for Ryan K. Stumphauzer, Esq. as
Court-Appointed Receiver for Eagle Six
Consultants, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of _____, 2022, I electronically filed the foregoing document with the Clerk of the Court using the Florida Courts E-Filing Portal. I also certify that the foregoing document is being served on counsel on the Service List below via e-mail generated by the E-Portal system and to those designated by U.S. Mail.

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By U.S. Mail:

Keystone Tile & Marble, Inc.
1501 Lake Ave. SE
Largo, FL 33771

Attorney

Exhibit “F”

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

CENTERSTATE BANK, N.A., a national banking
association, as successor by merger with Sunshine
Bank,

Case No.: 18-0008977-CI

Plaintiff,

vs.

LAKE AVENUE SOUTH EAST REAL ESTATE,
LLC, a Florida limited liability company,
STEPHEN GURBA, an individual, RICHARD
WELKOWITZ, an individual, BT-TWISS
TRANSPORT, LLC, a Florida limited liability
company, TWISS TRANSPORT, INC., a Florida
profit corporation, TWISS LOGISTICS, INC., a
Florida profit corporation, TWISS COLD
STORAGE, INC., a Florida profit corporation,
COMPLETE BUSINESS SOLUTIONS GROUP,
INC., a foreign corporation, LIFTFORWARD,
INC., a foreign corporation, KEYSTONE TILE &
MARBLE, INC., a Florida profit corporation,
DADE PAPER & BAG, LLC, f/k/a Dade Paper &
Bag Co., a Florida limited liability company, JANE
DOE AND JOHN DOE, as unknown parties in
possession of 1401 Lake Avenue Southeast, Largo,
Florida, and JANE DOE AND JOHN DOE, as
unknown parties in possession of 1501 Lake
Avenue Southeast, Largo, Florida,

Defendants.

MOTION FOR SUMMARY FINAL JUDGMENT OF FORECLOSURE

Ryan K. Stumphauzer, Esq., as Receiver for Plaintiff, Eagle Six Consultants, LLC (“Eagle Six”)¹, pursuant to Rule 1.510, Florida Rules of Civil Procedure, moves for final summary judgment of foreclosure, including an award of attorneys’ fees, on the grounds that there are no genuine issues as to any material fact and Eagle Six is entitled to final summary judgment of

¹ The Receiver’s authority to act on behalf of Eagle Six is set forth, *infra*, at paragraphs 32-35.

foreclosure against Lake Avenue South Real Estate, LLC (“Lake Ave”), Stephen Gurba (“Gurba”), Richard Welkowitz (“Welkowitz”), BT-Twiss Transport, LLC (“BT Twiss”), Twiss Transport, Inc. (“Twiss Transport”), Twiss Logistics, Inc. (“Twiss Logistics”), and Twiss Cold Storage, Inc. (“Twiss Cold Storage”), Complete Business Solutions Group, Inc. (“CBSG”), Liftforward, Inc. (“Liftforward”), Keystone Tile & Marble, Inc. (“Keystone”), Dade Paper & Bag, LLC (“Dade Paper”), Jane Doe and John Doe, as unknown parties in possession of 1401 Lake Avenue Southeast, Largo, Florida, and Jane Doe and John Doe, as unknown parties in possession of 1501 Lake Avenue Southeast, Largo, Florida (collectively, "Defendants").

Introduction

1. On January 15, 2019, this Court entered a Final Judgment for Money Damages in the amount of \$4,1203,866.90, together with daily interest, against Defendants Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage (the “Final Money Judgment”). A true, complete, and authentic copy of the Final Judgment is attached as **Exhibit A**.

2. No monies have been paid towards satisfaction of the Final Money Judgment.

3. Eagle Six holds all right, title, and interest in the Final Judgment.

4. Accordingly, the Court should enter Final Judgment of Foreclosure in favor of Eagle Six.

5. The real property to be foreclosed is located in Pinellas County, Florida and commonly described as 1401 and 1501 Lake Ave., SE., Largo, Florida, and more particularly described as:

PARCEL A:

That portion of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, lying in the Southeast 1/4 of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, more particularly described as follows:

Commencing at the Southeast corner of Section 2, Township 30 South, Range 15 East, as a point of reference, proceed North 88°40'43" West along the South line of said Section 2, 2731.07 feet; said point being the South 1/4 corner of said Section 2; thence North 01°37'29" East along the North/South centerline of said Section 2, 1988.88 feet, said point also being South 01°37'29" West, 663.24 feet from the center of said Section 2, thence South 88°49'25" East, 40.00 feet to the Point of Beginning.

From said Point of Beginning proceed South 88°49'26" East, 316.27 feet, said line being the North line of Lots 9 and 10, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public Records of Pinellas County, Florida, thence South 01°28'19" West 610.93 feet to an intersection with a line 23.00 feet North of and parallel to the centerline of an A.C.L. Railroad Spur Line; thence North 88°46'29" West, along said line 317.90 feet to an intersection with the Easterly right-of-way of County Road 110 (Lake Avenue) an 80 foot right-of-way; thence North 01°37'29" East along said line 610.66 feet to the Point of Beginning.

PARCEL B

That portion of Lots 7 and 8, PINELLAS GROVES, as recorded in Plat Book 1, Page 55, of the Public records of Pinellas County, Florida, lying in Southeast 1/4 of Section 2, Township 30 South, Range 15 East, contained within the following description:

From the center corner of Section 2, Township 30 South, Range 15 East, Pinellas County, Florida, as a point of reference; run thence South 1°37'29" West, 40.00 feet along the North and South 1/4 line of Section 2; thence South 88°52'23" East, 40.00 feet to the Point of Beginning; Thence South 88°52'23" East, 132.22 feet to a point on the Southerly line of a 175 foot wide Florida Power Corporation right of way; thence along said right of way line South 71°15'07" East, 189.14 feet; thence South 1°29'20" West, 566.06 feet; thence North 88°49'25" West, 314.33 feet to a point on the East right of way line of County Road No. 110 (Lake Avenue); thence along said right of way line North 1°37'29" East, 623.07 feet to the Point of Beginning.

(the "Real Property").

Parties and Procedural History

6. On or about February 12, 2018, CenterState Bank, N.A., a national banking association, as successor by merger to Sunshine Bank ("CenterState"), filed its Complaint for Foreclosure of Mortgage, Money Judgments and Other Relief (the "Complaint").

7. Defendant Lake Ave is a Florida limited liability company with a principal place of business in Pinellas County, Florida, and is a borrower and guarantor of the loans at issue in this matter.

8. Defendant Gurba is an individual residing in Pinellas County, Florida, and is a borrower and guarantor of the loans at issue in this matter.

9. Defendant Welkowitz, deceased, was an individual residing in Lancaster County, Pennsylvania, and is a borrower and guarantor of the loans at issue as described in the Complaint. Defendant Welkowitz submitted to jurisdiction by Virtue of the Guaranties and other Loan Documents (as those terms are defined in the Complaint).

10. Defendant BT-Twiss is a Florida limited liability company with a principal place of business in Pinellas County, Florida, and is a borrower and guarantor of the loans at issue in this matter.

11. Defendant Twiss Transport, Inc. is a Florida profit corporation with a principal place of business in Pinellas County, Florida, and is a borrower and guarantor of the loans at issue in this matter.

12. Defendant Twiss Logistics, Inc. is a Florida profit corporation with a principal place of business in Pinellas County, Florida, and is a borrower and guarantor of the loans at issue in this matter.

13. Defendant Twiss Cold Storage, Inc. is a Florida profit corporation with a principal place of business in Pinellas County, Florida, and is a borrower and guarantor of the loans at issue in this matter. BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage may sometimes hereinafter be collectively referred to as the “Twiss Borrowers.”

14. CBSG is a Delaware corporation which may claim some right, title or interest in the Real Property by virtue of that certain Mortgage and Security Agreement recorded at Official Records Book 19768, Page 1458 of the Public Records of Pinellas County, Florida, but such right, title, or interest, if any is inferior to and subordinate to Eagle Six’s mortgage interests in said property.

15. Defendant LiftForward is a Delaware corporation which may claim some right, title or interest in the Real Property by virtue of that certain Mortgage and Security Agreement recorded at Official Records Book 19500, Page 1330 of the Public Records of Pinellas County, Florida and re-recorded at Official Records Book 19500, Page 1343 of the Public Records of Pinellas County, Florida, and/or by virtue of that certain UCC financing statement filed in the Florida Secured Transaction Registry under instrument number 201700180922, but such right, title and interest, if any, is inferior to and subordinate to Eagle Six’s mortgage interests in said property.

16. Defendant Keystone is a Florida profit corporation which may claim some right, title or interest in the Real Property by virtue of leasing said property, which is certain real property located in Pinellas County, Florida, but such right, title or interest, if any, is inferior to and subordinate to Eagle Six’s mortgage interests in said property.

17. Defendant Dade Paper is a Florida limited liability company which may claim some right, title or interest in the Real Property by virtue of leasing said property, which is certain real

property located in Pinellas County, Florida but such right, title or interest, if any, is inferior to and subordinate to Eagle Six's mortgage interests in said property.

18. Defendant 1401 Unknown Possessors may claim some right, title or interested in the Real Property by virtue of possessing said property, which is certain real property located in Pinellas County, Florida but such right, title or interest, if any, is inferior to and subordinate to Eagle Six's mortgage interests in said property.

19. Defendant 1501 Unknown Possessors may claim some right, title or interested in the Real Property by virtue of possessing said property, which is certain real property located in Pinellas County, Florida but such right, title or interest, if any, is inferior to and subordinate to Eagle Six's mortgage interests in said property.

20. The Court has personal jurisdiction of Defendants as they either reside in Florida, are authorized to do business in Florida, have consented to jurisdiction in Florida or the inclusion of the Defendant(s) arises out of facts supporting Florida's long-arm jurisdiction of Defendant(s).

21. The Court has subject matter jurisdiction of this action under Florida Statutes including, without limitation, Section 26.012(2)(g), Florida Statutes.

22. Venue is proper in Pinellas County, Florida because these causes of action occurred in Pinellas County, Florida and the real property in dispute in this matter is situated and located in Pinellas County, Florida.

Final Judgment for Money Damages

23. On January 15, 2019, CenterState obtained Final Money Judgment Damages in the amount of \$4,103,866.90 against Defendants Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage. *See Exhibit A.*

Assignment of Final Judgment of Money Damages

24. On March 27, 2019, CenterState assigned all its rights, title, and interest in the Final Money Judgment, the Mortgages (as defined in the Complaint), as well as any interest it had in relation to a title insurance policy, to Zenith Express, LLC (“Zenith”) (the “Zenith Assignment”). A true, complete, and authentic copy of the Zenith Assignment is attached as **Exhibit B**;

25. On April 29, 2019, the Zenith Assignment was recorded at Book 20517, Page 796 of the public records of Pinellas County, Florida.

26. On May 7, 2019, Zenith was substituted as Plaintiff for CenterState. (*See* Doc. 105).

27. On May 30, 2019, Zenith assigned and transferred its right, title, and interest in the Final Money Judgment, the Mortgages (as defined in the Complaint) including its interest in this action, to Eagle Six (“Eagle Six Assignment”). (*See* Doc. 107). A true, complete, and authentic copy of the Eagle Six Assignment is attached as **Exhibit C**.

28. On -----, 2022, Eagle Six was substituted as Plaintiff for Zenith. (*See* Doc. ---).

29. Pursuant to the Zenith Assignment and Eagle Six Assignment, Eagle Six possesses all right, title, and interest in the Final Judgment, including, without limitation, the right to foreclose the Real Property as result of Defendant’s failure to satisfy the Final Money Judgment.

Failure to Satisfy Final Judgment

30. As of the filing of this Motion for Final Summary Judgment of Foreclosure, no monies have been paid towards satisfaction of the Final Money Judgment.

31. Further, as of the filing of this Motion for Final Summary Judgment of Foreclosure, there remains due and outstanding \$4,898,771.70 in principal and interest pursuant to the Final Money Judgment.

The Receivership

32. On July 27, 2020, Ryan K. Stumphauzer, Esq. (“Receiver”), was appointed as Receiver over various entities, including Defendant CBSG, in the case of *Securities and Exchange Commission v. Complete Business Solutions Group, Inc. d/b/a Part Funding*, pending in the United States District Court for the Southern District of Florida, Case No. 20-cv-81205 (the “Receivership Case”).

33. On December 16, 2020, the Receivership was expanded and Ryan K. Stumphauzer, Esq., was appointed as Receiver of Eagle Six pursuant to the following orders entered in the Receivership Case (collectively, the “Receivership Orders”):

- a. The Amended Order Appointing Receiver, entered on August 13, 2020 (ECF 141);
- b. The Order Granting Motion to Expand Receivership Estate, entered on December 16, 2020 (ECF 436); and
- c. Order Granting motion to Correct Scrivener’s Errors in Prior Orders Expanding Receivership Estate, entered on February 2, 2021 (ECF 484).

34. The Receivership Case remains ongoing, and the Receivership Orders remain in place.

35. Therefore, the Receiver has the authority to prosecute claims on behalf of Eagle Six.

Amounts Owed

36. As of July 22, 2022, Defendants Lake Ave, Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage, jointly and severally, owe Eagle Six

\$4,898,771.70 in principal and interest which continues to accrue at the current rate of \$487.96 per diem (adjusted quarterly), plus all costs and expenses of this suit including, without limitation, reasonable attorneys' fees. The total amount owed is calculated as follows:

Effective Date	Rate	Days	Per Diem	Interest
January 1, 2019	6.33%	76	711.71	54,090.09 From 1/15/19
April 1, 2019	6.57%	91	738.69	67,221.34
July 1, 2019	6.77%	92	761.18	70,028.83
October 1, 2019	6.89%	92	774.67	71,270.11
January 1, 2020	6.83%	91	767.92	69,881.54
April 1, 2020	6.66%	91	748.81	68,141.71
July 1, 2020	6.03%	92	677.98	62,374.27
October 1, 2020	5.37%	91	603.77	54,943.47
January 1, 2021	4.81%	90	540.81	48,672.98
April 1, 2021	4.31%	91	484.59	44,098.02
July 1, 2021	4.25%	92	477.84	43,961.97
October 1, 2021	4.25%	92	477.84	43,961.97
January 1, 2022	4.25%	90	477.84	43,005.60
April 1, 2022	4.25%	90	477.84	43,005.60
July 1, 2022	4.34%	21	487.96	10,247.30 Thru 7/22/22
INTEREST				794,904.80
JUDGMENT				4,103,866.90
TOTAL				4,898,771.70

37. Eagle Six has performed all conditions precedent to bringing this action, or any such condition precedent (along with any and all other affirmative defenses) has been waived by Defendants.

Legal Standard for Summary Judgment

38. Summary judgment is appropriate when there is no issue of material fact. *Volusia County v. Aberdeen at Ormond Beach, L.P.*, 760 So.2d 126 (Fla. 2000).

39. Summary judgment is particularly appropriate in cases involving contracts. *Id.* Under Florida law, it is the role of the Court to determine the construction of a written agreement pursuant to the unambiguous language in the agreement. *Mariner Cay Property Owners Ass'n*,

Inc. v. Topside, 714 So.2d 1130 (Fla. 4th DCA 1998). When the language of an agreement is unambiguous, the Court shall not rewrite a contract between the parties. *Home Development Co. of St. Petersburg v. Bursani*, 178 So.2d 113, 114 (Fla. 1965).

40. Summary judgment is appropriate where the “material facts are not in dispute and the judgment is based on ***the legal construction of documents.***” *Ball v. Florida Podiatrist Trust*, 620 So.2d 1018, 1022 (Fla. 1st DCA 1993) (emphasis added); *see also Cox v. CSX*, 732 So.2d 1092, 1096 (Fla. 1st DCA 1999) (“where the determination of the issues of a lawsuit depends upon ***the construction of a written instrument*** and the legal effect to be drawn therefrom, the question at issue is essentially one of law and determinable by entry of summary judgment.”) (emphasis added).

41. Summary judgment is appropriate in this matter as it is undisputed that no monies have been paid towards satisfaction of the Final Money Judgment and Eagle Six has priority over all other Defendants.

42. Defendants have no defenses to this Motion.

43. Accordingly, based on the foregoing, there is no genuine issue as to any material fact and Eagle Six is entitled to entry of final judgment of foreclosure against each of the Defendants as a matter of law.

WHEREFORE, Plaintiff, Eagle Six Consultants, LLC, respectfully requests that the Court enter final summary judgment in its favor and against Defendants and:

- (i) find that the interests of Plaintiff, Eagle Six, in the Real Property by are superior to any right, title, or interest of the Defendants;
- (ii) order an accounting of the sums due to Plaintiff, Eagle Six, under the Final Money Judgment;

- (iii) if the sum is not paid within the time set by this Court, order that the Real Property be sold to satisfy the claim of Plaintiff, Eagle Six, and that any right, title, and interest of Defendants, and any other interest of any party since the filing of the notice of lis pendens herein, be foreclosed of and from all right, title, and interest or equity redemption in, and/or to the Real Property, and that the proceeds of such sale be applied to satisfy the indebtedness owing to Plaintiff, Eagle Six, and if the proceeds of the sale are insufficient to pay the claim of Plaintiff, Eagle Six, together with costs and attorneys' fees, that a Deficiency Judgment be entered for the sums remaining unpaid; and
- (iv) grant other such relief as this Court deems just and proper.

Dated: _____

Respectfully submitted,

Timothy A. Kolaya
Florida Bar No. 056140
STUMHAUZER FOSLID SLOMAN
ROSS & KOLAYA, PLLC
Two South Biscayne Blvd., Suite 1600
Miami, FL 33131
Telephone: (305) 614-1400
tkolaya@sflaw.com
electronicservice@sflaw.com

*Counsel for Ryan K. Stumphauzer, Esq. as
Court-Appointed Receiver for Eagle Six
Consultants, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of _____, 2022, I electronically filed the foregoing document with the Clerk of the Court using the Florida Courts E-Filing Portal. I also certify that the foregoing document is being served on counsel on the Service List below via e-mail generated by the E-Portal system and to those designated by U.S. Mail.

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Akerman LLP
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susan.scott@akerman.com
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*Attorneys for CenterState Bank, N.A.,
Lake Avenue South East Real Estate LLC,
BT-Twiss Transport, LLC, Twiss Transport,
Inc., Twiss Logistics, Inc., Twiss Cold Storage,
Inc.*

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Complete Business Solutions Group, Inc.
c/o Ryan K. Stumphauzer, Esq.
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Miami, Florida 33131

Keystone Tile & Marble, Inc.
1501 Lake Ave Se
Largo, FL 33771

Attorney

Exhibit “G”

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

CENTERSTATE BANK, N.A., a national banking
association, as successor by merger with Sunshine
Bank,

Case No.: 18-0008977-CI

Plaintiff,

vs.

LAKE AVENUE SOUTH EAST REAL ESTATE,
LLC, a Florida limited liability company,
STEPHEN GURBA, an individual, RICHARD
WELKOWITZ, an individual, BT-TWISS
TRANSPORT, LLC, a Florida limited liability
company, TWISS TRANSPORT, INC., a Florida
profit corporation, TWISS LOGISTICS, INC., a
Florida profit corporation, TWISS COLD
STORAGE, INC., a Florida profit corporation,
COMPLETE BUSINESS SOLUTIONS GROUP,
INC., a foreign corporation, LIFTFORWARD,
INC., a foreign corporation, KEYSTONE TILE &
MARBLE, INC., a Florida profit corporation,
DADE PAPER & BAG, LLC, f/k/a Dade Paper &
Bag Co., a Florida limited liability company, JANE
DOE AND JOHN DOE, as unknown parties in
possession of 1401 Lake Avenue Southeast, Largo,
Florida, and JANE DOE AND JOHN DOE, as
unknown parties in possession of 1501 Lake
Avenue Southeast, Largo, Florida,

Defendants.

**ASSIGNMENT OF FINAL JUDGMENT OF FORECLOSURE,
FINAL JUDGMENT FOR MONEY DAMAGES,
MORTGAGES & POTENTIAL RELATED RIGHTS**

This Assignment of Final Judgment of Foreclosure, Final Judgment for Money Damages, Mortgages and Potential Related Rights ("Assignment") is made as of the ____ day of _____, 2022 by Eagle Six Consultants, Inc. (the "Assignor") to Grand Hope Investments, Inc. (the "Assignee").

RECITALS:

A. On or about February 2, 2018, Centerstate Bank filed a lawsuit against, *inter alia*, Lake

Avenue South East Real Estate, LLC, a Florida limited liability company (“Lake Ave”), Stephen Gurba, an individual (“Gurba”), Richard Welkowitz, an individual (“Welkowitz”), BT-Twiss Transport, LLC, a Florida limited liability company (“BT Twiss”), Twiss Transport, Inc., a Florida profit corporation (“Twiss Transport”), Twiss Logistics, Inc., a Florida profit corporation (“Twiss Logistics”) and Twiss Cold Storage, Inc., a Florida profit corporation (“Twiss Cold Storage”) (Lake Ave., Gurba, Welkowitz, BT Twiss, Twiss Transport, Twiss Logistics, and Twiss Cold Storage all collectively, the “Obligors”), as defendants, for their defaults under certain loans from Centerstate Bank to Obligors (the “Loans”), seeking money damages against Obligors, and foreclosure of certain real property located in Pinellas County, Florida. This lawsuit is styled *as Centerstate Bank, N.A. v. Lake Avenue South East Real Estate, LLC, et al.*, and is pending in the Circuit Court, Sixth Judicial Circuit, in and for Pinellas County, Florida (the “Court”) as Case No. 18-00897-CI (the “Lawsuit”).

B. The Lawsuit relates to Loans made by Centerstate which are secured by, among other things, (i) that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 780 of the current public records of Pinellas County, Florida; and (ii) that certain Second Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated January 28, 2016 which is recorded at Book 19068, Page 803 of the current public records of Pinellas County, Florida (collectively, the “Mortgages”). The Mortgages secure the Loans and mortgage certain real property (the Pinellas County Real Property” owned by Lake Ave located in Pinellas County, Florida, as more particularly described in the Mortgages.

C. On or about January 15, 2019, the Court entered a Final Judgment for Money Damages (the “Money Judgment”) against Obligors and in favor of Centerstate in the amount of \$4,103,866.90 plus post-judgment interest at the rate set forth in section 55.03, Florida Statutes, reserving jurisdiction to award Centerstate its reasonable attorneys’ fees and costs to be recovered from Obligors. The Judgment is recorded in the Public Records of Pinellas County, Florida in Official Record Book 20409, Page 2611, re-recorded in the Public Records of Pinellas County, Florida in Official Record Book 20412, Page 1323, and recorded in the Public Records of Palm Beach County, Florida in Official Record Book 30422, Page 894.

D. On March 27, 2019, Centerstate assigned all its rights, title and interest in the Final Money Judgment, the Mortgages (as defined in the Complaint), as well as any interest it had in relation to a title insurance policy, to Zenith Express, LLC (“Zenith”). The Assignment was recorded in the Public Records of Pinellas County at Book 20517, Page 796.

E. On May 30, 2019, Zenith assigned and transferred its right, title, and interest in the Final Money Judgment, the Mortgages (as defined in the Complaint), including its interest in the Lawsuit to Eagle Six Consultants, LLC.

F. On _____, the Court entered a Final Judgment of Foreclosure in the Lawsuit in favor of Eagle Six.

G. Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor,

all of Assignor's right, title and interest in and to the Money Judgment, Foreclosure Judgment, Mortgages, and Assignor's title insurance claim relating to the Mortgages (the "Title Claim"). Assignor makes no representation or warranty that its title insurance claim relating to the Mortgages is assignable, and assigns said claim without representation or warranty of any kind.

NOW THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment of the Judgment, Mortgages and Title Claim. Assignor hereby unconditionally grants, transfers, and assigns to Assignee all of Assignor's right, title and interest in and to the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
2. Assumption by Assignee. Assignee hereby assumes Assignor's assignment of the Judgment, Mortgages, and Title Claim on the terms and conditions set forth herein.
3. Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon the successors and assigns of Assignor and Assignee.
4. Responsibility for Costs of Judicial Sale. Assignee shall bear any and all costs of, and responsibility for, satisfaction of notice and/or publication requirements in connection with any judicial sale of the Pinellas County Real Property if so ordered.
5. No Assignor Responsibility for Tax Ramifications. To the extent that this Assignment may be the cause of any local, state, or federal tax ramifications impacting Assignee, Assignor shall have no responsibility for such tax ramifications, and such tax ramifications shall be the responsibility of the Assignee.

[The remainder of this page is intentionally blank]

This Assignment is executed by Assignor and Assignee as of the __ day of _____, 2022.

Signed, sealed and delivered
In the presence of:

ASSIGNOR:

EAGLE SIX CONSULTANTS, INC.

[Print or type name]

By: _____

Its: Receiver and Attorney-in-Fact

[Print or type name]

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed and acknowledged before me by means of
____ physical presence or ____ online notarization, this ____ day of _____ 2022, by
_____ as Receiver and Attorney-In-Fact of Eagle Six Consultants, Inc., a Florida
corporation, on behalf of the corporation, who is personally known to me or has produced
_____ as identification.

Print Name: _____
Notarial Seal: _____

[The remainder of this page is intentionally blank]

This Assignment is executed by Assignor and Assignee as of the __ day of _____, 2022.

Signed, sealed and delivered
In the presence of:

ASSIGNEE:

GRAND HOPE INVESTMENTS, INC.

[Print or type name]

By: _____

Its: _____

[Print or type name]

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was executed and acknowledged before me by means of
___ physical presence or ___ online notarization, this ___ day of _____ 2022, by
_____ as _____ of Grand Hope Investments, Inc., a Florida
corporation, on behalf of the corporation, who is personally known to me or has produced
_____ as identification.

Print Name: _____
Notarial Seal: _____

SEC v. Par Funding

Case No. 20-CV-81205-RAR

EXHIBIT D

*(to Non-Party Grand Hope Investments, Inc.'s Motion to
Intervene and Motion for Leave to Sue Receiver and Incorporated
Memorandum of Law)*

From: Michael Cohn <mac@awerbachcohn.com>
Sent: Wednesday, August 10, 2022 4:25 PM
To: Timothy Kolaya
Cc: Anthony Severino; Brad Barrios; Lisa Meriwether
Subject: Re: Grand Hope / Eagle Six

Tim & Anthony

First American has confirmed that it is in agreement with the final settlement agreement and exhibits

Michael A. Cohn
Awerbach | Cohn
28100 U.S. Hwy [19 North](#)
[Suite 104](#)
[Clearwater, FL 33761](#)
Tel. [\(727\) 725-3227 \(Ext. 102\)](#)
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On Aug 9, 2022, at 3:01 PM, Timothy Kolaya <tkolaya@sfslaw.com> wrote:

Anthony:

Here is what I expect to be the final settlement agreement, including the exhibits. Please confirm you are in agreement. I will have the Receiver sign the agreement today and will immediately get to work on a motion to lift the litigation injunction in the SEC Action.

Regards,

Tim

Timothy A. Kolaya

SEC v. Par Funding

Case No. 20-CV-81205-RAR

EXHIBIT E

*(to Non-Party Grand Hope Investments, Inc.'s Motion to
Intervene and Motion for Leave to Sue Receiver and Incorporated
Memorandum of Law)*

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CIVIL DIVISION

GRAND HOPE INVESTMENTS, INC.,

Case No.:

Plaintiff,

v.

RYAN K. STUMPHAUZER, ESQ.,
as Receiver for Eagle Six Consultants,
Inc., and FIRST AMERICAN TITLE
INSURANCE COMPANY,

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Grand Hope Investments, Inc. (“Plaintiff” or “Grand Hope”), sues Ryan K. Stumphauzer, Esq., as Receiver for Eagle Six Consultants, Inc. (“Receiver”) and First American Title Insurance Company (“First American”) (collectively, “Defendants”) and alleges as follows:

Parties, Jurisdiction, and Venue

1. This is a claim for damages in excess of \$30,000.00, exclusive of interest, costs, and attorney’s fees.

2. Grand Hope is a corporation organized and existing under the laws of the State of Florida with its principal place of business located at 85 Belleview Blvd., Unit 204, Belleair, Florida 33756.

3. Ryan K. Stumphauzer, Esq. was appointed as Receiver over various entities, including Eagle Six Consultants, Inc., in the case of *Securities and Exchange Commission v. Complete Business Solutions Group, Inc. d/b/a Part Funding*, pending in the United States District Court for the Southern District of Florida, Case No. 20-cv-81205 (the “Receivership Case”).

4. First American is a corporation existing under the laws of the State of Nebraska with its principal place of business located at 1 First American Way, Santa Ana, California 92707. First American is licensed to do business in Florida and, at all relevant times, was doing business in Hillsborough County, Florida.

5. Venue is proper in Hillsborough County, Florida pursuant to the parties' Settlement Agreement which provides that Hillsborough County, Florida shall be the exclusive venue for any action arising from an alleged breach of the Settlement Agreement.

General Allegations

6. This case arises out of Defendants' breach of a Settlement Agreement entered into between the parties concerning certain real property located in Pinellas County, Florida (the "Real Property").

7. In September 2021, the parties began discussing and negotiating a potential settlement concerning the Real Property as well as resolving other related claims and issues.

8. On October 8, 2021, counsel for Grand Hope emailed Defendants' counsel a settlement proposal which outlined the proposed material terms.

9. On April 5, 2022, following numerous telephone conferences negotiating a settlement, counsel for Grand Hope emailed Defendants' counsel a draft settlement agreement based on the material terms proposed on October 8, 2021 and the parties' ongoing discussions. Thereafter, the parties subsequently exchanged comments and revisions to the draft settlement agreement.

10. On August 8, 2022, counsel for the Receiver provided his final revisions to the settlement agreement and stated as follows:

Also, the **settlement agreement needs to include signature blocks**. If you'd like to send the Word document, **I can** make those final edits, **obtain the Receiver's**

signature, and then return a partially-executed copy of the settlement agreement to you.

(emphasis supplied).

11. On August 9, 2022, Grand Hope accepted the Receiver's final revisions and provided confirmation of the same via email.

12. That same day, counsel for the Receiver emailed Grand Hope's counsel stating:

Here is what I expect to be the final settlement agreement, including the exhibits. Please confirm you are in agreement. I will have the Receiver sign the agreement today and will immediately get to work on a motion to lift the litigation injunction in the SEC Action.

(emphasis supplied). A true, complete, and authentic copy of the August 8 and 9, 2022 emails between the Receiver and Grand Hope, including the attached long-form settlement agreement with exhibits (the "Settlement Agreement") is attached as **Exhibit A**.

13. The next day, August 10, 2022, First American confirmed its acceptance of the settlement agreement via email (the "Settlement Agreement"): "First American has confirmed that it is in agreement with the final settlement agreement and exhibits." A true, complete, and authentic copy of First American's acceptance of the Settlement Agreement is attached as **Exhibit B**.

14. The Settlement Agreement was fully agreed-upon by the Receiver, First American, and Grand Hope, contains all material terms, and constitutes an enforceable contract.

15. On August 17, 2022, counsel for the Receiver emailed advising the parties as follows:

...Judge Ruiz entered the order lifting the stay in the receivership case to allow us to take the steps required under the settlement agreement. And we filed the motion to substitute and the motion to set aside today in the CenterState case. See attached. Can you obtain your clients' signatures on the settlement agreement and circulate those signature pages so that we can assemble a fully-executed copy of the settlement agreement?

(emphasis supplied).

16. On August 28, 2022, counsel for Plaintiff provided the executed signature pages for Grand Hope to the Defendants.

17. Consistent with the settlement agreement, Grand Hope was ready, willing, and able to deposit its portion of the settlement payment into the Receiver's escrow account. In fact, Grand Hope wired the money to the undersigned's trust account.

18. Thereafter, First American and the Receiver apparently had separate discussions regarding the length of time that First American's settlement payment would remain in escrow pending the Receiver's performance under the Settlement Agreement, despite no such time restriction being set forth in the Settlement Agreement. Grand Hope was notified of the ongoing discussions on September 22, 2022.

19. On May 17, 2023, counsel for the Receiver finally responded to Grand Hope's counsel and emailed stating that, despite the Receiver's performance under the Settlement Agreement and its numerous representations that the Receiver was executing the Settlement Agreement, that the parties had not entered a "final settlement." The Receiver has since refused to continue its performance pursuant to the Settlement Agreement and informed Grand Hope that it intends to enter into another settlement agreement with another party concerning the Real Property which will make it impossible to perform the Settlement Agreement.

20. The Receiver's partial performance under the Settlement Agreement is undisputed and evidence by, among other things, the following:

- Settlement Agreement, ¶ 3: Receiver filed its "Motion to Lift Litigation Injunction as to Certain Counterparties in Default Under Agreement with Complete Business Solutions Group, Inc. or Contract Financing Solutions, Inc., and to Effectuate a Settlement dated August 10, 2022 (Receivership Case, Dkt. 1354);

- Settlement Agreement, ¶ 3: Receiver obtained an “Order Granting Receiver’s Motion to Lift to Litigation Injunction as to Certain Counterparties in Default Under Agreements With Complete Business Solutions Group, Inc. or Contract Financing Solutions, Inc., and to Effectuate Settlement (Receivership Case, Dkt. 1356);
- Settlement Agreement, ¶ 4: Receiver filed its “Motion to Substitute Plaintiff” dated August 17, 2022 (Foreclosure Case, Dkt. 119); and
- Settlement Agreement, ¶ 5: Receiver filed its “Motion to Set Aside Order of Dismissal and Incorporated Memorandum of Law” dated August 17, 2022 (Foreclosure Case, Dkt. 120).

21. All conditions precedent to the bringing and maintenance of this action have been performed, have been waived, or have occurred.

22. Grand Hope is obligated to pay its attorneys a reasonable fee for their services.

COUNT I **BREACH OF CONTRACT - DAMAGES**

Grand Hope realleges paragraphs 1 through 22.

23. The Settlement Agreement is an enforceable contract.

24. Grand Hope performed its obligations under the Settlement Agreement by tendering payment as required under the contract.

25. The Receiver and First American each materially breached the Settlement Agreement by failing to comply with its terms.

26. As a direct and proximate result of Defendants’ breaches of the Settlement Agreement, Grand Hope has suffered damages.

WHEREFORE, Plaintiff, Grand Hope, demands judgment against Defendants for damages, interest, costs and for such further relief as this Court deems just and proper.

COUNT II **SPECIFIC PERFORMANCE**

Grand Hope realleges paragraphs 1 through 22.

27. The Settlement Agreement is an enforceable contract with specific and definite terms.

28. Grand Hope performed its obligations under the Settlement Agreement by tendering payment as required under the contract.

29. Defendants refuse to perform their obligations under the Settlement Agreement. Specifically, First American refused to deposit its share of the settlement payment into the Receiver's escrow account and the Receiver refuses to complete the terms required of it in the Settlement Agreement.

30. Grand Hope offers and remains ready, willing and able to transfer its share of the settlement payment into the Receiver's escrow account.

WHEREFORE, Plaintiff, Grand Hope, demands judgment that Defendants be required to perform under the Settlement Agreement, for damages incident to specific performance, and for such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Grand Hope demands a Jury Trial on all issues triable as of right by a jury.

/s/

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kturkel@tcb-law.com

Brad F. Barrios

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