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**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT COURT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA**

CASE NO. 31-2023-CA-000080

**D & P PRIVATE LENDING, LLC, a New
Jersey Limited Liability Company;
PETER KALLMAN; LANDINGS 65 LLC;
DONNA KALLMAN; JEFFREY LANG;
AND MOONSHADOW ENTERPRISES
LLC**

Plaintiff,

vs.

**SUNCOR FT. PIERCE LLC, a Florida
Limited Liability Company, et al.
Defendants.**

/

CONSENT FINAL JUDGMENT OF FORECLOSURE

THIS ACTION was heard before the Court on **JANUARY 8, 2025**, and on the evidence presented and being otherwise duly advised in the premises, finds that the parties have consented to entry of this Judgment and it is thus

ORDERED AND ADJUDGED that:

1. **Motion Granted.** There is no dispute of material facts and Plaintiff's Motion for Summary Judgment is GRANTED.

2. **Amounts Due.** Plaintiff, 5950 SBA LOAN III LLC, C/O Spoliansky Law PA, 551 SW 19th Ter, Fort Lauderdale, FL 33312, is due:

Principal	\$400,000.00
Default Interest (18%) on the note and mortgage from 9/1/2019 to 1/8/2025	\$385,851.10
Taxes (2018)	\$1,461.85
Taxes (2019)	\$1,343.23
Taxes (2020)	\$1,189.23
Maintenance Expense	\$45,682.70
Lien Search	\$1,235.00
Attorneys' fees	
Finding as to reasonable number of hours	20.6

Finding as to reasonable hourly rate	\$350.00
Attorneys' fees total	\$7,210.00
Court costs	
Filing fee	\$2,215.94
Service of Process	\$1,081.35
Publication for Service	\$451.44
Reopen Fee	\$51.75
Additional Costs	
Title Search	\$150.00
Federal Express	\$26.32
<u>TOTAL</u>	<u>\$847,949.91</u>

3. **Interest.** The total amount in paragraph 2 must bear interest from this date forward at the prevailing statutory rate of interest.

4. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085, Florida Statutes) on the following described property in Indian River County, Florida:

LOT 71, STONEY BROOK FARM, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 19, PAGE 41, THROUGH 44, PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA. Property address: **560 Stoney Brook Farms Court, Vero Beach, FL 32968**

5. **Sale of Property.** If the total sum with interest at the rate described in paragraph 2 and all costs accrued subsequent to this judgment are not paid, the clerk of this court must sell the property at public sale on **FEBRUARY 26, 2025** to the highest bidder for cash, except as prescribed in paragraph 6, by electronic sale at **Indian River County beginning at 10:00 a.m. www.indian-river.realforeclose.com** **The public sale must not be postponed or canceled without a court order. All orders postponing or canceling the sale must be filed with the clerk of court no later than 5:00 p.m. five (5) business days before the sale date. Counsel for plaintiff must be certain that all sale and clerk fees are paid and that the original proof of publication is filed no less than five (5) business days before the sale date. Failure to timely file the original proof of publication of the notice of sale and pay the sale and clerk fees will stop the sale. Additionally, the failure of plaintiff's counsel to pay the sale fee and properly and timely publish the notice of sale may result in sanctions**

against the plaintiff, plaintiff's counsel individually, and the law firm representing the plaintiff. Any electronic sale by the clerk must be in accordance with the written administrative policy for electronic sales published by the clerk at the official website for the clerk and posted in the public areas of the clerk's offices.

6. **Costs.** Plaintiff must advance all subsequent costs of this action and must be reimbursed for them by the clerk if plaintiff is not the purchaser of the property for sale, provided, however, that the purchaser of the property for sale must be responsible for the documentary stamps payable on the certificate of title. If plaintiff is the purchaser, plaintiff must file an affidavit within 5 business days and the clerk must credit plaintiff's bid with the total sum with post-judgment interest and costs accruing subsequent to this judgment, or such part of it, as is necessary to pay the bid in full. The clerk must receive the service charge imposed in Section 45.031, Florida Statutes.

7. **Distribution of Proceeds.** On filing the certificate of title, the clerk must distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale; and by retaining any remaining amount pending further order of this court.

8. **Right of Redemption.** On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens must be foreclosed of all estate or claim in the property, and defendant's right of redemption as prescribed by section 45.0315, Florida Statutes, must be terminated, except as to the rights of a bona fide tenant occupying residential premises under the federal Protection Tenants at Foreclosure Act, 12 U.S.C. sec. 5220, note, or section 83.5615, Florida Statutes, and claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** On the filing of the certificate of title, the person named on the certificate of title must be let into possession of the property subject to the rights of a bona fide tenant occupying residential premises under the Federal Protecting at Foreclosure Act, 12 U.S.C. sec 5220, note, or section 83.5615, Florida Statutes. If any defendant or tenant remains in possession of the property, an Order Granting the Motion For Writ of Possession must be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.5615, Florida Statutes.

10. **Attorneys' Fees.** The court finds, based upon the affidavits/testimony presented and upon inquiry of counsel for the plaintiff that 20.6 hours were reasonably expended by plaintiff's counsel and that an hourly rate of \$ 350.00 is appropriate. Plaintiff's counsel represents that the attorney fee awarded does not exceed its contract fee with the plaintiff. The court finds that there are no reduction or enhancement factors for consideration by the court under *Florida Patients Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985). (If the court has found that there are reduction or enhancement factors to be applied, then such factors must be identified and explained herein).

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

12. **Cross claimant's Claim.** Defendant, WP UNDERGROUND UTILITIES LLC has filed its Answer and Crossclaim and the Court finds that the Cross claimant, WP UNDERGROUND UTILITIES LLC, has a Junior Judgment Lien against the subject real property due to the Judgment being recorded in Official Records Book 3184, at Page 1426, and recorded in Official Records Book 3188, at Page 99, all of the Public Records of Indian River County, Florida. Further, Cross claimant, WP UNDERGROUND UTILITIES LLC is owed the amount of \$18,956.02, together with interest at the legal rate, due and owing after partial payments received under the Judgement as a junior lien against the subject real property. Should the foreclosure sale result in competitive bidding, Cross claimant shall be entitled to a distribution from the surplus foreclosure proceeds and the Clerk shall make the distribution in accordance with Florida judicial sales procedure and Florida law, such that Cross claimant, WP UNDERGROUND UTILITIES LLC, shall be entitled to make a claim for any surplus foreclosure proceeds after entry of the Clerk's Report or the Certificate of Disbursement.

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

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER

REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE

ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, 2000 16TH AVENUE, CIVIL DEPARTMENT, ROOM 136, VERO BEACH, FL 32960, (772) 226-3100, WITHIN 10 DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT FLORIDA RURAL LEGAL SERVICE – FORT PIERCE OFFICE, 510 SOUTH US HIGHWAY 1, SUITE 1, FORT PIERCE, FLORIDA 34948, (772) 466-4776, TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT FLORIDA RURAL LEGAL SERVICE – FORT PIERCE OFFICE, (772) 466-4776, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED on January 8, 2025, at Vero Beach, Indian River County, Florida.

eSigned by Judge Cynthia L. Cox 01/08/2025 10:55 am

CYNTHIA L. COX, Circuit Judge

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

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