

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.

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**NON-PARTY GRAND HOPE INVESTMENTS, INC.’S  
MOTION TO LIFT LITIGATION INJUNCTION ON  
STATE COURT MORTGAGE FORECLOSURE ACTION OR,  
ALTERNATIVELY, TO STAY PUBLIC AUCTION OF PROPERTY  
AND INCORPORATED MEMORANDUM OF LAW**

Non-Party, Grand Hope Investments, Inc. (“Grand Hope”), by counsel, respectfully moves the Court for the entry of an order lifting the litigation injunction (ECF 141) (the “Litigation Injunction”) to allow Grand Hope to pursue the state court foreclosure action of *Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*, Case No. 18-000954-CI (Fla. 6th Cir. Ct.) (the “Grand Hope Action”). Alternatively, Grand Hope requests that the Receiver or Court take action to stay two scheduled tax deed sales that will extinguish both Grand Hope’s and the Receiver’s interests in the Grand Hope Action absent a stay. 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 foreclose on the real property encumbered by its mortgage until the Litigation Injunction was issued in this case in February 2020. The Grand Hope Action was stayed because two Receivership Entities, Complete Business Solutions Group, Inc. d/b/a Par Funding (“Par Funding”) and Eagle Six Consultants, Inc. (“Eagle Six”) are defendants or contemplated defendants in the case due to their claimed interests in the real property at issue. While a default has been entered against Par Funding’s subordinate interest in the property, the Grand Hope Action is essentially a priority battle between Grand Hope and the interest claimed by Eagle Six, which will depend entirely on whether the satisfaction of mortgage was fraudulent.

## THE LITIGATION INJUNCTION SHOULD BE LIFTED

The Receiver has had three and a half years to investigate and administer the Receivership and has done nothing to pursue a recovery in the Grand Hope Action. Meanwhile, Grand Hope has been enjoined from foreclosing, which has resulted in uncollected rents from tenants, accrual of property taxes, and imminent threat of the real property being **auctioned on October 18, 2023 and November 15, 2023** due to the record owner’s repeated failure to pay property taxes and the Receiver’s failure to prosecute Eagle Six’s claimed interest in the real property.

Recently, Grand Hope was on the precipice of settling the Receiver's interest in the Grand Hope Action. However, the Receiver abandoned the agreement in favor of purportedly settling with another unidentified party (ECF 1616, ¶ 12). To date, the Receiver has not filed a settlement agreement with the Court.

The passage of time, the Receiver's failure to litigate the Grand Hope Action, and the Receiver's supposedly imminent settlement constitute sufficient grounds to lift the Litigation Injunction to allow Grand Hope to prosecute the Grand Hope Action and have its day in court.

## **FACTS**

### **A. State Court litigation history.**

1. On February 14, 2018, Grand Hope filed the Grand Hope Action upon discovering a fraudulent satisfaction of mortgage recorded in the public records of Pinellas County, Florida (the "Fraudulent Satisfaction") concerning real property located in Pinellas County, Florida commonly described as 1401 and 1501 Lake Ave. SE., Largo Florida (the "Real Property"). The Fraudulent Satisfaction purported served to extinguish Grand Hope's security interest in the Real Property, despite the fact that the record owner of the property, Lake Ave. South East Real Estate, LLC ("Lake Ave.") owed Grand Hope nearly \$3 million on the note connected to Grand Hope's mortgage.<sup>1</sup>

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<sup>1</sup> The Pinellas County tax records identify D & E Property Investments, Inc. ("D&E") as the record owner of the Real Property despite D&E and Lake Ave filing Articles of Merger with the Florida Division of Corporations on December 11, 2015 (which is reflected on sunbiz.org).

2. On March 26, 2018, a Clerk's Default was entered against Par Funding after it failed to appear or otherwise respond to the Complaint.

3. On February 12, 2018, CenterState Bank, N.A. ("CenterState"), filed its Complaint for Foreclosure of Mortgage, Money Judgments and Other Relief related to a note and mortgage concerning the same Real Property in the case styled *CenterState Bank, N.A., v. Lake Avenue South East Real Estate, LLC, et al.*, Case No. 18-000897-CI-8 (Fla. 6th Cir. Ct.) (the "CenterState Action"). Lake Ave. had borrowed money from CenterState after recording the Fraudulent Satisfaction and subsequently defaulted on its obligations.

4. On January 15, 2019, CenterState obtained a Final Judgment for Money Damages in the CenterState Action against Lake Ave and other defendants (the "CenterState Judgment").

5. On March 27, 2019, CenterState assigned all its rights, title, and interest in the CenterState Judgment to Zenith Express, LLC ("Zenith") (ECF 1593-1). On May 30, 2019, Zenith then purportedly assigned and transferred its right, title, and interest in the Real Property, including the CenterState Judgment, to Eagle Six (ECF 1593-2) (the "Eagle Six Assignment").

6. On February 27, 2020, Grand Hope, Ronald Damico, and Sandra Damico filed the Second Amended Complaint in the Grand Hope Action. A true and complete copy of Grand Hope's Second Amended Complaint in the Grand Hope Action is attached as **Exhibit A**.

7. Aside from Lake Ave.'s \$3 million default, the primary issue in the Grand Hope Action is determining the priority of the parties' interests in the Real Property. If the Satisfaction of Mortgage was fraudulent, the Grand Hope Mortgage is superior to all other interests and Grand Hope is entitled to foreclose on the Real Property. If not, the party who owns the CenterState Judgment (Zenith or Eagle Six) would have a superior interest and is entitled to foreclose on the Real Property.

**B. The Receiver's ongoing failure to prosecute the Receivership Entities' interests in the Real Property.**

8. Since the Eagle Six Assignment, which was executed in 2019, the Receiver has not substituted Eagle Six in for Zenith as a defendant in the Grand Hope Action or taken any action to prosecute Eagle Six's purported interest in the Grand Hope Action.

9. Because the record owner of the Real Property (either D&E or Lake Ave) knows it will lose the property in foreclosure, it has not paid the property taxes. As a result, on or about August 9, 2023, the Clerk of the Pinellas Circuit Court and Comptroller issued a Notice of Application for Tax Deed that the Real Property would be auctioned on October 18, 2023 and November 15, 2023 (the "Public Auction") based on the failure to pay back taxes (the "Auction Notice"). A true, authentic, and complete copy of the Auction Notice is attached as **Exhibit B**.

10. Meanwhile, Grand Hope has been enjoined from foreclosing, which has resulted in three years of uncollected rents from tenants, accrual of property taxes, and

imminent risk of losing its interest in the Real Property as a result of the upcoming Public Auction.

11. In mid-2021, Grand Hope and the Receiver, on behalf of Eagle Six, engaged in settlement negotiations that culminated in a Settlement Agreement pursuant to which the Receiver would receive a cash payment for the Receivership and Grand Hope would receive assistance and stipulated priority to achieve its foreclosure. (*See* ECF 1593, ¶¶ 37-40).

12. On August 10, 2022, in accordance with the Settlement Agreement, the Receiver filed his 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 (ECF 1354).

13. However, the Receiver refused to complete its settlement with Grand Hope and instead informed the Court that it intended to pursue settlement with a different party concerning the Real Property in the near future (ECF Nos. 1593, ¶ 53; 1616, ¶ 12). Such settlement would also have extinguished the Receivership Entities' interest in the Real Property in exchange for a cash payment.

14. Yet, the Receiver has not filed a settlement agreement with the Court.

15. Accordingly, based on the foregoing, the Court should lift the stay to allow Grand Hope to pursue its claims in the Grand Hope Action. Alternatively, this Court should order the Tax Collector of Pinellas County to postpone and stay the Public Auction until the expiration of the Receivership and/or the Litigation Injunction or require the Receiver to exercise its authority to stay the Public Auction.

## MEMORANDUM OF LAW

### **I. Factors considered to lift a litigation injunction in a Receivership.**

Courts consider three factors when determining whether to lift a litigation stay: (1) whether refusing to lift the stay genuinely preserves the status quo or whether the moving party will suffer substantial injury if not permitted to proceed; (2) the time in the course of the receivership at which the motion for relief from the stay is made; and (3) the merit of the moving party's underlying claim. *Sec. & Exch. Comm'n v. Onix Cap., LLC*, No. 16-24678-CIV, 2017 WL 6728814, at \*3 (S.D. Fla. July 24, 2017), report and recommendation adopted, No. 16-24678-CIV, 2017 WL 6728773 (S.D. Fla. Oct. 23, 2017) (citing *SEC v Wencke*, 742 F.2d 1230 (9th Cir. 1984)). Moreover, as held in *Acorn Tech. Fund, L.P.*,

The purposes of a receivership are varied, but the purpose of imposing a stay of litigation is clear. A receiver must be given a chance to do the important job of marshaling and untangling a company's assets without being forced into court by every investor or claimant. *Nevertheless, an appropriate escape valve, which allows potential litigants to petition the court for permission to sue, is necessary so that litigants are not denied a day in court during a lengthy stay.*

*U.S. v. Acorn Tech. Fund, L.P.*, 429 F.3d 438, 443 (3d Cir. 2005) (emphasis added).

### **II. The Litigation Injunction should be lifted to allow Grand Hope to proceed in the Grand Hope Action.**

Grand Hope and its elderly owners have been enjoined for over three years from proceeding in the Grand Hope Action. During that time, the Receiver has made no efforts or otherwise taken any action to prosecute Eagle Six's purported interests in the

Grand Hope Action. Lifting the Litigation Injunction will return to Grand Hope and its elderly owners their rightful day in court.

**A. Lifting the Litigation Injunction will not disrupt the Status Quo.**

The Receiver has investigated the Receivership Entities (ECF 1653), begun processing claims (ECF 1653), and purportedly intends to extinguish the Receivership Entities' interests in the Real Property through imminent settlement with another party (ECF 1616, ¶ 12)). Thus, lifting the stay to allow Grand Hope to pursue the Grand Hope Action will not disturb the status quo any more than the Receiver already has. *See United States v. JHW Greentree Cap., L.P.*, No. 3:12-CV-00116 VLB, 2014 WL 2608516, at \*5 (D. Conn. June 11, 2014) (granting motion to lift litigation stay and holding that “the [r]eceiver's interest in maintaining the status quo at this juncture is low, given that the [r]eceiver itself has moved to disturb the status quo by establishing summary disposition proceedings and authorizing payment of claims[.]”).

Additionally, the Court has lifted the litigation stay to allow other non-parties to pursue their state court foreclosure actions. On June 20, 2023, the Court entered an Order lifting the stay to allow non-party, Firstbank Puerto Rico d/b/a Firstbank Florida “to foreclose on its [m]ortgage and proceed with the [s]tate [c]ourt [l]awsuit, including the foreclosure claim which seeks a determination that [Par Funding's liens are inferior] to the Firstbank [m]ortgage.” (ECF 1605). *See also*, (ECF Nos. 1325, 1422) (Court Orders lifting the stay to allow non-parties to pursue their state foreclosure actions). Thus, lifting the stay to allow Grand Hope to proceed in the Grand Hope



Action will not disturb the status quo and is in conformance with the Court's prior orders.

Regarding substantial injury, there is no question that Grand Hope will suffer significant harm should the three-year stay continue. As discussed above, Grand Hope faces significant risk of losing its claims in the Grand Hope Action due to its owners' advanced age and the imminent Auction caused by the record owner's failure to pay property taxes. Also, throughout the three-year litigation stay, Grand Hope has been denied the benefit of collecting rent from the tenants of the Real Property. *See JHW Greentree Cap., L.P.*, at \*5 (holding that movants loss of benefits of lease weighed in favor of lifting litigation stay). Accordingly, the first factor weighs in favor of lifting the Litigation Injunction.

**B. The length of the Receivership favors lifting the Litigation Injunction.**

The second factor, timing in the course of the receivership, also favors lifting the Litigation Injunction. The Receivership has been pending for over three years, the Receiver has conducted the necessary investigation and organization and is in the process of reviewing claims (ECF 1653), and the Receiver has not taken any action to prosecute Par Funding's or Eagle Six's interests in the Grand Hope Action. At this advanced stage of the Receivership, a broad litigation stay is no longer necessary. *See SEC v. Private Equity Mgmt. Grp., LLC*, CV 09–2901 PSG EX, 2010 WL 4794701 (C.D. Cal. Nov. 18, 2010) (second factor cut against receiver where receivership was well over one year old and receiver had progressed sufficiently in the effort to organize and

understand the entities under his control, as evidenced by regular status reports to the court); *S.E.C. v. Provident Royalties, L.L.C.*, 3:09–CV–1238–L, 2011 WL 2678840 (N.D. Tex. July 7, 2011) (timing factor weighed heavily in favor of lifting stay where receivership was almost two years old and the receiver had marshaled almost all receivership assets and had proposed a plan of distribution); *Sec. & Exch. Comm'n v. Champion-Cain*, No. 319CV01628LABAHG, 2022 WL 605755, at \*1 (S.D. Cal. Feb. 28, 2022) (timing factor weighed in favor of lifting stay where twenty-seven months passed since issuance of the stay, and the receiver completed her forensic accounting and filed numerous lawsuits on behalf of the receivership entities).

Further, the Receiver has an ongoing duty to “protect, preserve, administer, and distribute appropriately the receivership estate's assets[.]” *S.E.C. v. Schooler*, No. 3:12-CV-2164-GPC-JMA, 2015 WL 1510949, at \*3 (S.D. Cal. Mar. 4, 2015) (citing *Liberte Cap. Grp., LLC v. Capwill*, 462 F.3d 543, 555 (6th Cir. 2006)). Here, the Receiver has consistently failed to take any action to turn Eagle Six’s interest in the Grand Hope Action (a Receivership asset) into a recovery for the Receivership. And the Receiver’s continuous inaction threatens Grand Hope’s rights and interest in the Real Property. Grand Hope should not be penalized any further for the Receiver’s three-year failure to act. *See Wencke*, 622 F.2d at 1373 (“...a blanket stay should not be used to prejudice the rights which innocent and legitimate creditors may have against the receivership entities.”) (citing *Los Angeles Trust Deed & Mortgage Exchange v. Securities & Exchange Commission*, 285 F.2d 162, 182 (9th Cir. 1960)). Accordingly, the second factor weighs in favor of lifting the Litigation Injunction.

**C. The claims in the Grand Hope Action are colorable.**

For the last factor, “the party requesting a lift of stay is not required to show that it is likely to prevail on the merits. Rather, the inquiry is whether ‘the [moving] party has colorable claims to assert which justify lifting the receivership stay.’” *S.E.C. v. One Equity Corp.*, No. 2:08-CV-667, 2010 WL 4878993, at \*7 (S.D. Ohio Nov. 23, 2010) (citing *Acorn Tech.*, 429 F.3d at 443). A colorable claim “is one where there is any reasonable basis for predicting that the plaintiff could prevail.” *Huntington Nat'l Bank v. Saint Catharine Coll., Inc.*, No. 3:16-CV-465-DJH, 2017 WL 6347971, at \*8 (W.D. Ky. Dec. 12, 2017) (holding that movant’s complaint alleged colorable claims) (citing *Probus v. Charter Commc'ns, LLC*, 234 F. App'x 404, 407 (6th Cir. 2007)). Prior to the stay, the Grand Hope Action was set for trial with no dispositive motions pending—a clear signal that the claims are colorable.

The equitable claims of the Second Amended Complaint seek to cancel the fraudulent satisfaction (Count I), declare that Grand Hope’s interest in the Real Property is superior to any other claims, liens, or interests (Count II), and foreclose on the Grand Hope Mortgage (Count III). Each of these counts is colorable for primarily the same reasons.

Section 65.031, Florida Statutes, provides that a plaintiff may bring a chancery action for quiet title or to clear a cloud from title. As alleged in the Second Amended Complaint, the defendants fraudulently recorded the Satisfaction of Mortgage. *See Exhibit A*, at ¶¶ 33-45. Under Florida law, a forged satisfaction of mortgage is void

and ineffectual even in favor of one who has purchased in the honest belief that the satisfaction was genuine. *See Loyd v. Chicago Title Insurance Co.*, 576 So. 2d 310 (Fla. 3d DCA 1990). Further, the Satisfaction of Mortgage was ineligible for recording because the notary had a financial interest in the transactions at issue. *Id.* at ¶¶ 46-54; *see* sections 117.107(12) and 695.03, Florida Statutes. Finally, the Satisfaction of Mortgage is void for lack of consideration. *Id.* at ¶¶ 33-45. *See also, Kitchens v. Kitchens*, 142 So. 2d 343, 346 (Fla. 2d DCA 1962) (holding that mortgage satisfaction never became valid instrument where there was no consideration paid for satisfaction and note and mortgage indebtedness had not been paid); *McCoy v. Love*, 382 So.2d 647 (Fla. 1979) (holding that “recording of a void or forged deed is legally insufficient to create a legal title, and affords no protection to those claiming under it.”).

Under Florida law, an action for foreclosure requires proof of “1) an agreement, 2) a default, 3) an acceleration of the amount due, and 4) the amount due.” *Wilmington Sav. Fund Soc’y, FSB v. Contreras*, 278 So. 3d 744, 747 (Fla. 5th DCA 2019) (denying motion to dismiss foreclosure action because plaintiff alleged that the parties signed a note, that payments were not made, that the full amount of the loan was due, which included the full amount of the unpaid principal). Here, the Second Amended Complaint demonstrates the existence of a signed mortgage, that Lake Ave failed to make the required payments under the related note. *See Exhibit A*, at ¶¶ 16, 73-76. Accordingly, Grand Hope’s equitable claims are colorable.

Finally, Counts IV through VI are claims for breaches of various contracts against Lake Ave. In Florida, a breach of contract claim requires: “(1) a valid contract;

(2) a material breach; and (3) damages.” *Beck v. Lazard Freres & Co., LLC*, 175 F.3d 913, 914 (11th Cir. 1999) (citing *Abruzzo v. Haller*, 603 So.2d 1338, 1340 (Fla. 1st DCA 1992)). Here, Grand Hope’s breach of contract claims adequately allege the existence of valid contracts with Lake Ave, Lake Ave’s breaches, and damages. *See Exhibit A*, at ¶¶ 1-61; 77-88. Accordingly, Counts IV-VI in the Grand Hope Action are colorable.

### **III. Alternatively, the Court Should Postpone or Stay the Public Auction.**

Pursuant to the Amended Order Appointing Receiver [ECF 141], the Receiver has the power to “take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property. Receivership Property includes “all property interests of the Receivership Entities.” *Id.* at ¶ 7. Paragraph 29 of the Amended Order Appointing Receiver further contemplates that the Receiver may provide a copy of the order to third parties in order to prevent the dissipation of Receivership Property or the extinguishing of a mortgage which affects Receivership Property.

“When a court exercising jurisdiction in equity appoints receivers of all the property of a corporation, the court assumes the administration of the estate, and while that property is so in the custody of the court it is not subject, without the sanction of the court, to be seized and sold under a lien for taxes.” *Lee v. Freeman*, 79 F.2d 868, 871 (5th Cir. 1935); see also, *Carter v. Powell*, 104 F.2d 428, 430 (5th Cir. 1938) (“This court has recognized the jurisdiction of a federal court in Georgia, in a receivership case, to enjoin an officer of the State of Florida from selling a part of the railroad’s property for taxes.”).

Accordingly, either the Receiver or the Court appears to have the authority to enjoin or stay the Public Auction. As described above, Grand Hope has been prejudiced by its inability to proceed with the Grand Hope Action during the pendency of the Receivership. Grand Hope has attempted to provide consideration to the Receiver in exchange for the Receiver waiving its interest in the property at issue, but the Receiver would not consummate the settlement. Grand Hope provided the Receiver with notice of the Public Auction and the fact that the Public Auction would extinguish Grand Hope's and the Receiver's claims in the Grand Hope Action and asked the Receiver to intervene and stay the Public Auction. But again, the Receiver ignored Grand Hope's communication. Grand Hope should not have to pay the outstanding taxes to preserve its claims and interest in the Real Property, which would equally benefit the Receiver, when the Receiver has done nothing to protect its own interest in the Real Property and when Grand Hope has no indication of how long it will be stayed from prosecuting its foreclosure action.

### **CONCLUSION AND RELIEF REQUESTED**

Over three years have passed since the Litigation Injunction was issued. The Receiver has failed to litigate Eagle Six's interests in the Grand Hope Action and failed to finalize a settlement agreement to obtain a recovery for the Receivership. Meanwhile, Grand Hope has been enjoined from foreclosing on the Real Property in the Grand Hope Action, which has resulted in three years of uncollected rent from tenants, accrual of property taxes, and imminent threat of the Real Property being auctioned based on nonpayment of taxes. Accordingly, Grand Hope respectfully

requests that the Court grant Grand Hope's motion to lift the Litigation Injunction to allow Grand Hope to pursue the Grand Hope Action. Alternatively, Grand Hope respectfully requests that the Court order to the Receiver to take action to stay the Public Auction or to enjoin the Public Auction, and for such further relief as the Court deems just and proper.

**CERTIFICATE OF GOOD FAITH**

Before filing this motion, the undersigned attempted to confer with counsel for the Receiver numerous times by emailing and calling counsel. The undersigned also provided Receiver's counsel with copies of the Auction Notices. However, counsel for the Receiver never responded. The undersigned also attempted to confer with counsel for the SEC; however counsel did not communicate the SEC's position. The undersigned will continue its efforts and will update the Court if he receives responses.

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 14th day of September, 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* \_\_\_\_\_

Attorney



# **EXHIBIT A**

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

GRAND HOPE INVESTMENTS, INC.,  
RONALD N. DAMICO, and SANDRA  
DAMICO,

Case No.: 18-000954-CI

Plaintiffs,

vs.

LAKE AVE SOUTH EAST REAL  
ESTATE, LLC, et al.,

Defendants.

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**SECOND AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiffs, Grand Hope Investments, Inc. (“Grand Hope”), Ronald N. Damico (“Ron”), and Sandra Damico (“Sandra”), sue Defendants, Lake Ave South East Real Estate, LLC (“Lake Ave”); Zenith Express, LLC, as assignee of Centerstate Bank National Association, successor in interest to Sunshine Bank (“Zenith”); Complete Business Solutions Group, Inc. (“Complete”); Liftforward Inc. (“Liftforward”); and Dade Paper & Bag, LLC (“Dade Paper”); and allege as follows:

**Jurisdiction and Venue**

1. This is an action to set aside a fraudulent satisfaction of mortgage on real estate recorded in the public records of Pinellas County, Florida; for declaratory relief; to foreclose a mortgage on real property located in Pinellas County, Florida; and for damages.

2. The real estate that is the subject matter of this action has a value in excess of \$250,000.00, and the damages sought are in excess of \$30,000.00, exclusive of interest, cost, and attorneys’ fees.

3. Venue is proper in this Court because the causes of action involve real property located in Pinellas County, Florida.

**Parties**

4. Grand Hope is a Florida corporation that has its principal place of business in Pinellas County, Florida.

5. Ron is an individual who resides in Pinellas County, Florida, and who, at all times material to the matters alleged in this pleading, is and was married to Sandra.

6. Sandra is an individual who resides in Pinellas County, Florida, and who, at all times material to the matters alleged in this pleading, is and was married to Ron.

7. Lake Ave is a Florida limited liability company that has an office for the transaction of its customary business in Pinellas County, Florida.

8. Zenith is a Florida limited liability company that has an office for the transaction of its customary business in Pinellas County, Florida. Zenith is the assignee of, and the substitute defendant for, Centerstate Bank National Association, successor in interest to Sunshine Bank.

9. Complete is a Delaware corporation that is authorized to transact business in Florida. On March 26, 2018, the Clerk entered a Default against Complete.

10. Liftforward is a Delaware corporation that is authorized to transact business in Florida.

11. Dade Paper is a Florida limited liability company with its principal place of business in Dade County, Florida.

## **General Allegations**

### **The Real Property at Issue**

12. Prior to his retirement, Ron and his son, Ronald R. Damico (“Junior”)<sup>1</sup> were each involved in the trucking and transportation business through various entities.

13. Ron and Sandra formed Grand Hope in 1995 to own and hold the real property on which the trucking companies operated (the “Real Property”). The Real Property is located in Pinellas County, Florida and commonly described as 1401 and 1501 Lake Ave. SE., Largo, FL. A true, complete, and authentic copy of the legal description for the Real Property is attached **Exhibit A**.

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

15. D&E was an entity formed by Junior and his business partner, Ernie Twiss (“E. Twiss”), to own the Real Property. Junior and E. Twiss operated their trucking and transportation companies, Twiss Transport, Inc., Twiss Logistics, Inc. and Twiss Cold Storage, Inc. (the “Twiss Companies”), on the Real Property.

16. 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”). True, complete, and authentic copies of the Grand Hope Note and the Grand Hope Mortgage are attached as **Composite Exhibit B**. (the Grand Hope Note and the Grand Hope Mortgage are collectively referred to as the “First Mortgage Loan”).

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<sup>1</sup>Ronald R. Damico is not technically a “junior” as he and his father have different middle names;

17. Grand Hope holds and owns the Grand Hope Note and Grand Hope Mortgage.
18. The First Mortgage Loan requires monthly payments of \$19,798.68.

**The Sale of the Real Property and Twiss Companies**

19. In 2015, after various stages of negotiation, Stephen Gurba (“Gurba”), with the assistance of Francis H. Taylor (“Taylor”) and Craig Schnee (“Schnee”), finalized negotiations with Junior and E. Twiss to purchase the stock of D&E (*i.e.*, the Real Property) and the Twiss Companies.

20. Gurba was aware of the opportunity to purchase the Twiss Companies and the Real Property on which they operated due to his longstanding personal relationship with Ron.

21. For many years, Gurba has controlled a group of entities under a publicly-traded parent entity called Bulova Technologies Group, Inc. (“Bulova Technologies”). Gurba is the Chairman of the Board, CEO, and President of Bulova Tech. Schnee is a Director, Secretary, and General Counsel of Bulova Tech.

22. On June 29, 2015, Gurba, Taylor, and Schnee formed BT-Twiss Transport, LLC (“BT-Twiss”) for the purpose of purchasing the stock of the Twiss Companies.

23. On or about July 17, 2015, Gurba, Gurba’s wife, and Schnee formed Lake Ave for the purpose of purchasing the D&E stock and to own and hold the Real Property. Upon information and belief, Gurba’s long-time business associate, Richard Welkowitz, who is now deceased, owned a majority interest in Lake Ave.

24. On or about October 27, 2015, Lake Ave purchased all of the stock of D&E from Junior and E. Twiss. As consideration, Lake Ave assumed the First Mortgage Loan.

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however, he will be referred to as “Junior” for ease of reference.

25. As holder of the First Mortgage Loan, Grand Hope had the right to withhold consent to the transfer of the Real Property and First Mortgage Loan to Lake Ave. and declare the Grand Hope Note immediately due in full.

26. However, in exchange for a \$500,000 payment from Lake Ave. to Grand Hope's principals, Ron and Sandra, Grand Hope waived its right to contest the transfer and accelerate the Grand Hope Note. This Agreement was memorialized in an Assumption Agreement drafted by Schnee and dated October 27, 2015. A true, complete, and authentic copy of the Assumption Agreement is attached as **Exhibit C**.

27. Also pursuant to the Assumption Agreement, Lake Ave agreed to assume the outstanding balance of the Grand Hope Note, which Lake Ave agreed to pay. As of the date of the Assumption Agreement, the balance of the Grand Hope Note was \$2,763,462.72.

28. The remainder of the transaction, *i.e.*, BT-Twiss's purchase of the Twiss Companies, did not close until January 2016, as described below. Accordingly, as of the end of 2015, Lake Ave owned the Real Property, subject to the First Mortgage Loan, which was recorded in the public records of Pinellas County, Florida.

29. In late 2015 and into January 2016, BT-Twiss attempted to secure financing in order to finalize the terms, including substantial down payments, of purchasing the Twiss Companies from E. Twiss and Junior.

30. By this point in time, E. Twiss had self-imposed a deadline of January 30, 2016 to close the transaction.

31. However, BT-Twiss's primary lender, Centerstate Bank f/k/a Sunshine Bank, required a first position mortgage on the Real Property. Thus, BT-Twiss could not proceed with its purchase of the Twiss Companies unless and until it (a) subordinated or satisfied the Grand

Hope Mortgage; and (b) convinced Lake Ave to pledge its property (the Real Property) to the bank for the benefit of BT-Twiss.

32. Convincing Lake Ave to pledge the Real Property was not an issue because Gurba made the decisions for both Lake Ave and BT-Twiss. Satisfying the Grand Hope Mortgage, however, required the preparation and recording of a satisfaction of mortgage to occur before January 30, 2016 to close the transaction before E. Twiss's deadline.

**The Fraudulent Satisfaction of the Grand Hope Mortgage**

33. On Friday, January 22, 2016, at approximately 11:00 a.m., attorney Joseph Sorota sent Schnee a blank satisfaction of mortgage document he prepared for purposes of satisfying the Grand Hope Mortgage.

34. On Tuesday, January 26, 2016, at approximately 4:00 p.m., unbeknownst to Ron, Sandra, or anyone else affiliated with Grand Hope, a Satisfaction of Mortgage was recorded in the public records of Pinellas County, Florida. A true, complete, and authentic copy of the recorded Satisfaction of Mortgage, which purports to be dated January 22, 2016 (the "Satisfaction"), is attached as **Exhibit D**.

35. The Satisfaction is inaccurate on its face because it provides that the debt secured by the Grand Hope Mortgage "has been fully paid and discharged..."

36. Further, Grand Hope, Ron, and Sandra did not receive consideration for allegedly agreeing to forfeit their security interest on the Real Property.

37. The Satisfaction purports to be dated January 22, 2016, signed by Sandra, and notarized by Taylor. Yet, despite the urgency of the situation, the Satisfaction was not recorded until late afternoon on Tuesday, January 26, 2016.

38. The Satisfaction was also purportedly witnessed by Jessica Paul and Shelzi Paul, each of whom is a step-daughter of Gurba. However, neither actually witnessed Sandra sign the Satisfaction. They admittedly signed the “Witness” lines on the Satisfaction at Gurba’s office outside the presence of Sandra.

39. Taylor has no independent recollection of obtaining Sandra’s signature on the Satisfaction. However, Gurba claims that Taylor obtained Sandra’s signature at Sandra’s house in the late afternoon of Friday, January 22, 2016.

40. In reality, Taylor was not at Sandra’s house on January 22, 2016 and, as such, did not obtain and/or notarize Sandra’s signature at that time. Sandra’s purported signature on the Satisfaction is either a forgery or was otherwise surreptitiously and unlawfully obtained or applied to the Satisfaction prior to January 26, 2016.

41. Despite purportedly recording the Satisfaction, Schnee has no recollection of doing so. Neither Schnee nor anyone else has the original copy of the Satisfaction.

42. By recording the fraudulent Satisfaction, Lake Ave and BT-Twiss were able to secure financing to complete the purchase of the Twiss Companies.

43. Specifically, Lake Ave and BT-Twiss pledged a first mortgage interest in the Real Property to obtain the following loans:

- a. \$2,400,000 loan to Lake Ave;
- b. \$2,000,000 loan to BT-Twiss;
- c. \$1,786,715 line of credit to BT-Twiss.

44. Grand Hope filed this lawsuit when it became aware that the Satisfaction had been recorded in the public records and that Lake Ave, BT-Twiss, and others had pledged security interests in the Real Property in order to borrow funds.



45. Immediately after Grand Hope filed this lawsuit, Lake Ave defaulted on the Grand Hope Note by failing to make the payment due in February, 2018. Prior to that time, Lake Ave or one of its related entities had made regular payments pursuant to the First Mortgage Loan and Assumption Agreement.

**The Notary's Financial Interest in the Transactions Following the Satisfaction**

46. As described above, the Satisfaction bears a Notarization from Taylor. Taylor has a long history of involvement in Gurba's entities, including those formed for the purpose of purchasing the Real Property and the Twiss Companies.

47. For approximately ten years, Taylor worked in managerial positions for various entities affiliated with Bulova Technologies, including as President of Bulova Technologies (Europe) LLC ("Bulova Europe"). Taylor also owns stock in Bulova Technologies.

48. Taylor was the registered agent of Bulova Europe from 2013 to 2015.

49. When Gurba, Schnee, and Taylor formed BT-Twiss in June, 2015 to purchase the stock of the Twiss Companies, Taylor was the Manager and Registered Agent of BT-Twiss.

50. Once Lake Ave.'s purchase of D&E's stock was complete, Taylor became the President of D&E.

51. Effective as of December 11, 2015, D&E merged into Lake Ave. Taylor executed the Articles of Merger on behalf of both D&E and Lake Ave. A true, complete, and authentic copy of the Articles of Merger, as filed with the Secretary of State, is attached as **Exhibit E**.

52. On January 28, 2016, the transaction whereby BT-Twiss purchased the stock of the Twiss Companies closed. Taylor was significantly involved in numerous meetings leading up to the closing, along with Gurba, Schnee, and other senior leadership for the Bulova Technologies group of entities.

53. Taylor immediately became the President of BT-Twiss. As President, Taylor ran the operations for the three divisions formerly known as the Twiss Companies. Taylor was the primary point of contact between the new entity and the former ownership group, including Junior, regarding operations of the Twiss Companies. Taylor reported directly to Gurba.

54. Accordingly, there were two entities that had a direct interest in the Satisfaction being recorded: Lake Ave because the Satisfaction removed an encumbrance on its property; and BT-Twiss because the Satisfaction enabled BT-Twiss to consummate its purchase of the Twiss Companies. Taylor had a direct interest, including a financial interest, in both companies.

#### **Other Potential Interests in the Property**

55. Substitute Defendant Zenith Express, LLC, as a successor and/or assignee of CenterState Bank, N.A. as successor by merger with Sunshine Bank may claim to have some right, title, or interest in the real property by virtue of that certain mortgage securing a debt in the amount of \$2,400,000.00 dated January 28, 2016 and recorded in book 19068 page 780, together with Cross-Collateralization and Cross-Default Agreement recorded in book 19240 page 1622 of the public records of Pinellas County, Florida, but any such right, title, or interest is subordinate and inferior to the Plaintiff.

56. Defendant Complete Business Solutions Group, Inc., a Delaware corporation may claim to have some right, title, or interest in and to the subject real property by virtue of that certain mortgage securing a debt in the amount of \$5,000,563.58 dated August 17, 2017 recorded in book 19768 page 1458, but any such right, title, or interest in and to the real property is subordinate and inferior to the Plaintiff.

57. Defendant Liftforward, Inc., a Delaware corporation may claim to have some right, title, or interest in and to the subject real property by virtue of that certain mortgage

securing a debt in the amount of \$510,000.00 dated January 27, 2017 recorded in book 19500 page 1343, and by virtue of that certain mortgage securing a debt in the amount of \$510,000.00 dated January 27, 2017 recorded in book 19500 page 1330, but any such right, title, or interest in and to the real property is subordinate and inferior to the Plaintiff.

58. Defendant, Dade Paper & Bag, LLC may claim to have some right, title, or interest in the real property by virtue of its possession thereof or a portion thereof, but any such right, title, or interest is inferior to that of the Plaintiff.

59. In the event any former mortgage holder named as a defendant is served outside of the State of Florida, Grand Hope is proceeding under F.S. 48.193(1)(a)(3), and Grand Hope alleges generally that all Defendants have engaged in substantial and not isolated activity within the State of Florida.

60. Plaintiffs have retained the law firm of Bajo Cueva Cohen & Turkel, P.A., along with previous counsel, and are obligated to pay reasonable fees for their services.

61. All conditions precedent to this bringing and maintenance of this action and the granting of the relief requested have occurred, have been performed, or have been waived.

**COUNT I**  
**ACTION TO CANCEL/RESCIND SATISFACTION OF MORTGAGE**  
**(Grand Hope v. All Defendants)**

62. Plaintiff Grand Hope realleges Paragraphs 1 through 61.

63. This is an action to cancel or rescind the Satisfaction pursuant to section 65.031, Florida Statutes. The Satisfaction constitutes a cloud and misrepresentation in regard to the First Mortgage Loan. The Satisfaction is void and ineffective for at least three reasons.

64. First, Sandra did not sign the Satisfaction before Taylor. Under Florida law, a forged satisfaction of mortgage is void and ineffectual even in favor of one who has purchased in

the honest belief that the satisfaction was genuine. See *Loyd v. Chicago Title Insurance Co.*, 576 So. 2d 310 (3rd DCA 1990).

65. Second, the notary, Taylor, had a financial interest in the transactions which were made possible by the Satisfaction. As a result, the Satisfaction was not eligible for recording under Florida law, including sections 117.107(12) and 695.03, Florida Statutes.

66. Third, neither Grand Hope, nor Ron, nor Sandra received consideration for the Satisfaction. Despite the language of the Satisfaction, the debt secured by the Grand Hope Mortgage was not fully paid or discharged. As a result, the Satisfaction failed for lack of consideration.

67. Grand Hope requests that the Court enter an order canceling or rescinding the Satisfaction, reinstating the Grand Hope Mortgage, and further declaring and adjudging that the Satisfaction shall have no legal force or effect, including any impact on the priority of the First Mortgage Loan.

WHEREFORE, Plaintiff, Grand Hope Investments, Inc., demands judgment canceling or rescinding the Satisfaction, an award of attorneys' fees and costs against Lake Ave pursuant to the Grand Hope Mortgage, and for such further relief as the Court deems just and proper.

**COUNT II**  
**ACTION FOR DECLARATORY JUDGMENT**  
**(Grand Hope v. All Defendants)**

68. Plaintiff Grand Hope realleges Paragraphs 1 through 61.

69. This is an action for declaratory judgment under Chapter 86, and section 695.01, Florida Statutes.

70. Due to the recording of the Satisfaction, there is a bona fide controversy about whether Grand Hope and/or Ron and Sandra have a security interest in the Real Property and, if so, the priority of their security interests against those of Zenith and the other defendants.

71. Grand Hope requests a declaration that the Grand Hope Mortgage has priority in right and dignity to any of the inferior mortgages and interests referenced above.

WHEREFORE, Plaintiff, Grand Hope Investments, Inc., requests declaratory judgment determining and establishing the Grand Hope Mortgage as a first mortgage against the Real Property superior in dignity to any claim, lien, or interest in favor of the inferior mortgage holders or in favor of any other Defendant, an award of attorneys' fees and costs against Lake Ave pursuant to the Grand Hope Mortgage, and for such further relief as the Court deems just and proper.

**COUNT III  
ACTION TO FORECLOSE MORTGAGE  
(Grand Hope v. All Defendants)**

72. Plaintiff Grand Hope realleges Paragraphs 1 through 61.

73. This is an action to foreclose the Grand Hope Mortgage.

74. The First Mortgage Loan is in default as Lake Ave failed to pay the monthly payment due on February 1, 2018, and all subsequent payments.

75. Grand Hope declares the full amount payable under the First Mortgage Loan due.

76. Lake Avenue owes principal and interest from February 1, 2018 going forward, in addition to all accrued but unpaid late charges.

WHEREFORE, Plaintiff, Grand Hope Investments, Inc., demands judgment foreclosing the Grand Hope Mortgage and, if proceeds of the sale are insufficient to pay Plaintiff's claim, a

deficiency judgment, an award of attorneys' fees and costs against Lake Ave pursuant to the Grand Hope Mortgage, and any other relief as the Court deems just and proper.

**COUNT IV  
BREACH OF ASSUMPTION AGREEMENT  
(Ron and Sandra v. Lake Ave)**

77. Plaintiffs Ron and Sandra reallege Paragraphs 1 through 61.

78. The Assumption Agreement is an enforceable contract between Lake Ave and Ron and Sandra.

79. Lake Ave breached the Assumption Agreement when it failed to pay the \$500,000 payment due under the contract.

80. As a direct and proximate cause of Lake Ave's breach, Ron and Sandra have been damaged.

WHEREFORE, Plaintiffs Ronald N. Damico and Sandra Damico request judgment in their favor against Lake Ave for damages, interest, costs, an award of attorneys' fees and costs against Lake Ave pursuant to the Grand Hope Mortgage, and such further relief as the Court deems just and proper.

**COUNT V  
ACTION ON THE GRAND HOPE NOTE  
(Grand Hope v. Lake Ave)**

81. Plaintiff Grand Hope realleges Paragraphs 1 through 61.

82. Lake Ave assumed the obligations of the Grand Hope Note.

83. Lake Ave breached the Grand Hope Note by failing to pay the payment due in February, 2018 and all subsequent payments.

84. As a direct and proximate cause of Lake Ave's breach of the Grand Hope Note, Grand Hope has been damaged.

WHEREFORE, Plaintiff Grand Hope Investments, Inc. request judgment against Lake Ave for damages, interest, costs, an award of attorneys' fees and costs against Lake Ave pursuant to the Grand Hope Mortgage, and such further relief as the Court deems just and proper.

**COUNT VI**  
**ACTION ON THE SUBSTITUTE NOTE**  
**(Ron and Sandra v. Lake Ave and in the alternative to Counts I - V)**

85. Plaintiffs Ron and Sandra reallege Paragraphs 1 through 61.

86. Alternatively, Lake Ave provided a substitute note to Ron and Sandra (the "Substitute Note). A true, complete, and authentic copy of the Substitute Note is attached as **Exhibit F**.

87. Lake Ave breached the Substitute Note by failing to pay the payment due in February, 2018 and all subsequent payments.

88. As a direct and proximate cause of Lake Ave's breach of the Substitute Note, Ron and Sandra have been damaged.

WHEREFORE, Plaintiffs Ronald N. Damico, and Sandra Damico request judgment against Lake Ave for damages, interest, costs, and such further relief as the Court deems just and proper.

**Demand for Jury Trial**

Plaintiffs demand a jury trial on all issues so triable.

*/s/ Brad F. Barrios*

\_\_\_\_\_  
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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27th day of February, 2020, I caused a true and correct copy of the foregoing to be served via the Florida Court's E-Filing Portal upon the following counsel of record:

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*/s/ Brad F. Barrios*  
\_\_\_\_\_  
Attorney



*Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*  
Case No. 18-000954-CI

**EXHIBIT A**  
*to Second Amended Complaint*

**EXHIBIT A**  
**to Second Amended Complaint**

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.

*Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*  
Case No. 18-000954-CI

**EXHIBIT B**  
*to Second Amended Complaint*

**PREPARED BY AND RETURNED TO:**

Kenneth G. Arsenault, Jr., Esquire  
ARSENAULT LAW OFFICES, P.A.  
10225 Ulmerton Road, Suite 2  
Largo, Florida 33771

**MORTGAGE**

THIS MORTGAGE executed this 25<sup>th</sup> day of July, 2013 by D & E PROPERTY INVESTMENTS, INC., a Florida corporation, party of the first part, hereinafter called the MORTGAGOR or BORROWER, to GRAND HOPE INVESTMENTS INC., a Florida corporation, having the principal address of 12725 Peloria Ct., Seminole, FL 33778, party of the second part, hereinafter called the MORTGAGEE or LENDER.

The terms "MORTGAGOR or BORROWER" and "MORTGAGEE or LENDER" whenever used in this instrument shall include the heirs, personal representatives, successors and assigns of the respective parties hereto. Wherever used the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$3,000,000.00 which indebtedness is evidenced by Borrower's note dated July 25, 2013 and extensions and renewals thereof (hereinafter referred to as "Note"), providing for monthly installments of interest only with the outstanding principal balance of the indebtedness, if not sooner paid, due and payable on August 1, 2033.

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Pinellas County, State of Florida:

**See attached Exhibit "A"**

(hereinafter referred to as the "Property");  
which have the property addresses of: 1401 and 1501 Lake Avenue SE.  
Largo, FL 33771

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property". Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances set forth above. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances set forth above.

Borrower and Lender covenant and agree as follows:

- 1. Payment of principal and interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note.
- 2. Funds for Taxes and Insurance, (if applicable).** Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of interest only are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly

taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Mortgage and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. Section 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

If Borrower pays funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of the taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender, any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 16 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage. If Lender shall not require the escrow of funds for payment of Taxes and Insurance, then Borrower shall each year provide proof of payment of taxes prior to delinquency and further provide Lender with proof of renewal of each policy of insurance not less than 30 days prior to expiration of any policy then in force.

**3. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

**4. Prior Mortgage and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which

has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any. A default under the terms of any mortgage which has priority over this Mortgage shall be tantamount to a default hereunder.

**5. Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property including "contents" or "dwelling and personal property" coverage insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require including "contents" or "dwelling and personal property" coverage.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Lender is authorized to collect and to apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the payment of the sums secured by this Mortgage, Borrower authorizes Lender to endorse Borrower's name on all insurance proceeds checks.

**6. Preservation and Maintenance of Property; Leaseholds, Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

**7. Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect the Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirements for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payments, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.

**8. Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

**9. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

**10. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

**11. Successors and Assigns Bound; Joint and Several Liability; Co-Signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

**12. Loan Charges.** If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

**13. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

**14. Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this

Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

**15. Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

**16. Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest therein is sold or transferred by Borrower (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person or persons but is a corporation, partnership, trust or other legal entity) without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Security Instrument which does not relate to a transfer of rights of occupancy in the property, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Security Instrument to be immediately due and payable.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 13 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 19 hereof.

Lender may consent to a sale or transfer if: (1) Borrower causes to be submitted to Lender information required by Lender to evaluate the transferee as if a new loan were being made to the transferee; (2) Lender reasonably determines that Lender's security will not be impaired and that the risk of a breach of any covenants or agreement in this Security Instrument is acceptable; (3) interest will be payable on the sums secured by this Security instrument at a rate acceptable to lender; (4) changes in the terms of the Note and this Security Instrument required by Lender are made, including, for example, periodic adjustment in the interest rate, a different final payment date for the loan, and addition of unpaid interest to principal; and (5) the transferee signs an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreement made in the Note and in this Security Instrument, as modified if required by Lender. To the extent permitted by applicable law, Lender also may charge a reasonable fee as a condition to Lender's consent to any sale or transfer.

Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

**17. Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which the Borrower has actual knowledge. If Borrower



learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 17, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 17, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**18. Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to the acceleration under paragraph 19 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 19 hereof or abandonment of the property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this mortgage. The receiver shall be liable to account only for those rents actually received.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

**19. Acceleration; Remedies.** Upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including without limitation the covenants to pay when due any sums secured by this Mortgage, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without notice or demand and may foreclose this Mortgage by judicial proceeding. Lender will be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, court costs, and costs of documentary evidence, abstracts and title reports.

**20. Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

**21. Attorneys' Fees.** As used in this Mortgage and in the Note, "attorneys' fees" shall include attorneys' fees, if any, which may be awarded by an appellate court.

**22. Payment of Real Estate Taxes.** Borrower covenants and agrees to pay all real estate taxes assessed against the mortgaged property no later of December 31<sup>st</sup> of each year during the terms of this mortgage and to evidence to lender proof of payment thereof.

**IN WITNESS WHEREOF BORROWER HAS EXECUTED THIS MORTGAGE.**

Signed, sealed and delivered in the presence of:

D & E Property Investments, Inc., a  
Florida corporation

By: *Ernest P. Twiss*  
Ernest P. Twiss, President

*Kenneth G. Arsenault, Jr.*  
Witness #1  
Name: Kenneth G. Arsenault, Jr.

*Amanda Arsenault*  
Witness #2  
Name: Amanda Arsenault

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of July, 2013, by Ernest P. Twiss, as President of D & E Property Investments, Inc., a Florida corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

*Kenneth G. Arsenault, Jr.*  
NOTARY PUBLIC  
My Commission Expires:

[SEAL]

**Kenneth G. Arsenault, Jr.**  
Notary Public - State of Florida  
Commission # EE 47803  
My Commission Expires  
December 21, 2014

PINELLAS COUNTY FLA.  
OFF. REC. BK. 10732 PG 1681

**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.

PROMISSORY NOTE

\$3,000,000.00

July 25, 2013  
Largo, Florida


FOR VALUE RECEIVED, the undersigned, D & E PROPERTY INVESTMENTS, INC., a Florida corporation, hereinafter referred to as "Maker", promise to pay to GRAND HOPE INVESTMENTS INC., a Florida corporation, hereinafter referred to as "Payee", or order, in the manner hereinafter specified, the principal sum of THREE MILLION AND 00/100 (\$3,000,000.00) DOLLARS at the rate of FIVE (5 %) percent, per annum on the balance from time to time remaining unpaid. The said principal and interest shall be payable in lawful money of the United States of America, to Grand Hope Investments Inc. at 12725 Peloria Ct., Seminole, FL 33778 and shall be paid in monthly payments of principal and interest in the amount of NINETEEN THOUSAND SEVEN HUNDRED NINETY EIGHT and 67/100 (\$19,798.67) to Payee, which shall commence on the 1<sup>st</sup> day of September, 2013, and shall be due and payable on the 1<sup>st</sup> day of each and every month thereafter until August 1, 2033, when the remaining unpaid principal together with any and all accrued interest shall be due and payable in full.

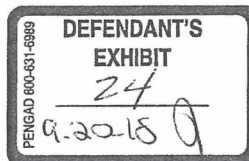
On August 1, 2033, the entire principal together with any and all accrued interest shall be due and payable in full.

Maker shall pay Payee a late charge not to exceed five (5.00%) percent of the amount of any payment of principal and interest not paid within ten (10) days when due.

If default be made in the payment (within 10 days of when due) of any of the sums or interest mentioned herein or in the mortgage or any other document or instrument securing this Note, or in the performance of any of the agreements contained herein or in said mortgage, then the entire principal sum and accrued interest shall at the option of the Payee hereof become at once due and collectible without notice, time being of the essence; and said principal sum and accrued interest shall both bear interest from such time until paid at the highest rate allowable under the laws of the State of Florida. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

Nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Maker or any person liable for repayment of same, to pay interest at a greater rate than is now lawful in such case to contract for, or to make any payment, or to do any act contrary to law. Such rate of interest shall never exceed the maximum legal rate of interest which is legally permitted under the laws of Florida; and if such rate of interest, computed in the amount hereinabove provided for, should exceed the said maximum legal rate, then said rate of interest shall be automatically reduced to such maximum legal rate. Should any interest or other charges paid by the Maker or parties liable for the payment of this Note in connection with the loan evidenced by this Note or the Mortgage securing the payment of this note or any other document delivered in connection with said loan result in the computation or earning of interest in excess of the maximum legal rate of interest which is legally permitted under the Laws of Florida, then any and all such excess shall be and the same is hereby waived by the Payee and any Holder hereof and any and all such excess shall be automatically ab initio from the date of this Note and other loan documents and the date of the payment credited against and in reduction of principal balance due under this indebtedness and a portion of said excess which exceeds the balance due under this indebtedness shall be paid by the Payee and Holder hereof to the Maker and parties liable for the payment of this Note.

Each person liable hereon, whether Maker or Endorser, hereby waives presentment, protest, notice, notice of protest and notice of dishonor and agrees to pay all costs, including a reasonable attorney's fee, whether  
1  initial



suit be brought or not, if, after maturity of this Promissory Note or default hereunder or under said Mortgage Deed, counsel shall be employed to collect monies due under this Promissory Note or to protect the security of said Payee.

FLORIDA DOCUMENTARY STAMPS IN THE SUM OF \$10,500.00 HAVE BEEN AFFIXED TO THE ORIGINAL MORTGAGE AND CANCELLED.

THIS NOTE with interest is secured by a mortgage of even date herewith on property located at: 1401 and 1501 Lake Avenue SE., Largo, FL 33771

WITNESSES:

"BORROWER"

D & E Property Investments, Inc., a Florida corporation

By: *Ernest P. Twiss*  
Ernest P. Twiss, President

*[Signature]*  
Witness #1  
Name: KENNETH G. ARSENAULT, JR.

*Amanda Arsenault*  
Witness #2  
Name: Amanda Arsenault

*Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*  
Case No. 18-000954-CI

**EXHIBIT C**  
*to Second Amended Complaint*

ASSUMPTION AGREEMENT

This Assumption Agreement by and between Lake Avenue South East Real Estate LLC ("Lake Avenue") and Ronald Damico Sr. and Sandra Damico (together, "Obligee") is made and effective as of this 27th day of October 2015.

WHEREAS, on October 27, 2015 Lake Avenue purchased all of the issued and outstanding stock of D & E Property Investments Inc. ("D & E");

WHEREAS, D & E owns the real property located at 1501 Lake Avenue SE, Largo, Florida 33771 (the "Property"), having purchased the Property from Grand Hope Investments Inc. ("Grand Hope") and providing a promissory note to Grand Hope in connection with such purchase (the "Note");

WHEREAS, D & E is financing the purchase of the Property and owes a balance of \$2,763,462.72 under the Note;

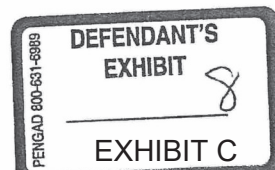
WHEREAS, Grand Hope has been dissolved and its assets, including the Note, are now owned by its owners, Ronald and Sandra Damico;

WHEREAS, the Note between Grand Hope and D & E which provides for the financing of the purchase of the Property requires that a change in majority of ownership of D & E triggers an acceleration of the Note, unless waived by Grand Hope;

WHEREAS, Grand Hope and the Obligee are willing to waive the acceleration provisions under the Note in exchange for a payment by Lake Avenue to Ronald Damico Sr. and Sandra Damico, the sole owners of all of the stock of Grand Hope, which payment is intended to reimburse Grand Hope and Obligee for certain improvements made to the property by Grand Hope and Obligee; and

WHEREAS, Lake Avenue is willing to make such payment.

NOW THEREFORE, in view of these premises, the parties hereto agree as follows:



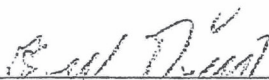
to Second Amended Complaint

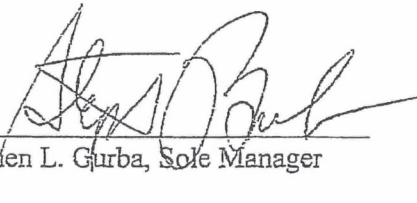
1. Waiver by Grand Hope and Obligee. In exchange for a payment to Obligee of \$500,000., Grand Hope and Obligee hereby waive all rights it or they may have to accelerate payment under the Note and agree to accept the ownership change of D & E without objection.
2. No Other Changes. Except as specifically set forth herein, there are no other changes to or waivers under the Note.

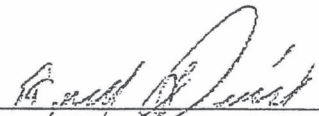
IN WITNESS WHEREOF, the parties hereto have set their hand, intending to be legally bound hereby.


Grand Hope Investments Inc.

Lake Avenue South East Real Estate LLC

By:   
Ronald Damico Sr., President

By:   
Stephen L. Gurba, Sole Manager

  
Ronald Damico Sr. (for himself)

  
Sandra Damico (for herself)



*Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*  
Case No. 18-000954-CI

**EXHIBIT D**  
*to Second Amended Complaint*

PREPARED BY AND RETURN TO:  
Joseph J. Sorota, Jr.  
JOSEPH J. SOROTA, JR., P.A.  
29750 U.S. Highway 19 North, Suite 200  
Clearwater, Florida 33761  
(727) 785-9994

**SATISFACTION OF MORTGAGE**

KNOW ALL MEN BY THESE PRESENTS: That the debt secured by the Mortgage dated the 25<sup>th</sup> of July, 2013, made and executed by D & E Property Investments, Inc, a Florida corporation ("Mortgagor") in favor of Grand Hope Investments, Inc., a Florida corporation, as recorded in the Public Records of Pinellas County, Florida in Official Records Book 18113, at Page 2327, on August 6, 2013, upon the following described real property, situated in Pinellas County, Florida, to wit:

See attached Exhibit "A"

With a street address of 1401 and 1501 Lake Avenue, S.E., Largo, FL 33771

has been fully paid and discharged, and the undersigned does hereby cancel the mortgage, and all of the undersigned's right, title and interest in and to the premises therein described, and the Clerk of said Court is hereby authorized to enter this satisfaction of record

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the 22<sup>ND</sup> day of January, 2016.

Signed, Sealed and Delivered  
in the presence

Grand Hope Investments, Inc.,  
a Florida corporation

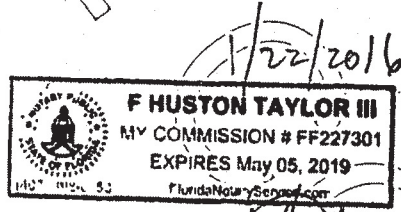
By: [Signature]  
Sandra L. Damico, President

[Signature]  
Witness #1

JESSICA PAUL  
Print or type name of witness #1

[Signature]  
Witness #2

SHELZI PAUL  
Print or type name of witness #2



STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 22<sup>ND</sup> day of January, 2016, by Sandra L. Damico, President of Grand Hope Investments, Inc, who is  personally known to me or  has produced (type of identification DRIVER'S LICENSE) as identification.

[Signature]  
Signature of Notary Public

PINELLAS COUNTY FLA  
OFF REC. BK 10732 PG 1681

**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"

*Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*  
Case No. 18-000954-CI

**EXHIBIT E**  
*to Second Amended Complaint*

L15000122606

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP  WAIT  MAIL

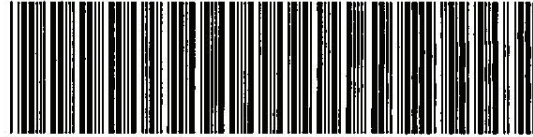
(Business Entity Name)

(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

Office Use Only



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FILED  
15 DEC 11 AM 10:05  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

*merger*

DEC 15 2015

R. WHITE

EXHIBIT E  
to Second Amended Complaint

Craig Schnee  
General Counsel  
12645 49<sup>th</sup> Street N  
Clearwater, FL 33762  
717-881-4886

December 9, 2015

Amendment Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Sir or Madam:

Please accept and file the enclosed Articles of Merger and attached Plan of Merger.

Enclosed please find a check payable to Florida Department of State representing a fee of \$35.00 for the merging corporation and a fee of \$35.00 for the surviving limited liability company, as well as \$8.75 for a certified copy.

Please send the certified copy to the undersigned at:

Craig Schnee  
General Counsel  
12645 49<sup>th</sup> Street N  
Clearwater, FL 33762  
717-881-4886

This merger is of a Florida corporation (D & E Property Investments, Inc.) with and into a Florida limited liability company (Lake Avenue South East Real Estate LLC.).

Please direct any questions to the undersigned at (717)881-4886.

Very truly yours,



Craig Schnee  
General Counsel

**ARTICLES OF MERGER  
OF  
LAKE AVENUE SOUTH EAST REAL ESTATE LLC  
AND  
D & E PROPERTY INVESTMENTS, INC.**

15 DEC 11 AM 10:00  
SECRETARY OF STATE  
TALLAHASSEE FLORIDA

To the Secretary of State  
State of Florida

Pursuant to the provisions of both the Florida Business Corporation Act and the Florida Revised Limited Liability Company Act, Lake Avenue South East Real Estate LLC, a Florida limited liability company, and D & E Property Investments, Inc. a Florida corporation, do hereby adopt the following Articles of Merger:

1. Annexed hereto and made a part hereof is the Plan of Merger for merging D & E Property Investments, Inc. with and into Lake Avenue South East Real Estate LLC as approved and adopted by written consent of the Sole Shareholder of D & E Property Investments, Inc. given on December 8, 2015 in accordance with the provisions of Chapter 607 of the Florida Business Corporation Act, and as approved and adopted by written consent by the Sole Manager and Sole Member of Lake Avenue South East Real Estate LLC given on December 8, 2015 in accordance with the provisions of Chapter 605.1021 – 605.1026 of the Florida Revised Limited Liability Company Act.
2. Lake Avenue South East Real Estate LLC, as the sole shareholder of D & E Property Investments, Inc., waives any appraisal rights it may have pursuant to either Chapter 607 or 605 of the Florida statutes.
3. Lake Avenue South East Real Estate LLC will continue its existence as the surviving entity under the name Lake Avenue South East Real Estate LLC pursuant the provisions of the Florida Revised Limited Liability Act.
4. The effective time and date of the merger herein shall be as soon as practicable.

Executed on December 9, 2015.

D & E Property Investments, INC

By: \_\_\_\_\_

Frank H. Taylor, III, President

Lake Avenue South East Real Estate LLC

By: \_\_\_\_\_

Frank H. Taylor, III

## PLAN OF MERGER

This **PLAN OF MERGER** dated December 8, 2015, between Lake Avenue South East Real Estate LLC, a Florida limited liability company (“Lake Avenue”) and D & E Property Investments Inc. (“D & E”), a Florida corporation (Lake Avenue and D & E being hereinafter collectively referred to as the “Constituent Entities”) is made pursuant to Section 605.1022 and 607.1109 of the Florida Revised Limited Liability Company Act (the “Florida Act”) and the Florida Business Corporation Act, respectively,

**WHEREAS**, the Members of Lake Avenue and the Sole Shareholder of D & E, deeming it advisable for the respective benefit of D & E, Lake Avenue and their respective members and shareholder that D & E merge with and into Lake Avenue on the terms and conditions hereinafter set forth (the “Merger”), have approved this Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants, representations and warranties herein contained, the parties hereto agree as follows:

### ARTICLE 1

#### THE MERGER

Section 1.1 **The Merger**. At the Filing Date (as defined in Section 1.2), D & E shall be merged with and into Lake Avenue in accordance with the applicable provisions of the laws of the State of Florida, and the separate existence of D & E shall thereupon cease, and Lake Avenue, as the surviving entity in the Merger (the “Surviving Entity”), shall continue its existence under the laws of the State of Florida under the present name of Lake Avenue South East Real Estate LLC. Upon the consummation of the Merger, the Surviving Entity shall thereupon and thereafter possess all the rights, privileges, immunities and franchises, of a public as well as a private nature, of each of the Constituent Entities; and all subscriptions to membership interests or shares and all other choses in action and all and every other interest, of or belonging to or due to each of the Constituent Entities shall be taken and deemed to be transferred to and vested in the Surviving Entity without further act or deed. Except as otherwise provided herein, the Surviving Entity shall thenceforth be responsible and liable for all liabilities and obligations of each of the Constituent Entities in accordance with Section 605.1026 of the Florida Act.

Section 1.2 **Effective Date of the Merger**. The Merger shall become effective on the date when the Articles of Merger are filed by the Florida Department of State (the “Filing Date”).

### ARTICLE II

#### NAME, ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT OF THE SURVIVING ENTITY



Section 2.1 **Name**. The Surviving Entity shall be Lake Avenue which, upon consummation of the Merger, shall retain its name as Lake Avenue South East Real Estate LLC, as set forth in Section 2.2 hereof.

Section 2.2 **Articles of Organization and Operating Agreement**. The Articles of Organization and Operating Agreement of Lake Avenue as in effect at the Filing Date shall be the Articles of Organization and Operating Agreement of the Surviving Entity.

Section 2.3 **Managers and Officers**. The manager and officers of Lake Avenue as existing immediately prior to the Filing Date shall be the manager and officers of the Surviving Entity.

### ARTICLE III

#### CANCELLATION OF SHARES

Section 3.1 **Cancellation of Shares**. As of the Filing Date, by virtue of the Merger:

- (a) All D & E's shares which are held by D & E as treasury shares shall be canceled.
- (b) All of the issued and outstanding D & E shares, all of which are owned by Lake Avenue, shall be canceled.
- (c) As the Sole Shareholder of D & E, Lake Avenue waives any consideration in exchange for the cancellation of its D & E shares.

### ARTICLE IV

#### MISCELLANEOUS

Section 4.1 **Other Matters**. Lake Avenue, as the owner of all of the issued and outstanding shares of D & E, hereby waives notice and appraisal rights provisions of the Florida Business Corporation Act and the Florida Revised Limited Liability Company Act with respect to the merger contemplated herein.

Section 4.2 **Duly Adopted**. This Plan of Merger was duly adopted by both D & E and Lake Avenue as required by each organization's governing laws and in accordance with Chapter 607 of the Florida Business Corporation Act and Chapter 605 of the Florida Limited Liability Company Act, respectively.

**ADOPTED** as of the 8<sup>th</sup> day of December 2015.

*Grand Hope Investments, Inc., et al. v. Lake Ave South East Real Estate, LLC, et al.*  
Case No. 18-000954-CI

**EXHIBIT F**  
*to Second Amended Complaint*

### Promissory Note

\$2,763,462.72

October 27, 2015

FOR VALUE RECEIVED, the undersigned, LAKE AVENUE SOUTH EAST REAL ESTATE LLC, a Florida limited liability company ("Maker"), promises to pay to the order of Ronald and Sandra Damico (together, "Payee"; Payee and any subsequent holder[s] hereof are hereinafter referred to collectively as "Holder"), at the office of Payee, or at such other place as Holder may designate to Maker in writing from time to time, the principal sum of \$2,763,462.72, together with interest on the outstanding principal balance hereof from the date hereof at the rate of five percent (5%) per annum (computed on the basis of a 360-day year).

Interest and principal on the outstanding principal balance hereof shall be due and payable monthly, in the amount of \$19,798.67 in arrears, with the first installment being payable on the first (1<sup>st</sup>) day of November, 2015, and subsequent installments being payable on the first (1<sup>st</sup>) day of each succeeding month thereafter until May 1, 2033 (the "Maturity Date"), at which time the entire outstanding principal balance, together with all accrued and unpaid interest (\$10,654.70), shall be immediately due and payable in full.

The indebtedness evidenced hereby may be prepaid in whole or in part, at any time and from time to time, without penalty. Any such prepayments shall be credited first to any accrued and unpaid interest and then to the outstanding principal balance hereof.

Time is of the essence of this Note. It is hereby expressly agreed that in the event that any default be made in the payment of principal or interest as stipulated above, which default is not cured following the giving of any applicable notice and within five (5) days, then, and in such event, the entire outstanding principal balance of the indebtedness evidenced hereby, together with all unpaid interest accrued thereon, shall, at the option of Holder and without notice to Maker, at once become due and payable and may be collected forthwith, regardless of the stipulated date of maturity.

In the event this Note is placed in the hands of an attorney for collection, or if Holder incurs any costs incident to the collection of the indebtedness evidenced hereby, Maker and any endorsers hereof agree to pay to Holder an amount equal to all such reasonable costs, including and without limitation, all actual reasonable attorney's fees and all court costs.

Presentment for payment, demand, protest and notice of demand, protest and nonpayment are hereby waived by Maker and all other parties hereto. No failure to accelerate the indebtedness evidenced hereby by reason of default hereunder, acceptance of a past-due installment or other indulgences granted from time to time, shall be construed as a novation of this Note or as a waiver of such right of acceleration or of the right of Holder thereafter to insist upon strict compliance with the terms of this Note or to prevent the exercise of such right of acceleration or any other right granted

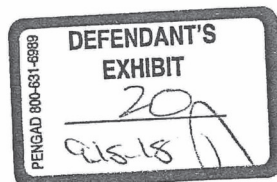


EXHIBIT F

to Second Amended Complaint

hereunder or by applicable laws. No extension of the time for payment of the indebtedness evidenced hereby or any installment due hereunder, may be made by agreement with any person now or hereafter liable for payment of the indebtedness evidenced hereby; either in whole or in part, unless Holder agrees otherwise in writing. This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

All agreements herein made are expressly limited so that in no event whatsoever, whether by reason of advancement of proceeds hereof, acceleration of maturity of the unpaid balance hereof or otherwise, shall the amount paid or agreed to be paid to Holder for the use of money advanced or to be advanced hereunder exceed the maximum rate of interest permitted by law. If, from any circumstances whatsoever, the fulfillment of any provision of this Note shall involve the payment of interest in excess of the maximum rate, then ipso facto, the obligation to pay interest hereunder shall be reduced to the maximum rate; and if from any circumstance whatsoever, Holder shall ever receive interest, the amount of which would exceed the amount collectible at the maximum rate, such amount as would be excessive interest shall be applied to the reduction of the principal balance remaining unpaid hereunder and not to the payment of interest. This provision shall control every other provision in any and all other agreements and instruments existing or hereafter arising between Maker and Holder with respect to the indebtedness evidenced hereby.

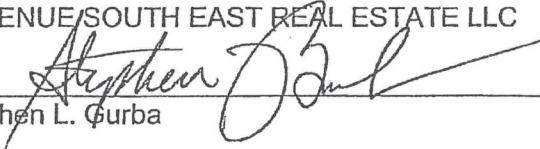
This Note is intended as a contract under and shall be construed and enforceable in accordance with the laws of the State of Florida, except to the extent that federal law may be applicable to the determination of the maximum rate.

As used herein, the terms "Maker" and "Holder" shall be deemed to include their respective successors, legal representatives and assigns, whether by voluntary action of the parties or by operation of law.

MAKER:

LAKE AVENUE SOUTH EAST REAL ESTATE LLC

By: \_\_\_\_\_

  
Stephen L. Gurba

Title: President

# **EXHIBIT B**

**WARNING**

There are unpaid taxes on this property which you own or in which you have a legal interest

**THIS PROPERTY WILL BE SOLD AT PUBLIC AUCTION**  
**UNLESS THE BACK TAXES ARE PAID**

**ALL PAYMENTS SHALL BE MADE TO THE TAX COLLECTOR OF PINELLAS COUNTY. PAYMENT MUST BE IN THE FORM OF CASH, CASHIER'S CHECK OR MONEY ORDER AND MADE PAYABLE TO THE PINELLAS COUNTY TAX COLLECTOR. FOR QUESTIONS CONCERNING TAXES, YOU MAY CALL THE TAX COLLECTOR AT (727) 464-3409.**

**NOTICE OF APPLICATION FOR TAX DEED**

NOTICE IS HEREBY GIVEN that NEWLINE HOLDINGS LLC, the holder of the following certificate has filed for a tax deed to be issued thereon. The certificate number, year of issuance, property description, and the names in which the property was assessed are as follows:

**Certificate Number 02379      Year of issuance 2021**

Said certificate embraces the following described property in the County of Pinellas, State of Florida:

**PROPERTY ADDRESS:** 1501 LAKE AVE SE LARGO, FL

**LEGAL DESCRIPTION:** PINELLAS GROVES SE 1/4, SEC 2-30-15 PART OF LOT 9 TOGETHER WITH PART OF NW 1/4 OF SE 1/4 OF SEC ALL DESC FROM SW COR OF SE 1/4 OF SEC TH N01D37'29"E 1988.88FT TH S88D49'25"E 40FT FOR POB TH S88D49'26"E 316.27FT TH S01D28'19"W 610.93FT TH N88D46'29"W 317.90FT TH N01D37'29"E 610.66FT TO POB

**PARCEL NUMBER:** 02-30-15-70434-400-0900

**NAME IN WHICH ASSESSED:**

D & E PROPERTY INVESTMENTS INC

Unless such certificate is redeemed according to law, the property described in such certificate will be sold to the highest bidder at [www.pinellas.realtaxdeed.com](http://www.pinellas.realtaxdeed.com) on **18<sup>th</sup> day of October, 2023 at 11:00 A.M.**

To receive further information about the scheduled auction, please contact:



Tax Deed/Official Records  
KEN BURKE  
Clerk of the Circuit Court and Comptroller  
315 Court Street  
Clearwater, FL 33756  
727-464-3424 and/or  
[taxdeed@pinellascounty.org](mailto:taxdeed@pinellascounty.org)

**WARNING**

There are unpaid taxes on this property which you own or in which you have a legal interest

**THIS PROPERTY WILL BE SOLD AT PUBLIC AUCTION**  
**UNLESS THE BACK TAXES ARE PAID**

**ALL PAYMENTS SHALL BE MADE TO THE TAX COLLECTOR OF PINELLAS COUNTY. PAYMENT MUST BE IN THE FORM OF CASH, CASHIER'S CHECK OR MONEY ORDER AND MADE PAYABLE TO THE PINELLAS COUNTY TAX COLLECTOR. FOR QUESTIONS CONCERNING TAXES, YOU MAY CALL THE TAX COLLECTOR AT (727) 464-3409.**

NOTICE OF APPLICATION FOR TAX DEED

NOTICE IS HEREBY GIVEN that FNA DZ, LLC, the holder of the following certificate has filed for a tax deed to be issued thereon. The certificate number, year of issuance, property description, and the names in which the property was assessed are as follows:

**Certificate Number 02378      Year of issuance 2021**

Said certificate embraces the following described property in the County of Pinellas, State of Florida:

**PROPERTY ADDRESS:** 1401 LAKE AVE SE LARGO, FL

**LEGAL DESCRIPTION:** PINELLAS GROVES SE 1/4, SEC 2-30-15 PART OF LOTS 7 & 8 DESC FROM NW COR OF SE 1/4 OF SEC TH S01D37'29"W 40FT TH S88D52'23"E 40FT FOR POB TH S88D52'23"E 132.22FT TH S71D15'07"E 189.14FT TH S01D29'20"W 566.06FT TH N88D49'25"W 314.33FT TH N01D37'29"E 623.07FT TO POB

**PARCEL NUMBER:** 02-30-15-70434-400-0800

**NAME IN WHICH ASSESSED:**

D & E PROPERTY INVESTMENTS INC

Unless such certificate is redeemed according to law, the property described in such certificate will be sold to the highest bidder at [www.pinellas.realtaxdeed.com](http://www.pinellas.realtaxdeed.com) on **15<sup>th</sup> day of November, 2023 at 11:00 A.M.**

To receive further information about the scheduled auction, please contact:



Tax Deed/Official Records  
KEN BURKE  
Clerk of the Circuit Court and Comptroller  
315 Court Street  
Clearwater, FL 33756  
727-464-3424 and/or  
[taxdeed@pinellascounty.org](mailto:taxdeed@pinellascounty.org)