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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

M. Anderson Griffith, Master-in-Equity

Appellate Case No. 2025-000506

Wells Fargo Bank, N.A. Respondent,

v.

Michael G. Morgan; Margaret H. Fitch, M.D.; Eric J. Olig; South Carolina Department of
Revenue; Linda Lawrence Bowen; Defendants,

Of which Michael G. Morgan is the Appellant.

APPENDIX TO:
RESPONDENT'S MOTION TO DISMISS APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Wells Fargo Bank, N.A.

Docket No.: 2015-CP-02-02849

Plaintiff

ORDER

vs.

Michael G. Morgan; Margaret H. Fitch, M.D.;
Eric J. Olig; South Carolina Department of
Revenue; Linda Lawrence Bowen
Defendants

The defendant, Michael G. Morgan, filed an Amended Motion to Withdraw and Strike the Stipulation Dismissing Counterclaims, Consent to Foreclosure and Waving Deficiency Judgment. He relies on *Rule 41 (a) (1) (B), SCRPC*, to argue the stipulation filed by the Defendant Morgan with previous counsel was done without his consent and there is no Order issued by the court stating the stipulation is without prejudice. The movant's position is that since the stipulation was not reduced to an Order specifying the dismissal is with prejudice, the Defendant may rescind his purported consent to the stipulation. The Defendant further argues *Rule 41 (a) (2) SCRPC*, provides that even an Order dismissing the action at Plaintiff's request or dismissing counterclaims at a Defendant's request is without prejudice.

The grounds for Defendant Morgan withdrawing the stipulation is:

- a. Stipulation was filed on July 13, 2023 but this Defendant denies any knowledge of the stipulation until July 8, 2024. He denies he approved or authorized his prior attorney to consent to the stipulations.
- b. If not stricken, the stipulation denies the Defendant of substantial rights.
- c. The motion was filed less than one year since the July 13, 2024 stipulation was filed. Defendant believes he is entitled to relief pursuant to *Rule 60, SCRPC*.
- d. Defendant argues the consideration given for the stipulation has no value because any claim of value is speculative. Morgan believes the likelihood of a deficiency judgment is small and provides no value.

Wells Fargo Bank, N. A. filed its opposition to the motion on August 12, 2024. The Plaintiff claims the defendant's motion is frivolous as the United States Bankruptcy Court for the District of South Carolina has already rejected Morgan's attempts to avoid the settlement. The Plaintiff relies on the bankruptcy court Order findings of fact to which no appeal was filed. The Plaintiff believes collateral estoppel prevents Morgan from re-litigating this matter.

The Affidavit of Michael Morgan was served on the Plaintiff on October 11, 2024. The Defendant's motion to amend was filed on July 13, 2024. *Rule 6 (d), SCRCF*, states "when a motion is to be supported by affidavit, the affidavit shall be served with the motion; ... The moving party may serve reply affidavits at any time before the hearing commences." Defendant Morgan's affidavit states it is the Affidavit of Michael G. Morgan and is not entitled as a reply affidavit. Plaintiff filed a motion to strike the affidavit in reliance on *Rule 6, SCRCF*.

Morgan's Affidavit describes a class action but fails to establish his relevance to the current action and the court finds this information is not relevant to the motion to amend. The Defendant failed to attach any documents other than the Mediated Settlement Agreement and the Confidential Settlement Agreement and Release and the Docu Sign information. As stated above, the detailed settlement agreement discusses dismissing the counterclaims with prejudice. The defendant's attorney at the time, following the \$200,000.00 payment to Morgan, filed a dismissal of the counterclaims with prejudice.

The Plaintiff also raises the issue of collateral estoppel. "A party claiming preclusive effect under collateral estoppel must demonstrate that particular issue was " (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support prior judgement." *Carolina Renewal*, 385 S.C. at 554, 684 S.E.2d at 782, *Crosby v Prysmian Commc 'ns Cables and Sys USA*, *Rule 41 and Rule 43 (k), SCRCF* was not raised in bankruptcy court and the court will examine and rule on those issues as well as considering defendants claim that he did not execute the settlement document submitted.

On April 25, 2008, Wachovia Mortgage FSB ("Wachovia") made a loan, as evidenced by an adjustable rate note executed by Morgan in the original amount of \$1,300,000.00. The maturity date of the Note is May 15, 2038. The Note was secured by a mortgage executed by Morgan in

favor of Wachovia on the same date whereby Morgan granted a lien and security interest in the real property located at 415 Chesterfield St. S., Aiken, SC 29801. The mortgage was recorded on May 6, 2008 in the Aiken County RMC Office in Book No. 4201, Page 1737. Wells Fargo is the successor in interest to Wachovia.

Plaintiff alleges Defendant Morgan has made no payments on the loan since 2011. The foreclosure action was filed in Aiken County on December 2, 2015. Morgan filed a counterclaim and on March 31, 2023, the parties participated in mediation with Karl S. Folkens acting as the mediator. Both parties were represented by counsel and the resolution was reached and memorialized in an agreement that is referred to as the Mediation Agreement. This document was signed by the Defendant Morgan, Morgan's attorney, Holly R. Stevens on behalf of the Plaintiff and Stacie C. Knight, representing the interest of the Plaintiff. This agreement provided the following:

- 1) Wells Fargo was to pay Defendant Morgan \$200,000.00 within 30 days of the agreement.
- 2) Wells Fargo will proceed with the foreclosure action uncontested by Defendant Morgan who will dismiss the counterclaims with prejudice.
- 3) The judicial foreclosure sale will be set no sooner than September 1, 2023 and the Plaintiff agreed to waive any deficiency judgment.
- 4) Defendant Morgan had the right to pay \$1,300,000.00 in certified funds or wired funds to the Plaintiff to pay the note and mortgage in full.
- 5) The parties also agreed in the Mediated Settlement Agreement that a more comprehensive release would be executed incorporating the terms of that agreement.
- 6) Plaintiff also states that Defendant Morgan was informed that he would be required to execute a W-9 in order to receive the settlement payments.

The parties then executed a written Confidential Settlement Agreement and Release which was signed by Defendant Morgan on May 24, 2023 and by Wells Fargo Senior Company Counsel on May 26, 2023. That agreement provided the following:

- 1) Wells Fargo was to deliver payment of \$200,000.00 by check made payable to Defendant Morgan and his attorney within 14 days of the latter of the following

events: i) receipt by Wells Fargo counsel of one original counterpart of the agreement executed by Morgan; and ii) receipt by Wells Fargo's Counsel of a completed 2023 W – 9 tax forms for Defendant Morgan and his attorney as set forth in paragraph one of the Settlement Agreement.

- 2) Within five business days of the receipt of the payment from Wells Fargo, Morgan and his attorney would file a dismissal of the counterclaim with prejudice. Defendant Morgan also agreed to take no further action to prosecute the counterclaims against Wells Fargo or impede the litigation.
- 3) Defendant Morgan received the \$200,000.00 payment from Wells Fargo on June 7, 2023. He did not make any payments to the Plaintiff as a result of the Mediation Agreement or the Settlement Agreement. On July 13, 2024 Defendant Morgan's attorney filed a Stipulation Regarding Dismissal of Counterclaims, Consent to Foreclosure, and Waiver of Deficiency Judgment on Morgan's behalf. That document specified that Morgan's counterclaims were being dismissed with prejudice.

When the original foreclosure hearing was scheduled for September 6, 2023, Defendant Morgan filed a Chapter 11 Bankruptcy Petition which served to stay the foreclosure action. The Plaintiff filed a motion for relief from the stay on January 11, 2024 and Defendant Morgan filed an objection on January 25, 2024. Morgan appeared at the hearing with counsel. Based on the documents submitted, Defendant Morgan argued he had made handwritten changes to the Settlement Agreement he signed on May 24, 2023 before he returned the document to his attorney. Those changes were not included in the final signed document. Plaintiff notes that there was no documented evidence submitted at the hearing to support that testimony. The United States Bankruptcy Court for South Carolina concluded that the Settlement Agreement was enforceable and that Morgan was bound by the terms of the agreement. The quote submitted by the Plaintiff is as follows:

“There is no dispute that [Morgan's] attorney in the [the instant lawsuit] transmitted the Settlement Agreement to opposing counsel bearing [Morgan's] signature and the opposition relied on that Settlement Agreement, [Wells Fargo] made the \$200,000.00 payment that [Morgan]

accepted in exchange for the releases set forth therein, and otherwise relied on the agreement. There is nothing in the record sufficient to convince the Court that there was a mistake or fraud sufficient to repudiate the agreement. [Morgan] is bound by the Settlement Agreement.”

Following this ruling, defendant Morgan hired another attorney who filed the current motion on July 12, 2024. Plaintiff notes that motion makes no mention of the Settlement Agreement or the Bankruptcy Court Order.

Mediation and Agreements

The parties, represented by counsel, agreed to participate in mediation. At the conclusion of the mediation, the parties reached an agreement and executed a Mediated Settlement Agreement. The document was signed by Michael Morgan, his attorney, Drew Radeker, Holly R. Stevens, and Stacie Knight.

The Defendant presents the argument that Morgan may rescind his consent pursuant to uppercase rule 41 (a) (1) (B), *SCRCP*, which states, “... Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice...” The Defendant relies on this language and states he never knew or consented to the stipulation dismissing the counterclaims prior to the week of July 8, 2024.

The Plaintiff relies on the document signed by the Defendant, his attorney, and the Plaintiff. Following the mediation, the parties executed the Mediated Settlement Agreement as described above. The parties acknowledge that a more comprehensive release would be executed. The Declaration of Stacie C. Knight, an attorney for the Plaintiff, includes an exhibit of the numerous emails and negotiated agreement language between the attorneys. On May 25, 2023, Mr. Morgan’s attorney provided an agreement signed by Mr. Morgan entitled Confidential Settlement Agreement and Release. The document was fully executed on May 30, 2023.

Pursuant to the terms of the agreement, the Plaintiff paid \$200,000.00 to Mr. Radeker as the attorney for Mr. Morgan. It appears the check was negotiated and the funds have never been returned to the Plaintiff. The Stipulation regarding Dismissal of Counterclaims, Consent to Foreclosure and Waiver of Deficiency Judgment was signed and filed in Aiken County on July 13, 2023. Subsection (a) states that Defendant Morgan’s counterclaims are dismissed **with prejudice.**

Paragraph three of the Confidential Settlement Agreement and Release is a provision entitled Dismissal with Prejudice, which states, ‘Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan’s Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.’ *Rule 41(a)(1)(B), SCRCP* states, “Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice...” In this matter, the stipulation specifically states the dismissal of the counterclaims is with prejudice. As stated above, the settlement agreement also provides that the dismissal of the counterclaims will be with prejudice. Therefore, the court finds the language of *Rule 41(a)(1)(B), SCRCP* would not allow Morgan to rescind his dismissal of the counterclaims. To the extent the Defendant argues that *Rule 41, (a) (2)* would apply, the court finds that the dismissal of the counterclaims with prejudice was by agreement of the parties and not through an Order of the Court. Defendant Morgan further argues he should be allowed to rescind the alleged consent of the dismissal of the stipulations since he did not consent to the terms of the agreement for settlement and was not aware of the specifics until July 8, 2024. Based on the exhibits attached to the Declaration of Stacie C. Knight, there is no dispute that Mr. Morgan’s attorney was fully aware of the terms and presented a document purportedly executed by Mr. Morgan indicating his agreement with those terms. A similar argument was made before the United States Bankruptcy Court, District of South Carolina and in its Order filed on August 12, 2024, that court correctly cited the reasons why the settlement agreement is enforceable. The Court stated, “Acts of an attorney are directly attributable to and binding upon the client. Absent fraud or mistake, where attorneys of record for a party agree to settle a case, the party cannot later repudiate the agreement.” *Shelton v Bressant*, 312 S.C. 183, 184-85, 439 S.E.2d 833,834 (1993) (quoting *Arnold v Yarborough*, 281 S.C. 570, 572, 316 S.E.2d 416,417 (Ct. App. 1984) (holding that a litigant’s “contention that the suit was not settled according to his instructions [did] not entitle him to rescind the agreement.”) Any communication, failure, or mistake on the part of an attorney is directly attributable to his client. See *Kirkland v Moseley*, 109 S.C. 477, 96 S.E. 608 (1918) (a party cannot set aside settlement agreement signed pursuant to attorney’s erroneous legal advice); see also *Graham v Town of Loris*, 272 S.C. 442, 451, 248 S.E.2d 594,598 (1978) (“The general rule in this jurisdiction is that the neglect of the attorney is attributable to the client”).

When a litigant voluntarily accepts an offer of settlement, either directly or indirectly through the duly authorized actions of his attorney, the integrity of the settlement cannot be attacked on the basis of inadequate representation by the litigant's attorney. In such cases, any remaining dispute is purely between the party and his attorney. *Shelton at 185, 439 S.E.2d at 834 (quoting Petty v The Timken Corp., 849 F.2d 130, 133 (4th Cir. 1988)).*

Rule 43 (k) SCRCP states, "No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel." In this matter, Michael Morgan, his attorney, and the attorneys representing the interest of the plaintiff, executed the Mediated Settlement Agreement. The Confidential Settlement Agreement and Release was signed by Michael G Morgan on May 24, 2023 and by Holly Stevens, Senior Company Counsel for Wells Fargo Bank, N. A. On May 26, 2023. The court finds that *Rule 43 (k) SCRCP* has been complied with since the agreements were reduced to writing and signed by the parties and their counsel.

There is no dispute that Debtor's attorney in the Foreclosure Lawsuit transmitted the Settlement Agreement to opposing counsel bearing Debtor's signature and the opposition relied on that Settlement Agreement. Creditor made the \$200,000.00 payment that Debtor accepted in exchange for the releases set forth therein, and otherwise relied on the agreement. There is nothing in the record sufficient to convince the Court that there was a mistake or fraud sufficient to repudiate the agreement. Debtor is bound by the Settlement Agreement. The Settlement Agreement provides that the opportunity to settle the debt for \$1,300,000.00 expired on September 4, 2023, at 11:59 p.m., and therefore, Debtor's reliance on the \$1,300,000.00 payoff figure after that date is misplaced."

This court believes the Order issued by the United States Bankruptcy Court's statement of the law and its finding on this issue are correct. The relief requested by Defendant Morgan to withdraw and strike the stipulation dismissing the counterclaim, consent to the foreclosure and waiving the deficiency judgment is denied.

Defendant Morgan's amended motion filed on July 12, 2024 also asserts the stipulation should be stricken pursuant to *Rule 60, SCRCP*, on the grounds that the stipulation was entered without his consent by mistake or inadvertence. *Rule 60 (b) (1), SCRCP*. "The movement in a *Rule*

60 (b) motion has the burden of presenting evidence proving the facts essential to entitle him to relief.” *Nelson v Nelson*, 428 S. C. 152, 833 S.E.2d 432 (Ct. App. 2019). While the Defendant alleges he was not aware of the stipulation being filed, he participated in a mediation which led to the execution of the Mediated Settlement Agreement. That document states, “Plaintiff will proceed with the foreclosure action uncontested by Defendant, and Defendant will dismiss his counterclaims with prejudice.” This document is dated March 31, 2023. In May 2023, the Defendant executed the Confidential Settlement Agreement and Release. Both parties were represented by counsel and the Plaintiff has submitted a chain of emails concerning the negotiations the attorneys conducted before the final agreement was submitted. There is no evidence Defendant Morgan questioned the payment of \$200,000.00 to him and he retained that payment as part of the settlement. The settlement agreement expressly states the counterclaims will be dismissed with prejudice and that was filed on July 13, 2023.

The Defendant has failed to show any mistake or inadvertence related to the mediation, settlement documents, the payment to the Defendant, and the stipulation of dismissal filed by his attorney. Any relief requested pursuant to *Rule 60 (b) (1)* is denied.

IT IS SO ORDERED

Aiken County Master in Equity/M. Anderson Griffith



Aiken Common Pleas

Case Caption: Wells Fargo Bank NA VS Michael G Morgan , defendant, et al

Case Number: 2015CP0202849

Type: Master/Order/Other

AND IT IS SO ORDERED

s/M Anderson Griffith-3076

Electronically signed on 2025-02-28 11:47:23 page 9 of 9

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
C/A NO: 2015-CP-02-02849

WELLS FARGO BANK, N.A.;

Plaintiff

**AFFIDAVIT OF VERIFIED
STATEMENT OF ACCOUNT**

vs.

MICHAEL G. MORGAN; MARGARET H.
FITCH M.D.; ERIC J. OLIG; SOUTH
CAROLINA DEPARTMENT OF
REVENUE; LINDA LAWRENCE
BOWEN,

Defendant(s).

PERSONALLY APPEARED, who being duly sworn, deposes and says:

1. My name is Diane R. Ross-Mobley and I am authorized to execute this affidavit on behalf of Wells Fargo Bank, N.A., (hereinafter "Wells Fargo").
2. In the regular performance of my job functions, I am familiar with business records maintained by Wells Fargo for the purpose of servicing mortgage loans. These records (which include data compilations, electronically imaged documents, and others) are made at or near the time by, or from information provided or transmitted by, persons with knowledge of the activity and transactions reflected in such records, and are kept in the course of business activity conducted regularly by Wells Fargo. It is the regular practice of Wells Fargo's mortgage servicing business to make these records. In connection with making this affidavit, I have acquired knowledge of the matters stated herein by examining these business records.

3. **WELLS FARGO BANK, N.A.**, directly or through an agent, has possession of the Promissory Note. **WELLS FARGO BANK, N.A.** is either the original payee of the Promissory Note or the Promissory Note has been duly indorsed.

4. The borrower has defaulted under the terms of the Promissory Note and Mortgage, the default has not been cured, making the entire balance due and owing in accordance with the terms of the loan. Plaintiff is owed the following sums of money.

The total amount due the Plaintiff on said Note through 6/5/2024 is \$2,266,815.02 which breaks down as follows:

Principal	\$1,334,347.63
Interest	
From 5/15/2011 to 12/14/2018 @ 4.01%	\$429,938.01
From 12/15/2018 to 1/14/2019 @ 4.1%	\$4,559.02
From 1/15/2019 to 2/14/2019 @ 4.21%	\$4,681.34
From 2/15/2019 to 3/14/2019 @ 4.36%	\$4,848.13
From 3/15/2019 to 4/14/2019 @ 4.55%	\$5,059.40
From 4/15/2019 to 5/14/2019 @ 4.7%	\$5,226.20
From 5/15/2019 to 6/14/2019 @ 4.81%	\$5,348.51
From 6/15/2019 to 7/14/2019 @ 4.9%	\$5,448.59
From 7/15/2019 to 8/14/2019 @ 4.95%	\$5,504.18
From 8/15/2019 to 9/14/2019 @ 4.97%	\$5,526.42
From 9/15/2019 to 10/14/2019 @ 4.99%	\$5,548.66

From 10/15/2019 to 11/14/2019 @ 4.98%	\$5,537.54
From 11/15/2019 to 12/14/2019 @ 4.96%	\$5,515.30
From 12/15/2019 to 1/14/2020 @ 4.94%	\$5,493.06
From 1/15/2020 to 2/14/2020 @ 4.89%	\$5,437.47
From 2/15/2020 to 3/14/2020 @ 4.8%	\$5,337.39
From 3/15/2020 to 4/14/2020 @ 4.69%	\$5,215.07
From 4/15/2020 to 5/14/2020 @ 4.57%	\$5,081.64
From 5/15/2020 to 6/14/2020 @ 4.42%	\$4,914.85
From 6/15/2020 to 7/14/2020 @ 4.32%	\$4,803.65
From 7/15/2020 to 8/14/2020 @ 4.24%	\$4,714.69
From 8/15/2020 to 9/14/2020 @ 4.17%	\$4,636.86
From 9/15/2020 to 10/14/2020 @ 4.07%	\$4,525.66
From 10/15/2020 to 11/14/2020 @ 3.95%	\$4,392.23
From 11/15/2020 to 12/14/2020 @ 3.81%	\$4,236.55
From 12/15/2020 to 1/14/2021 @ 3.67%	\$4,080.88
From 1/15/2021 to 2/14/2021 @ 3.57%	\$3,969.68
From 2/15/2021 to 3/14/2021 @ 3.5%	\$3,891.85
From 3/15/2021 to 4/14/2021 @ 3.48%	\$3,869.61
From 4/15/2021 to 5/14/2021 @ 3.47%	\$3,858.49
From 5/15/2021 to 6/14/2021 @ 3.46%	\$3,847.37
From 6/15/2021 to 7/14/2021 @ 3.45%	\$3,836.25
From 7/15/2021 to 9/14/2021 @ 3.44%	\$7,650.26
From 9/15/2021 to 12/14/2021 @ 3.43%	\$11,442.03

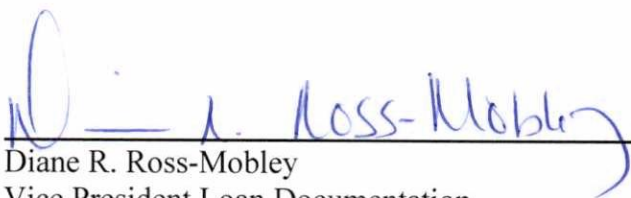
From 12/15/2021 to 2/14/2022 @ 3.42%	\$7,605.78
From 2/15/2022 to 3/14/2022 @ 3.41%	\$3,791.77
From 3/15/2022 to 4/14/2022 @ 3.4%	\$3,780.65
From 4/15/2022 to 5/14/2022 @ 3.39%	\$3,769.53
From 5/15/2022 to 9/14/2022 @ 3.38%	\$15,033.64
From 9/15/2022 to 10/14/2022 @ 3.39%	\$3,769.53
From 10/15/2022 to 11/14/2022 @ 3.43%	\$3,814.01
From 11/15/2022 to 12/14/2022 @ 3.84%	\$4,269.91
From 12/15/2022 to 1/14/2023 @ 4.3%	\$4,781.41
From 1/15/2023 to 2/14/2023 @ 4.85%	\$5,392.99
From 2/15/2023 to 3/14/2023 @ 5.35%	\$5,948.97
From 3/15/2023 to 4/14/2023 @ 5.72%	\$6,360.39
From 4/15/2023 to 5/14/2023 @ 6.05%	\$6,727.34
From 5/15/2023 to 6/14/2023 @ 6.28%	\$6,983.09
From 6/15/2023 to 7/14/2023 @ 6.55%	\$7,283.31
From 7/15/2023 to 8/14/2023 @ 6.76%	\$7,516.82
From 8/15/2023 to 9/14/2023 @ 6.91%	\$7,683.62
From 9/15/2023 to 10/14/2023 @ 7.06%	\$7,850.41
From 10/15/2023 to 11/14/2023 @ 7.2%	\$8,006.09
From 11/15/2023 to 12/14/2023 @ 7.37%	\$8,195.12
From 12/15/2023 to 1/14/2024 @ 7.5%	\$8,339.67
From 1/15/2024 to 2/14/2024 @ 7.63%	\$8,484.23
From 2/15/2024 to 3/14/2024 @ 7.72%	\$8,584.30

From 3/15/2024 to 4/14/2024 @ 7.78%	\$8,651.02
From 4/15/2024 to 5/14/2024 @ 7.81%	\$8,684.38
From 5/15/2024 to 6/5/2024 @ 7.79%	\$5,980.45
Pre-acceleration Late Charges	\$3,776.81
Hazard Insurance Disbursements	\$60,127.34
Tax Disbursements	\$93,597.97
Property Inspections/Preservation	\$0.00
PMI\MIP Insurance	\$0.00
Other (specify charges/fees)	\$0.00
Escrow Balance Credit	\$0.00
Credits to Borrower	(\$300.00)
Total	\$2,266,815.02

Per diem interest in the amount of \$284.78 will accrue on the principal from 6/5/2024 and thereafter in accordance with the Note.

5. It is the regular practice of Wells Fargo on behalf of Plaintiff, to generate such account summary information from the electronic payment history it maintains for Plaintiff. This payment history accurately reflects, to the best of my knowledge, the debits and credits made on the loan's account.

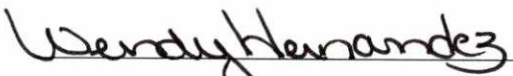
FURTHER AFFIANT SAYETH NOT.



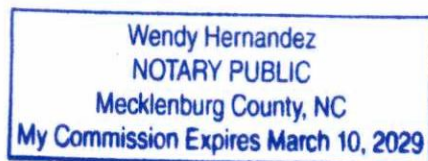
Diane R. Ross-Mobley
Vice President Loan Documentation
Wells Fargo Bank, NA
06/14/2024

State of North Carolina)
County of Mecklenburg)

The Foregoing instrument was sworn to and subscribed before me this 14th day of June, 2024, by Diane R. Ross-Mobley Vice President Loan Documentation, Wells Fargo Bank, N.A., who is personally known to me.




Notary Public, State of North Carolina
My Commission expires: March 10, 2029



STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

Case No. 2015-CP-02-2849

Wells Fargo Bank, N.A.,

Plaintiff,

vs.

**Michael G. Morgan; Margaret H. Fitch,
M.D.; Eric J. Olig; South Carolina
Department of Revenue; Linda Lawrence
Bowen;**

Defendants.

**AMENDED ANSWER
AND COUNTERCLAIM**

Defendant Michael G. Morgan (hereinafter "Morgan") in answer to the Plaintiff's Complaint and as counterclaim, answers and alleges as follows:

FOR A FIRST DEFENSE

1. Any allegation of the Complaint not herein admitted, qualified, or explained is denied. Any allegations of the Complaint subject of qualified admissions made herein are denied insofar as the allegations are not qualifiedly admitted, and any allegations of the Complaint subject of any other qualifications or explanations herein are denied insofar as they are not otherwise qualified or explained.

2. Answering the allegations of paragraph 1 of the Complaint, Morgan admits the same to the extent that the Complaint states a cause of action for mortgage foreclosure.

3. Answering the allegations of paragraphs 2 and 3 of the Complaint, Morgan admits, upon information and belief, that the Plaintiff is a corporation and claims to be the owner of the note and mortgage at issue.

4. Answering the allegations of paragraph 4 of the Complaint, Morgan admits that the loan's servicer is a participant in the Home Affordable Modification program, but Morgan denies the remaining allegations of the paragraph.

5. Answering the allegations of paragraph 5 of the Complaint, Morgan admits the same to the extent it accurately states the content of the mortgage document at issue.

6. Answering the allegations of paragraph 6 of the Complaint, Morgan admits that he owns property subject of this lawsuit.

7. Answering the allegations of paragraph 7 of the Complaint, Morgan admits the same.

8. Answering the allegations of paragraph 8 of the Complaint, Morgan admits the Plaintiff requests what it requests but denies the Plaintiff is entitled to what it requests.

9. Answering the allegations of paragraph 9 of the Complaint, Morgan denies the validity of any such claimed liens against his property.

10. Answering the allegations of paragraph 10 of the Complaint, Morgan notes that no answer to this paragraph is necessary.

11. Answering the allegations of paragraph 11 of the Complaint, Morgan admits the same.

12. Answering the allegations of paragraph 12 of the Complaint, Morgan admits the same upon information and belief.

13. Answering the allegations of paragraph 13 of the Complaint, Morgan admits the same to the extent they are consistent with the public record.

14. Answering the allegations of paragraph 14 of the Complaint, Morgan lacks sufficient knowledge or information to form a belief as to the truth or falsity of the same.

15. Answering the allegations of paragraph 15 of the Complaint, Morgan lacks sufficient knowledge or information to form a belief as to the truth or falsity of the same.

16. Answering the allegations of paragraph 16 of the Complaint, Morgan notes that no answer to this paragraph is necessary.

17. Answering the allegations of paragraph 17 of the Complaint, Morgan admits the same to the extent that the complaint states a cause of action for the foreclosure of a mortgage.

18. Answering the allegations of paragraph 18 of the Complaint, Morgan admits the same upon information and belief.

19. Answering the allegations of paragraph 19 of the Complaint, Morgan admits he signed a mortgage document but denies a mobile home was subject thereof.

20. Answering the allegations of paragraph 20 of the Complaint, Morgan admits the same upon information and belief.

21. Answering the allegations of paragraph 21 of the Complaint, Morgan admits the same upon information and belief.

22. Answering the allegations of paragraph 22 of the Complaint, Morgan denies the same.

23. Answering the allegations of paragraph 23 of the Complaint, Morgan denies the same.

24. Answering the allegations of paragraph 24 of the Complaint, Morgan admits that a law firm was hired to bring this lawsuit, likely by the Plaintiff.

25. Answering the allegations of paragraph 25 of the Complaint, Morgan denies the same.

26. Answering the allegations of paragraph 26 of the Complaint, Morgan admits the Plaintiff demands what it demands but denies the Plaintiff is entitled to what it demands.

27. No answer to the prayer in the Complaint is required.

28. Morgan notes that he desires and is interested in foreclosure intervention.

FOR A SECOND DEFENSE
(Dismissal – Rule 12(b)(6))

29. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

30. The Complaint fails to state facts sufficient to constitute a cause of action, especially one for reformation, and the Complaint or part thereof should be dismissed.

FOR A THIRD DEFENSE
(Counterclaims as Defenses)

31. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

32. All counterclaims asserted in this action are also asserted as defenses to the extent permitted by law.

FOR A FOURTH DEFENSE
(Unclean Hands)

33. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

34. Wells Fargo (and its predecessor in interest) has engaged in such conduct with respect to the matters subject of his claims as to make its hands unclean with regard to its claims.

35. This conduct includes, but is not necessarily limited to, what is stated in this pleading.

36. This conduct relates directly to the subject matter of this action.

37. This conduct has proximately caused Morgan prejudice and injury.

FOR A FIRST COUNTERCLAIM
(Violation of Attorney Preference Statute with Unconscionability)

38. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

39. With respect to the closing of the mortgage loan subject of this case, the original creditor did not comply with the attorney preference or insurance preference provisions of S.C. Code Ann. § 37-10-102.

40. Agents of the original creditor (Wells Fargo or its predecessor in interest), without the knowledge or permission of Morgan, falsified and forged Morgan's signature on documents relating to the application for and origination of the subject mortgage loan.

41. Agents of the original creditor (Wells Fargo or its predecessor in interest) knew that others, without the knowledge or permission of Morgan, falsified and forged Morgan's signature on documents relating to the application for and origination of the subject mortgage loan, yet they permitted this and went through with making the loan anyway.

42. All of this occurred without Morgan's knowledge.

43. No attorney licensed to practice law in South Carolina supervised the closing of the mortgage loan.

44. Instead, the original creditor (Wells Fargo or its predecessor in interest) had one person sent to Morgan's house with the closing documents, and only this person was present with Morgan at Morgan's signing of closing documents for this loan.

45. The loan subject of the mortgage was induced by unconscionable conduct, such conduct including, but not limited to, the following:

- a. The unauthorized practice of law;
- b. The deprivation of Morgan's right to choose his own, unconflicted counsel to represent him in the closing of the mortgage loan at issue;
- c. Forgery and falsification of documents; and
- d. Concealment of that forgery and falsification from Morgan.

46. For each violation of S.C. Code Ann. § 37-10-102, Morgan is entitled to recover all relief available under S.C. Code Ann. § 37-10-105, including the provided under S.C. Code Ann. § 37-10-105(C), damages, attorney's fees, and penalties as provided in the South Carolina Consumer Protection Code.

WHEREFORE, Morgan prays for the Court to:

- (a) Issue an Order dismissing the Complaint with prejudice;
- (b) Deny Wells Fargo the relief it seeks in this action;
- (c) Declare the notes(s) and mortgage(s) subject of this action to be void or unenforceable;
- (d) Enter judgment for Morgan for all relief available under S.C. Code Ann. § 37-10-105, including under S.C. Code Ann. § 37-10-105(C);
- (e) Enter judgment for Morgan reasonable attorney's fees;
- (f) Enter judgment for Morgan the costs and expenses of this action; and
- (g) Grant Morgan such other and further relief as the court deems just and proper.

Respectfully submitted,

/s/ Andrew S. Radeker
 Andrew S. Radeker
 S.C. Bar No. 73743
 HARRISON, RADEKER & SMITH, P.A.
 Post Office Box 50143
 Columbia, South Carolina 29250
 (803) 779-2211
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 drew@harrisonfirm.com (email)
 ATTORNEY FOR DEFENDANT
 MICHAEL G. MORGAN

Columbia, South Carolina
 May 10, 2018

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-02-2849

WELLS FARGO BANK, N.A.

PLAINTIFF,

V.

MICHAEL G. MORGAN; MARGARET H.
FITCH, M.D.; ERIC J. OLIG; SOUTH
CAROLINA DEPARTMENT OF REVENUE;
LINDA LAWRENCE BOWEN,

DEFENDANTS.

**AMENDED COMPLAINT
(DEFICIENCY JUDGMENT DEMANDED)**

Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo"), by and through its undersigned counsel, alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff Wells Fargo is a national banking association doing business in the State of South Carolina, including Aiken County. Pursuant to S.C. Code Section 33-15-10(b)(8), Wells Fargo is a legal entity collecting debts and/or enforcing mortgages, security interests, or other rights in property securing debts.

2. Wells Fargo has the legal right to enforce the negotiable instrument secured by the Mortgage and is the real party in interest as defined by Rule 17(a) of the South Carolina Rules of Civil Procedure.

3. Wells Fargo's servicing agent for the mortgage loan described in this foreclosure action participated in the Home Affordable Modification Program ("HAMP") but the subject

loan was not eligible for modification because the current unpaid principal balance of the mortgage loan exceeded HAMP's unpaid principal balance limits.

4. Defendant Michael G. Morgan is a resident of Aiken County, South Carolina.

5. The subject of this action is real property located in Aiken County, South Carolina, described as follows:

ALL that certain piece, parcel or lot of land, with the improvements thereon, containing 2.06 acres, more or less, located in the Southwestern Section of the City of Aiken, Aiken County, South Carolina, between and adjoining South Boundary Avenue and First Street and West of and adjoining Chesterfield Street, and being shown and designated on that certain plat prepared for John Ellis by Jones and Murph, P. L. Surveyors, dated September 1, 1988, and recorded in Book 524, page 224, Aiken County Records, and being bounded, now or formerly, and measuring, more or less, as follows: on the NORTH by South Boundary Avenue, 247.0 feet; EAST by Chesterfield Street, 363.8 feet; SOUTH by First Street 250.7 feet; and WEST by property now or formerly of Terfloth, 359.4 feet. Reference is made to said plat for a more complete and accurate description of said property.

The improvements thereon being commonly known as 415 South Chesterfield Street, Aiken, South Carolina 29801.

This being the same subject property conveyed to Michael G. Morgan from Harbour Capital Corporation by deed dated July 30, 2002 and recorded August 7, 2002 in Deed Book 2226 at Page 251 in the Office of Register Deeds for Aiken County.

Property Address: 415 Chesterfield Street South
Aiken, SC 29801

TMS# 105-12-05-003

6. Some lien or interest in the real estate, the subject of this action, may be claimed by the Defendants herein.

7. The Defendant(s) herein described as judgment creditors have by filing said judgments designated their attorney entering the judgment as their agent for service of process under the provisions of South Carolina Code Section 15-3 5-840.

8. Pursuant to the terms of the Mortgage and applicable state law, Wells Fargo requests the Mortgage be foreclosed and that the property be sold at public auction in accordance with law, subject to any liens for taxes, special assessments of record against such property, and existing easements or restrictions of record.

9. The hereinafter named Defendant(s) may have some interest in or lien upon the premises covered by the Mortgage set forth below, or some part thereof, but that such interests or liens are junior and subsequent to the lien of Wells Fargo's Mortgage, or, if specified below, have been paid in full and either should be satisfied of record or the lien released from the subject real estate. Said liens or interests are of record in the Office of the RMC or Clerk of Court of the aforesaid county and are described as follows:

a. Margaret H. Fitch, M.D., by virtue of a mortgage given by Michael G. Morgan in the amount of \$250,000.00, dated May 7, 2009, and recorded June 9, 2009 in Book RB 4260 at Page 224 7. Also including any other liens they may have.

b. Eric J. Olig, by virtue of a judgment against Michael Morgan in the amount of \$1,685.75, dated September 11, 2012 and recorded on October 12, 2012 in Judgment Roll No. 2012-CP-02-02520. Also including any other liens they may have.

c. Margaret H. Fitch, M.D., by virtue of a judgment against Michael G. Morgan in the amount of \$422,281.48, dated September 19, 2012 and recorded on September 19, 2012 in Judgment Roll No. 2011-CP-02-01051. Also including any other liens they may have.

d. The South Carolina Department of Revenue by virtue of a Tax Lien, including but not limited to, a lien against Michael Morgan; Tax Lien No.: 3-51026612-

2; Dated: April 13, 2009; Recorded: April 21, 2009; in the amount of \$15,609.90; in Judgment Roll No. SL-09-82089.

e. Linda Lawrence Bowen, by virtue of a judgment against Michael G. Morgan in the amount of \$112,300.00, dated February 18, 2013 and recorded on February 19, 2013 in Judgment Roll No. 2013-CP-02-424. Also including any other liens they may have.

FACTUAL ALLEGATIONS

10. On or about April 25, 2008, Defendant Michael G. Morgan made, executed, and delivered a certain Adjustable Rate Note ("Note") in the principal sum of One Million Three Hundred Thousand and No/100 Dollars (\$1,300,000.00), together with interest; payable in monthly installments commencing on June 15, 2008, and on the fifteenth day of each month thereafter until the Note is fully paid.

11. In order to secure the payment of the Note according to the terms and conditions thereof, Defendant Michael G. Morgan made, executed, and delivered unto Wachovia Mortgage, FSB a certain real estate Mortgage covering the previously-described property and any and all improvements to the property, including but not limited to a mobile/manufactured home. The Note and Mortgage are collectively referred to herein as the "Mortgage Loan."

12. The Mortgage was signed, witnessed, and probated April 25, 2008; thereafter the Mortgage was recorded in the Office of the RMC/ROD for Aiken County on May 6, 2008, in Mortgage Book RB 4201 at Page 1737.

13. Wells Fargo Bank, N.A. is successor by merger to Wachovia Mortgage, FSB.

14. Defendant Michael G. Morgan used the proceeds of the Mortgage Loan to pay off an existing mortgage loan to GRP Financial Services Group in the amount of \$1,264,790.62.

15. The legal description as shown on said Mortgage and described in Paragraph 5, is incorrect in its identification of plat reference. Upon review of the recorded documents related to the subject property, Wells Fargo is informed and believes that the legal description should read as follows:

ALL that certain piece, parcel or lot of land, with the improvements thereon, containing 2.06 acres, more or less, located in the Southwestern Section of the City of Aiken, Aiken County, South Carolina, between and adjoining South Boundary Avenue and First Street and West of and adjoining Chesterfield Street, and being shown and designated on that certain plat prepared for John Ellis by Jones and Murph, P.L. Surveyors, dated September 1, 1988, and recorded in Book 520, page 224, Aiken County Records, and being bounded, now or formerly, and measuring, more or less, as follows: on the NORTH by South Boundary Avenue, 247.0 feet; EAST by Chesterfield Street, 363.8 feet; SOUTH by First Street 250.7 feet; and WEST by property now or formerly of Terfloth, 359.4 feet. Reference is made to said plat for a more complete and accurate description of said property.

The improvements thereon being commonly known as 415 South Chesterfield Street, Aiken, South Carolina 29801.

This being the same subject property conveyed to Michael G. Morgan from Harbour Capital Corporation by deed dated July 30, 2002 and recorded August 7, 2002 in Deed Book 2226 at Page 251 in the Office of Register Deeds for Aiken County.

16. Defendant Michael G. Morgan has not made any payments on the Mortgage Loan since the payment made on May 1, 2011 and the Mortgage Loan is delinquent for all payments due and owing since June 15, 2011.

17. Despite having made no payments on the Mortgage Loan for over ten years, Defendant Michael G. Morgan has continued to reside at the property that is the subject of this action. During that same time period, Defendant Michael G. Morgan has not paid any amounts for taxes or insurance on the property that is the subject of this action.

**FIRST CAUSE OF ACTION
(Reformation of Mortgage to Correct Legal Description)**

18. Wells Fargo realleges and incorporates the allegations of paragraphs 1 through 17 as if fully set forth herein.

19. Wells Fargo is informed and believes it is entitled to reformation of its Mortgage so as to correct the plat reference in the legal description on the Mortgage to read as described in Paragraph 15.

**SECOND CAUSE OF ACTION
(Foreclosure of Mortgage)**

20. Wells Fargo realleges and incorporates the allegations of paragraphs 1 through 19 as if fully set forth herein.

21. This cause of action is for the foreclosure of the Mortgage described above.

22. The Mortgage evidences and secures the repayment of money advanced by Wells Fargo or its predecessor to, or on behalf of, the mortgagor(s) and constitutes a first lien on the mortgaged premises.

23. Any notice required by the terms of the Note and Mortgage or by state or federal laws has been given to the applicable Defendant(s).

24. After all payments received by Wells Fargo have been credited to the Mortgage Loan, the Mortgage Loan is in default and due for the June 15, 2011 payment, and the conditions of the Note and Mortgage have been broken. Wells Fargo elects to and does declare the entire balance of said indebtedness due and payable, and there is due on the Note and Mortgage as of June 15, 2011, the principal sum of \$1,334,347.63, with interest from May 15, 2011, advances, late charges, and also for the costs and disbursements of this action, including attorneys' fees.

25. Pursuant to the terms of the Mortgage, Wells Fargo has employed counsel to prosecute this action and a reasonable value of services of counsel in this action is such sum as the Court may find appropriate.

26. Wells Fargo may be forced to pay sums for taxes and insurance and costs for securing the property, which sums, according to the terms of the Mortgage, should be added to the amount of the debt.

27. Pursuant to South Carolina Code Sections 29-3-650 and 29-3-660, Wells Fargo specifically demands or reserves its right to a personal or deficiency judgment, unless heretofore or hereafter released, against the Notemaker(s) hereby obligated for the above-described debt.

**THIRD CAUSE OF ACTION
(Reformation of Mortgage Loan Documents)**

28. Wells Fargo realleges and incorporate the allegations of the preceding paragraphs 1 through 27 as if fully set forth herein.

29. To the extent Defendant Michael G. Morgan contends that any of the Mortgage Loan documents are unconscionable, which is denied, Wells Fargo asserts this claim for reformation as an alternative basis for relief.

30. The parties intended to provide Wells Fargo with a note secured by a first-lien mortgage on the subject property.

31. Through his counterclaim, Defendant Michael G. Morgan claims the loan was improperly closed and seeks relief declaring the transaction unconscionable.

32. If, as alleged in Defendant Michael G. Morgan's counterclaim, the transaction was improperly closed, it was due to mutual mistake of the parties or the unilateral mistake caused by the concealment or misrepresentation of Defendant Michael G. Morgan in the closing process.

33. Wells Fargo, therefore, seeks to have loan documents reformed to provide the first-lien mortgage the parties intended to provide Wells Fargo in the mortgage.

34. If Defendant Michael G. Morgan's counterclaim is resolved in his favor, Wells Fargo would suffer irreparable harm and prejudice if the loan documents are not reformed to give it the first-lien mortgage that the parties intended.

35. Upon reformation of the loan documents, Wells Fargo seeks an order from this Court quieting title and declaring that Wells Fargo's lien is a first-lien mortgage on the property with priority over any other liens or interests, known or unknown, which may have arisen after the recording date of the above-described Mortgage.

36. Wells Fargo seeks, should reformation be deemed necessary, to have this Court foreclose upon the subject property and sell the property at judicial sale, providing Wells Fargo with the monies from the foreclosure sale, and a deficiency judgment, should any amount owed remain, following the sale.

FOURTH CAUSE OF ACTION (Ratification)

37. Wells Fargo realleges and incorporates the allegations of the preceding paragraphs 1 through 36 as if fully set forth herein.

38. To the extent Defendant Michael G. Morgan contends that Wells Fargo is barred from pursuing an equitable foreclosure claim, which is denied, Wells Fargo asserts this ratification claim as an alternative basis for relief.

39. Defendant Michael G. Morgan received, retained, and accepted the benefits of the Mortgage Loan which is the subject of this action.

40. Defendant Michael G. Morgan received, retained, and accepted the benefits of the Mortgage Loan while having full knowledge of the facts of the Mortgage Loan transaction prior to his receipt, retention, and acceptance of the benefits of the Mortgage Loan transaction.

41. Defendant Michael G. Morgan did so as shown by the facts and circumstances of this case, or by making an affirmative election indicating an intention to adopt the Mortgage Loan transaction.

42. Consequently, Defendant Michael G. Morgan has ratified the Mortgage Loan which is the subject of this action, including the encumbrance of the Mortgage upon any interest he may own in the subject property.

43. Wells Fargo is entitled to an order of the Court confirming that its Mortgage encumbers the entire fee of the subject property, pursuant to the doctrine of ratification, and foreclosure of its mortgage, as referenced above.

FIFTH CAUSE OF ACTION
(Unjust Enrichment/Quantum Meruit/Quasi-Contract Implied by Law/Restitution)

44. Wells Fargo realleges and incorporates the allegations of paragraphs 1 through 43 as if fully set forth herein.

45. To the extent Defendant Michael G. Morgan contends that Wells Fargo is barred from pursuing an equitable foreclosure claim, which is denied, Wells Fargo asserts this claim as an alternative basis for relief.

46. The Mortgage and the facts and circumstances of this case, including the payoff of the prior mortgage on the property, and Wells Fargo's payment of taxes and insurance and costs of securing the property, created a debt, duty, or obligation owing from Defendant Michael G. Morgan to Wells Fargo.

47. Wells Fargo and its predecessor conferred a benefit upon Defendant Michael G. Morgan.

48. Defendant Michael G. Morgan realized value from the benefit in that he, among other things, used the proceeds of the Mortgage Loan to pay off an existing mortgage in excess of \$1,200,000, and has enjoyed the use of the property while refusing to repay the Mortgage Loan and refusing to pay the taxes and insurance on the property.

49. Defendant Michael G. Morgan has retained the benefits under circumstances that make it inequitable for him to retain them without paying their value.

50. Wells Fargo did not intend to confer and never conferred the benefit gratuitously on Defendant Michael G. Morgan. Wells Fargo never intended to payoff the existing mortgage loan, or for Defendant Michael G. Morgan to be able to reside at the property, without Defendant Michael G. Morgan repaying the principal and interest or paying the taxes and insurance on the property. Wells Fargo took actions in an effort to secure the repayment of the loaned funds by virtue of the Mortgage on the subject property.

51. Consequently, Wells Fargo is entitled to judgment against Defendant Michael G. Morgan for the value of the benefits bestowed upon him pursuant to the doctrines of unjust enrichment, quantum meruit, quasi-contract implied by law, and restitution. Wells Fargo is also entitled to foreclosure of this judgment.

**SIXTH CAUSE OF ACTION
(Equitable Lien and Foreclosure of Equitable Lien)**

52. Wells Fargo realleges and incorporates the allegations of paragraphs 1 through 51 as if fully set forth herein.

53. To the extent Defendant Michael G. Morgan contends that Wells Fargo is barred from pursuing an equitable foreclosure claim, which is denied, Wells Fargo asserts this equitable lien claim as an alternative basis for relief.

54. The Mortgage and the facts and circumstances of this case, including the payoff of the prior mortgage on the property and Wells Fargo's payment of taxes and insurance on the property, created a debt, duty, or obligation owing from Defendant Michael G. Morgan to Wells Fargo.

55. The obligation of Defendant Michael G. Morgan attaches to his interest, if any, in the subject real property.

56. The parties intended, expressly or impliedly, that the subject real property serve as security for the payment or obligation owing to Wells Fargo.

57. Consequently, Wells Fargo is entitled to an order of this Court establishing its equitable lien upon the subject property and allowing foreclosure of this lien. Wells Fargo is further entitled to judgment against Defendant Michael G. Morgan for the value of the benefits bestowed upon him in order to prevent his unjust enrichment and based upon the remedy of quantum meruit or restitution.

**SEVENTH CAUSE OF ACTION
(Equitable Mortgage and Foreclosure of Equitable Mortgage)**

58. Wells Fargo realleges and incorporates the allegations of the preceding paragraphs 1 through 57 as if fully set forth herein.

59. To the extent Defendant Michael G. Morgan contends that Wells Fargo is barred from pursuing an equitable foreclosure claim, which is denied, Wells Fargo asserts this equitable mortgage claim as an alternative basis for relief.

60. The Mortgage and the facts and circumstances of this case, including the payoff of the prior mortgage on the property and Wells Fargo's payment of taxes and insurance on the property, created a debt, duty, or obligation owing from Defendant Michael G. Morgan to Wells Fargo.

61. There exists a written document containing the terms and conditions of the Mortgage, which sufficiently identifies the lender, mortgagor, and mortgaged property.

62. Defendant Michael G. Morgan has an ownership interest in the property that can be subjected to a mortgage.

63. Under the facts and circumstances of this case and based on Defendant Michael G. Morgan's ratification of the Mortgage transaction both in fact and through the retention of the benefits described herein, was able to subject Defendant Michael G. Morgan's ownership interest in the property to a mortgage.

64. There exists a specific, identifiable debt or liability owed by Defendant Michael G. Morgan, either arising prior to the writing or from a loan made at the time of the writing, and the debt remains owing to Wells Fargo.

65. There was an exchange of consideration between the parties, *i.e.*, a benefit flowing to both Wells Fargo and Defendant Michael G. Morgan.

66. The parties intended to enter into a mortgage at the time of execution, as demonstrated under the facts and circumstances of this case and based on Defendant Michael G. Morgan's ratification of the Mortgage transaction both in fact and through the retention of the benefits described herein.

67. Consequently, Wells Fargo is entitled to an order of this Court establishing its equitable mortgage lien upon the subject property and allowing foreclosure of the mortgage lien.

68. Wells Fargo is further entitled to judgment against Defendant Michael G. Morgan for the value of the benefits bestowed upon him in order to prevent his unjust enrichment and based upon the remedy of quantum meruit or restitution.

**EIGHTH CAUSE OF ACTION
(Breach of Contract)**

69. Wells Fargo realleges and incorporates the allegations of the preceding paragraphs 1 through 59 as if fully set forth herein.

70. To the extent Defendant Michael G. Morgan contends that Wells Fargo is barred from pursuing an equitable foreclosure claim, which is denied, Wells Fargo asserts this breach of contract claim as an alternative basis for relief.

71. On April 25, 2008, Defendant Michael G. Morgan executed the Note in favor of Wells Fargo's predecessor, Wachovia Mortgage, FSB.

72. When Defendant Michael G. Morgan executed the Note, he promised to repay the principal sum of One Million Three Hundred and No/100 Dollars (\$1,300,000.00), plus interest, advances, late charges, and also for the costs and disbursements of this action, including attorneys' fees.

73. On or before June 15, 2011, Defendant Michael G. Morgan breached the terms of the Note by failing to make one or more of the required payments.

74. As a direct and proximate result of Defendant Michael G. Morgan's breach, Wells Fargo has incurred actual damages in the amount of unpaid principal, interest, advances, late charges, and also for the costs and disbursements of this action, including attorneys' fees.

WHEREFORE, having fully set forth its Complaint, Wells Fargo prays that the Court grant the following damages and relief:

1. As to its First Cause of Action, an order granting reformation of the Mortgage;

2. As to its Second Cause of Action, an order (a) directing the RMC/ROD to annotate the public records to reflect ownership of the Mortgage in Wells Fargo; (b) ascertaining and determining the amount due upon the Note and Mortgage held by Wells Fargo together with attorneys' fees and costs of this action; (c) declaring the Mortgage a first lien and rendering judgment of foreclosure for the amount so found to be due and owing thereon, together with any ad valorem taxes or insurance premiums which may be due and have been advanced by Wells Fargo, with reasonable attorneys' fees, and for the costs of this action; (d) ordering the reimbursement of all costs for inspecting and securing the property incurred by Wells Fargo as a result of the delinquency; (e) appointing a Receiver to collect the rents, issues, profits or designated sums from the mortgagor(s), and/or the grantee(s) of the mortgagor(s), and/or tenant(s) occupying or exercising control over the mortgaged premises and hold the same subject to the further order of this Court; (f) under the direction of this Court, selling the mortgaged premises, bar any equity of redemption, and applying the proceeds of sale as follows; first, to the costs and expenses of the within action and sale; second, to the payment and discharge of the amount due on the Note and Mortgage, together with attorneys' fees as aforesaid; and third, to the distribution of any surplus pursuant to Rule 71, SCRCF; and (g) directing the Sheriff of Aiken County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property should the same become necessary;

3. Alternatively, as to the Third Cause of Action, an order reforming the Mortgage Loan documents to provide a first-lien mortgage to Wells Fargo, quieting title and declaring that Wells Fargo's lien is a first-lien mortgage on the property with priority over any other liens or interests, known or unknown, which may have arisen after the recording date of the above-described Mortgage; and foreclosing upon the subject property and selling the property at

judicial sale, providing Wells Fargo with the monies from the foreclosure sale, and a deficiency judgment, should any amount owed remain, following the sale;

4. Alternatively, as to the Fourth Cause of Action, an order granting Wells Fargo judgment against Defendant Michael G. Morgan based on his ratification of the Mortgage Loan transaction and finding that the subject Mortgage encumbers the entire fee of the subject property, including any interest that Defendant Michael G. Morgan has in the subject property, and allowing foreclosure of the Mortgage lien;

5. Alternatively, as to the Fifth Cause of Action, an order granting Wells Fargo judgment against Defendant Michael G. Morgan based on the doctrines of unjust enrichment, quantum meruit, quasi-contract implied by law and restitution, and awarding damages to Wells Fargo; and further, a finding that the subject Mortgage encumbers the entire fee of the subject property, including any interest that Defendant Michael G. Morgan has in the subject property, and allowing foreclosure of the Mortgage lien;

6. Alternatively, as to the Sixth Cause of Action, an order granting Wells Fargo judgment against Defendant Michael G. Morgan based on her the doctrine of equitable lien and awarding damages to Wells Fargo; and further, a finding that the subject Mortgage encumbers the entire fee of the subject property, including any interest that Defendant Michael G. Morgan has in the subject property, and allowing foreclosure of the Mortgage lien;

7. Alternatively, as to the Seventh Cause of Action, an order granting Wells Fargo judgment against Defendant Michael G. Morgan based on the doctrine of equitable mortgage and awarding damages to Wells Fargo; and further, a finding the subject Mortgage encumbers the entire fee of the subject property, including any interest that Defendant Michael G. Morgan has in the subject property, and allowing foreclosure of the Mortgage lien; and

8. Alternatively, as to the Eight Cause of Action, an order granting Wells Fargo the damages caused by Defendant Michael G. Morgan's breach of the Note, including but not limited to unpaid principal, interest, advances, late charges, and also for the costs and disbursements of this action, including attorneys' fees;

9. For prejudgment interest at the statutory rate on the outstanding balance on the Mortgage Loan on June 15, 2011, the date the loan became delinquent because Defendant Michael G. Morgan refused to make any further payments; and

10. For such other and further relief as may be just and proper.

This 31st day of May 2022.

/s/ Stacie C. Knight

Stacie C. Knight

(S.C. Bar No. 77968)

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Attorneys for Plaintiff

Wells Fargo Bank, N.A.

STATE OF SOUTH CAROLINA
COUNTY OF

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-02-02849

Wells Fargo Bank, N.A.,

PLAINTIFF,

vs.

Michael G. Morgan, Margaret H. Fitch,
M.D.; Eric J. Olig, South Carolina
Department of Revenue, and Linda
Lawrence Bowen,

DEFENDANTS.

MICHAEL G. MORGAN'S
ANSWER AND COUNTERCLAIM TO
PLAINTIFF'S AMENDED COMPLAINT

Defendant Michael G. Morgan (hereinafter "Defendant" or "Morgan"), in this answer to the Plaintiff's amended complaint (hereinafter "the complaint"), answers and alleges as follows:

FOR A FIRST DEFENSE

1. Any allegation of the complaint not herein admitted, qualified, or explained is denied. Any allegations of the complaint subject of qualified admissions made herein are denied insofar as the allegations are not qualifiedly admitted, and any allegations of the complaint subject of any other qualifications or explanations herein are denied insofar as they are not otherwise qualified or explained.
2. Answering the allegations of paragraph 1 and 2 of the complaint, the Defendant admits, upon information and belief, that the Plaintiff is a corporation, does business in the State of South Carolina, including in Aiken County, and asserts that it is the owner of the note and mortgage at issue.

3. Answering the allegations of paragraph 3 of the complaint, the Defendant admits that the loan's service is a participant in the Home Affordable Modification Program, but Defendant denies the remaining allegations of the paragraph.
4. Answering the allegations of paragraph 4 of the complaint, the Defendant admits the same.
5. Answering the allegations of paragraph 5 of the complaint, the Defendant admits the same to the extent it accurately states the content of the mortgage document at issue.
6. Answering the allegations of paragraph 6 of the complaint, the Defendant admits that he owns the property subject of this lawsuit.
7. Answering the allegations of paragraph 7 of the complaint, the Defendant admits the same.
8. Answering the allegations of paragraph 8 of the complaint, the Defendant admits the Plaintiff requests what it requests, but denies the Plaintiff is entitled to what it requests.
9. Answering the allegations of paragraph 9 of the complaint, the Defendant denies the validity of any such claimed liens against his property.
10. Answering the allegations of paragraph 10 of the complaint, the Defendant admits the same and further alleges that this was a "Pick-a-Payment" note.
11. Answering the allegations of paragraph 11 of the complaint, the Defendant admits the same upon information and belief.
12. Answering the allegations of paragraph 12 of the complaint, the Defendant admits the same to the extent they are consistent with the public record.
13. Answering the allegations of paragraph 13 of the complaint, the Defendant admits the same to the extent they are consistent with the public record.

14. Answering the allegations of paragraph 14 of the complaint, the Defendant admits the same to the extent that such proceeds were actually so used.
15. Answering the allegations of paragraph 15 of the complaint, the Defendant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the same.
16. Answering the allegations of paragraph 16 of the complaint, the Defendant denies the same as stated.
17. Answering the allegations of paragraph 17 of the complaint, the Defendant admits that he has continued to reside on the property subject of this case.
18. Answering the allegations of paragraph 18 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
19. Answering the allegations of paragraph 19 of the complaint, the Defendant denies the same.
20. Answering the allegations of paragraph 20 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
21. Answering the allegations of paragraph 21 of the complaint, the Defendant admits the same to the extent that the complaint states a cause of action for the foreclosure of a mortgage.
22. Answering the allegations of paragraph 22 of the complaint, the Defendant admits the same upon information and belief.
23. Answering the allegations of paragraph 23 of the complaint, the Defendant denies the same.
24. Answering the allegations of paragraph 24 of the complaint, the Defendant denies the same.

25. Answering the allegations of paragraph 25 of the complaint, the Defendant admits that a law firm was hired to bring this lawsuit.
26. Answering the allegations of paragraph 26 of the complaint, the Defendant denies the same.
27. Answering the allegations of paragraph 27 of the complaint, the Defendant admits the Plaintiff demands what it demands but denies the Plaintiff is entitled to what it demands.
28. Answering the allegations of paragraph 28 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
29. Answering the allegations of paragraph 29 of the complaint, the Defendant admits that the Plaintiff is asserting the claim in the alternative.
30. Answering the allegations of paragraph 30 of the complaint, the Defendant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the same.
31. Answering the allegations of paragraph 31 of the complaint, the Defendant admits the same.
32. Answering the allegations of paragraph 32 of the complaint, the Defendant denies the same.
33. Answering the allegations of paragraph 33 of the complaint, the Defendant admits the Plaintiff seeks what it seeks but denies the Plaintiff is entitled to what it seeks.
34. Answering the allegations of paragraph 34 of the complaint, the Defendant denies the same.
35. Answering the allegations of paragraph 35 of the complaint, the Defendant admits the Plaintiff seeks what it seeks but denies the Plaintiff is entitled to what it seeks.

36. Answering the allegation of paragraph 36 of the complaint, the Defendant admits the Plaintiff seeks what it seeks but denies the Plaintiff is entitled to what it seeks.
37. Answering the allegations of paragraph 37 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
38. Answering the allegations of paragraph 38 of the complaint, the Defendant admits that the Plaintiff is asserting the claim in the alternative.
39. Answering the allegations of paragraph 39 of the complaint, the Defendant denies the same as written.
40. Answering the allegations of paragraph 40 of the complaint, the Defendant denies the same.
41. Answering the allegations of paragraph 41 of the complaint, the Defendant denies the same as written.
42. Answering the allegations of paragraph 42 of the complaint, the Defendant denies the same as written.
43. Answering the allegations of paragraph 43 of the complaint, the Defendant denies the same.
44. Answering the allegations of paragraph 44 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
45. Answering the allegations of paragraph 45 of the complaint, the Defendant admits that the Plaintiff is asserting the claim in the alternative.
46. Answering the allegations of paragraph 46 of the complaint, the Defendant denies the same as written.

47. Answering the allegations of paragraph 47 of the complaint, the Defendant denies the same as written.
48. Answering the allegations of paragraph 48 of the complaint, the Defendant denies the same as written.
49. Answering the allegations of paragraph 49 of the complaint, the Defendant denies the same.
50. Answering the allegations of paragraph 50 of the complaint, the Defendant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the same.
51. Answering the allegations of paragraph 51 of the complaint, the Defendant denies the same.
52. Answering the allegations of paragraph 52 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
53. Answering the allegations of paragraph 53 of the complaint, the Defendant admits the Plaintiff asserts the claim in the alternative.
54. Answering the allegations of paragraph 54 of the complaint, the Defendant denies the same as written.
55. Answering the allegations of paragraph 55 of the complaint, the Defendant denies the same.
56. Answering the allegations of paragraph 56 of the complaint, the Defendant denies the same as written.
57. Answering the allegations of paragraph 57 of the complaint, the Defendant denies the same.

58. Answering the allegations of paragraph 58 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
59. Answering the allegations of paragraph 59 of the complaint, the Defendant admits the Plaintiff asserts the claim in the alternative.
60. Answering the allegations of paragraph 60 of the complaint, the Defendant denies the same as written.
61. Answering the allegations of paragraph 61 of the complaint, the Defendant admits that the mortgage reads as it reads.
62. Answering the allegations of paragraph 62 of the complaint, the Defendant admits that he owns property that is capable of being mortgaged.
63. Answering the allegations of paragraph 63 of the complaint, the Defendant denies the same.
64. Answering the allegations of paragraph 64 of the complaint, the Defendant admits that the Plaintiff asserts it is owed mortgage debt in this case.
65. Answering the allegations of paragraph 65 of the complaint, the Defendant denies the same as written.
66. Answering the allegations of paragraph 66 of the complaint, the Defendant denies the same as written.
67. Answering the allegations of paragraph 67 of the complaint, the Defendant denies the same.
68. Answering the allegations of paragraph 68 of the complaint, the Defendant denies the same.

69. Answering the allegations of paragraph 69 of the complaint, the Defendant notes that no separate answer to this paragraph is necessary.
70. Answering the allegations of paragraph 70 of the complaint, the Defendant admits the Plaintiff asserts the claim in the alternative.
71. Answering the allegations of paragraph 71 of the complaint, the Defendant admits the same, upon information and belief.
72. Answering the allegations of paragraph 72 of the complaint, the Defendant admits that the note he signed reads as it reads.
73. Answering the allegations of paragraph 73 of the complaint, the Defendant denies this constituted what may be legally considered a breach of the note.
74. Answering the allegations of paragraph 74 of the complaint, the Defendant denies the same.
75. No answer to the prayer in the complaint is required.
76. Morgan notes that he desires and is interested in foreclosure intervention.

FOR A SECOND DEFENSE
(Dismissal – Rule 12(b)(6))

77. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.
78. The complaint fails to state facts sufficient to constitute a cause of action, especially one for reformation, ratification (and there is no such cause of action), unjust enrichment or any related cause of action, equitable lien or foreclosure thereof, equitable mortgage and foreclosure thereof, or breach of contract as claimed by the Plaintiff, and the complaint or part thereof should be dismissed.

FOR A THIRD DEFENSE
(Counterclaims as Defenses)

79. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.
80. All counterclaims asserted in this action are also asserted as defenses to the extent permitted by law.

FOR A FOURTH DEFENSE
(Unclean Hands)

81. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.
82. The Plaintiff (hereinafter “Wells Fargo”) (and its predecessor in interest) has engaged in such conduct with respect to the matters subject of his claims as to make its hands unclean with regard to its claims.
83. This conduct includes, but is not necessarily limited to, what is stated in this pleading.
84. This conduct relates directly to the subject matter of this action.
85. This conduct has proximately caused Morgan prejudice and injury.

FOR A FIRST COUNTERCLAIM
(Violation of Attorney Preference Statute with Unconscionability)

86. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.
87. With respect to the closing of the mortgage loan subject of this case, the original creditor did not comply with the attorney preference or insurance preference provisions of S.C. Code Ann. § 37-10-102.

88. Agents of the original creditor (Wells Fargo or its predecessor in interest), without the knowledge or permission of Morgan, falsified and forged Morgan's signature on documents relating to the application for and origination of the subject mortgage loan.
89. Agents of the original creditor (Wells Fargo or its predecessor in interest) knew that others, without the knowledge or permission of Morgan, falsified and forged Morgan's signature on documents relating to the application for and origination of the subject mortgage loan, yet they permitted this and went through with making the loan anyway.
90. All of this occurred without Morgan's knowledge.
91. No attorney licensed to practice law in South Carolina supervised the closing of the mortgage loan.
92. Instead, the original creditor (Wells Fargo or its predecessor in interest) had one person sent to Morgan's house with the closing documents, and only this person was present with Morgan at Morgan's signing of closing documents for this loan.
93. The loan subject of the mortgage was induced by unconscionable conduct, such conduct including, but not limited to, the following:
 - a. The unauthorized practice of law;
 - b. The deprivation of Morgan's right to choose his own, unconflicted counsel to represent him in the closing of the mortgage loan at issue;
 - c. Forgery and falsification of documents; and
 - d. Concealment of that forgery and falsification from Morgan.
94. For each violation of S.C. Code Ann. § 37-10-102, Morgan is entitled to recover all relief available under S.C. Code Ann. § 37-10-105, including the provided under S.C. Code

Ann. § 37-10-105(C), damages, attorney's fees, and penalties as provided in the South Carolina Consumer Protection Code.

WHEREFORE, Morgan prays for the court to:

- (a) Issue an order dismissing the complaint with prejudice;
- (b) Deny Wells Fargo the relief it seeks in this action;
- (c) Declare the notes(s) and mortgage(s) subject of this action to be void or unenforceable;
- (d) Enter judgment for Morgan for all relief available under S.C. Code Ann. § 37-10-105, including under S.C. Code Ann. § 37-10-105(C);
- (e) Enter judgment for Morgan reasonable attorney's fees;
- (f) Enter judgment for Morgan the costs and expenses of this action; and
- (g) Grant Morgan such other and further relief as the court deems just and proper.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
HARRISON, RADEKER & SMITH, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
(803) 779-6700 (facsimile)
drew@harrisonfirm.com (email)
ATTORNEY FOR DEFENDANT
MICHAEL G. MORGAN

Columbia, South Carolina
June 15, 2022

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN

CASE NO. 2015-CP-02-2849

WELLS FARGO BANK, N.A.

PLAINTIFF,

v.

MICHAEL G. MORGAN; MARGARET H.
FITCH, M.D.; ERIC J. OLIG; SOUTH
CAROLINA DEPARTMENT OF REVENUE;
LINDA LAWRENCE BOWEN,

DEFENDANTS.

AFFIDAVIT OF KATHRYN C. KNIGHT

I, Kathryn C. Knight, being duly sworn according to law, do hereby depose and state that the following is true to the best of my knowledge, information, and belief:

1. I am over 18 years of age, and I have personal knowledge of the facts stated in this Affidavit. I am also known as Stacie C. Knight.

2. I am an attorney-at-law duly authorized to practice in the State of South Carolina and am Of Counsel with Winston & Strawn LLP, counsel for Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo") in this matter.

3. Attached as Exhibit 1 is a true and correct copy of an order entered in the matter of *In re: Michael G. Morgan*, Case No. 23-02686-hb (Bankr. D.S.C. Apr. 9, 2024).

4. Attached as Exhibit 2 is a true and correct copy of the Declaration of Stacie C. Knight, with exhibits, filed in the matter of *In re: Michael G. Morgan*, Case No. 23-02686-hb (Bankr. D.S.C.), which I prepared.

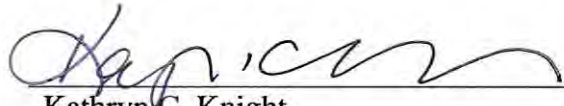
5. The statements in the Declaration of Stacie C. Knight are true and correct and are based on my personal knowledge and experience. I adopt the Declaration of Stacie C. Knight in its entirety as if fully set forth herein.

6. Attached as Exhibit 3 is a true and correct copy of the Stipulation Regarding Dismissal of Counterclaims, Consent to Foreclosure, and Waiver of Deficiency Judgment filed in this action on July 13, 2024.

7. Attached as Exhibit 4 is a true and correct copy of the Motion for Relief from the Automatic Stay (minus exhibits) filed by Wells Fargo Bank, N.A. in the matter of *In re: Michael G. Morgan*, Case No. 23-02686-hb (Bankr. D.S.C.).

8. Attached as Exhibit 5 is a true and correct copy of Debtor's Objection to Motion of Wells Fargo Bank, N.A. for Relief From the Stay filed by Michael G. Morgan in the matter of *In re: Michael G. Morgan*, Case No. 23-02686-hb (Bankr. D.S.C.).

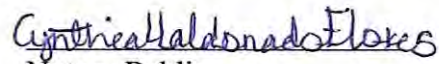
Executed this 12th day of August 2024.


Kathryn C. Knight

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

On this 12th day of August 2024, before me, the undersigned notary public, appeared Kathryn C. Knight, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is signed on the preceding or attached document, who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.


Notary Public

My Commission Expires: 6/24/29



EXHIBIT 1

U.S. BANKRUPTCY COURT
District of South Carolina

Case Number: **23-02686-hb**

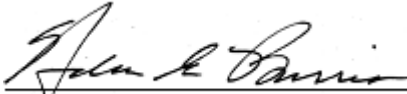
Order

The relief set forth on the following pages, for a total of 15 pages including this page, is hereby ORDERED.

FILED BY THE COURT
04/09/2024



Entered: 04/09/2024


Chief US Bankruptcy Judge
District of South Carolina

ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

Michael Gavin Morgan,

Debtor(s).

C/A No. 23-02686-HB

Chapter 11

ORDER

THIS MATTER came before the Court for hearing on the Motion to Dismiss pursuant to 11 U.S.C. § 1112¹ and the Motion for Relief from Stay pursuant to 11 U.S.C. § 362(d)(1)² (the “Motions”) filed by Wells Fargo Bank National Association (“Creditor”), and the response thereto. Michael Gavin Morgan (“Debtor”) was represented by W. Harrison Penn, and Creditor was represented by Glenn E. Glover, appearing *pro hac vice*, and G. Benjamin Milan, appearing as local counsel. Debtor testified and exhibits were admitted into evidence.

FINDINGS OF FACT

On or about April 25, 2008, Wachovia Mortgage FSB (“Wachovia”) made a loan (the “Loan”) to Debtor as evidenced by an adjustable rate note (the “Note”) executed by Debtor on the same date in the original amount of \$1,300,000.00. The maturity date of the Note is May 15, 2038. The Note was secured by a mortgage (the “Mortgage”) executed by Debtor in favor of Wachovia on the same date pursuant to which Debtor granted a lien on and security interest in real property located at 415 Chesterfield Street South, Aiken, South Carolina 29801 (the “Property”). The Mortgage was recorded on or about May 6, 2008, in the real property recording office in Aiken County, South Carolina at Book No. 4201, Page 1737. Creditor is the successor in interest to Wachovia.

¹ ECF No. 22, filed Jan. 11, 2024.

² ECF No. 23, filed Jan. 11, 2024.

Based on the Note and Mortgage, Debtor joined a class action suit against Creditor in 2010, which was settled in May of 2011, wherein borrowers were granted certain relief, but the debt is still due to Creditor and no payments have been made since 2011.

On or about December 2, 2015, Creditor filed a foreclosure action in the Court of Common Pleas for Aiken County, South Carolina (the “State Court”), Civil Action No. 2015-CP-02-2849 (the “Foreclosure Lawsuit”). Debtor filed a counterclaim. A mediation was held years later on March 31, 2023. Both parties were represented by counsel. The parties reached a resolution of their differences in principle, which was memorialized in an agreement (the “Mediation Agreement”) signed by Debtor, Drew Radeker (“Radeker”), Debtor’s counsel in the Foreclosure Lawsuit, Holly R. Stevens, Creditor’s Senior Company Counsel, and Stacie Knight, Creditor’s counsel. The key provisions were:

1. [Creditor] shall pay to [Debtor] . . . the sum of \$200,000.00 within thirty (30) days of this agreement.
2. [Creditor] will proceed with the foreclosure action uncontested by [Debtor], and [Debtor] will dismiss his counterclaims with prejudice. The judicial foreclosure sale will be set no sooner than September 1, 2023, and [Creditor] waives any deficiency judgment. [Debtor] shall have the right prior to the judicial foreclosure sale to pay \$1.3 million in certified funds or wired funds to [Creditor] to pay the note and mortgage in full....

On or about May 26, 2023, the parties executed a written Confidential Settlement Agreement and Release (the “Settlement Agreement”). The Settlement Agreement was signed by Debtor on May 24, 2023, and Holly Stevens (Creditor’s Senior Company Counsel) on May 26, 2023.

The Settlement Agreement as well as email communications between Debtor’s and Creditor’s State Court counsels were admitted into evidence without objection. In the email exchange admitted as Creditor’s exhibit 19, Radeker wrote on May 17, 2023, in part:

Please see the attached draft with changes. You’ll note that I change[d] the sales date from September 1 to September 5, since that’s the September sales day.

[Debtor] has also asked me to request that the sales date be moved to October. If [Creditor] will do that, that would be great, but you'll notice that I didn't put that proposed change in the document.

In her May 24, 2023, response, Stacie Knight wrote, "Drew, I accepted all your changes except the payment date in paragraph 8(b) - I changed it to September 4, 2023, by 11:59 p.m." The same day, Radeker responded, "Great. Thanks. That's just fine." Debtor signed that Settlement Agreement on May 24, 2023, and delivered it to his attorney. His attorney transmitted the Settlement Agreement to Creditor's counsel without any additional changes.

The final executed version of the Settlement Agreement, which includes Debtor's signature, was admitted as Creditor's exhibit 22, and states in paragraph 8:

- (a) [Creditor] agrees that a foreclosure sale of the Property will not occur before September 5, 2023.
- (b) On or before September 4, 2023 at 11:59 p.m. EST, [Creditor] will accept payment from or on behalf of [Debtor], in the form of certified funds or wire transfer, in the amount of One Million Three Hundred [sic] and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan....

Debtor testified he did not dispute the language of the Mediation Agreement, but that he did not execute this version of the Settlement Agreement and denied the payoff date of September 4, 2023, was part of the agreement. He stated he had handwritten changes to the Settlement Agreement he signed on May 24, 2023, before he returned the document to his attorney. Although Debtor could not recall all his proposed changes, he testified some of those changes included altering the foreclosure sale date, striking paragraph 3 which provided his counterclaims would be dismissed with prejudice, striking paragraph 12 which provided a release to Creditor, striking paragraphs 13 and 14 regarding confidentiality and non-disparagement clauses, and adding a provision that the agreement was not binding until he received the \$200,000.00 in settlement funds.³ The Settlement

³ Many of these alleged alterations were included in Debtor's July 12, 2023, Consumer Financial Protection Bureau Complaint admitted as Creditor's Exhibit 24.

Agreement transmitted to Creditor by Debtor's counsel and signed by Creditor on May 26, 2023, does not include the changes allegedly made by Debtor on May 24, 2023. Nothing was submitted into evidence to substantiate Debtor's claims that he made handwritten amendments to the Settlement Agreement. Debtor received the \$200,000.00 payment from Creditor on June 7, 2023.⁴ Debtor has not paid any amount to Creditor as a result of either the Mediation Agreement or the Settlement Agreement.

Debtor filed this Chapter 11 case on September 5, 2023. The Property serves as Debtor's residence and consists of an approximately 10,000 square-foot, 22-room house, built in 1840 situated on approximately 2 acres in downtown Aiken, South Carolina, a 17-stall barn, three paddocks, and a guest cottage.

In Schedule A, the Property's value is listed as \$2,900,000.00. In his Schedule A/B, Debtor also lists \$113,300.00 in deposit accounts, one of which belongs to Harbour Capital, a corporation solely owned by Debtor. In his Schedule D, Debtor listed the Loan as being in the amount of \$1,300,000.00 secured by the Property and did not indicate that the Loan was contingent, unliquidated, or disputed. Schedule D indicates the Property is also encumbered by a second mortgage in favor of Margaret H. Fitch in the approximate amount of \$250,000.00 (the "Second Mortgage").

Debtor's Schedule I indicates Debtor is not employed and reflects his only sources of income are Social Security in the amount of \$2,257.80 per month, and \$800.00 per month from "Carriage House Rental (no written lease)". In his Schedule J, Debtor lists net monthly income of negative \$5,907.20 without listing any monthly payment on the Loan.

⁴ Creditor's Exhibit 18.

On January 4, 2024, Creditor filed a Proof of Claim in the amount of \$2,176,448.70, secured by the Property with a pre-petition arrearage of \$1,169,802.80 and a variable interest rate of 6.91%. Debtor filed an Objection to Creditor's Claim on March 18, 2024, the day before this hearing, arguing:

to the extent that the claim is overstated and not representative of the Mediation Settlement Agreement reached between Claimant and the Debtor. The Debtor submits that Claimant's claim should be reduced and allowed as a first priority mortgage claim in the amount of \$1,300,000.

Based on Debtor's responses to the Motions and his testimony at the hearing, the Court understands that he believes that the \$1.3 million dollar figure from the Settlement Agreement did not expire on September 4, 2023 as stated, and that amount should be enforced until the time the foreclosure sale occurs, whenever that may be.

On March 4, 2024, six months after the case was filed staying the foreclosure proceeding, Debtor filed a Proposed Plan of Reorganization (the "Plan") and a Disclosure Statement. The overview of the means for effectuating Debtor's proposed plan in article IV provides:

The success of the Plan, and any significant recovery to the Creditors of the estate, is dependent upon the successful closing of a reverse mortgage on the Debtor's Residence, marketing and consummation of sales of the Debtor's assets and the Debtor's continued receipt of revenues shown in Exhibit 6 to the Disclosure Statement in this matter. The Debtor has begun marketing its assets and has received a commitment from two (2) insider family businesses for the continued payments of consulting fees so long as such insider businesses remain going concerns. Additionally, the Debtor currently holds in excess of \$33,350 in his DIP Banking account that will allow the Debtor to make the first Bi-Annual Plan Payment called for in this Plan. For the next three (3) years (2025 through 202026 [sic]), the Debtor's company Harbour Capital Corporation ("Harbour Capital") will also be receiving future advances, which will be the primary source of Bi-Annual Plan Payments called for in this Plan.

The Plan states: "Debtor is simultaneously working towards an agreement with Nationwide Equities and Longbridge Capital, LLC for a restructuring of the loan in the form of a reverse

mortgage on his Residence (as set forth in more detail hereinbelow).” The Plan proposes to address the Loan as follows:

Class 1. Wells Fargo Bank, N.A. (“Wells Fargo”) Secured, impaired.

Wells Fargo asserts a claim against the Debtor in the approximate amount of \$2,176,488.70, secured a [sic] first mortgage lien on the Debtor’s Residence. The Debtor disputes this claim and asserts that Wells Fargo has agreed to accept \$1,300,000 in full satisfaction of the mortgage claim at any time until just prior to the foreclosure of the Residence, as detailed in the Mediation Settlement Agreement.

Based upon the foregoing, Wells Fargo will receive payment of its allowed claim in full from the collateral upon the closing of the reverse mortgage. Upon confirmation of the Plan, and payment of the \$1,300,000 settlement price, Wells Fargo shall be deemed to have no remaining claims against the Debtor or his estate. The Debtor will close the reverse mortgage on the residence and pay Wells Fargo \$1,300,000, as soon as practicable during the course of this Plan.

At the hearing, two letters from reverse mortgage lenders Debtor had contacted were admitted into evidence. However, neither indicated Debtor had successfully obtained funding. The letter from Nationwide Equities stated Debtor had an active application for a reverse mortgage and that application was in the underwriting phase. Debtor testified he thought that application would be accepted and close within 30 days.

A letter from Longbridge Financial LLC merely reflected that Debtor had submitted an application but gave no indication as to the likelihood it would be approved. The letter included many notations about obvious issues that would need to be resolved before entering the underwriting process, many that appear insurmountable. Among the many conditions to funding listed, the letter states: “Platinum Exception by Sr. Management will be required to proceed with no FICO scores, Active Chapter 11 BK& current foreclosure”; “[a]ppraisal to be ordered within 20 days. . . [i]f not ordered the loan is to be adversely as a denial”; “[p]rovide satisfactory 24 month mortgage payment history for [Creditor Mortgage]”; provide evidence the 3 lis pendens have been discontinued, cancelled, and any judgment vacated by court order. It also included the impediment

of the Second Mortgage on the Property noting “[t]his is not currently reflected in RV as being paid at closing. Provide clarification if we will be paying off this lien or subordinating it at closing. If paying off, we will need current payoff. If subordinating it, we will need a copy of the subordination agreement along with the current loan agreement” and “[b]orrower to provide satisfactory as to who Margaret Fitch [Second Mortgage creditor] is and where she currently resides.”

The Plan addresses the Second Mortgage as follows:

Class 2. Margaret Fitch, MD (“Peggy Fitch”). Secured, impaired.

Peggy Fitch has not filed a proof of claim in this chapter 11 case. The Debtor has scheduled a claim for Dr. Fitch based upon her recorded mortgage in the amount of \$250,000. Accepting the Wells Fargo valuation for the Residence at \$1,480,000, the Debtor proposes to value the Dr. Fitch’s mortgage at \$180,000.

Class 2 will be paid \$180,000 in equal monthly installments from the Bi-annual Plan Payments. The Debtor will fund recovery for Class 2 from future advances paid to Harbour Capital by its long-term business investor/partners, or as necessary to fund repayment and liquidation of other assets.

To any extent Dr. Fitch asserts any deficiency claim against the Debtor, such claims will be treated as general unsecured claims (as set forth in more detail hereinbelow).

Note that Debtor values the Property in the plan at \$1,480,000.00, about half the \$2,900,000.00 value he listed for the Property in his schedules. In addition to seeking a reverse mortgage, Debtor testified he has considered selling the Property, and he showed it to potential buyers on two occasions in the last month. Debtor testified he obtained two appraisals of the Property in the last year, one of which valued it at approximately \$2.9 million and another at approximately \$3.1 million. However, Debtor further testified he has taken no action to list the Property because he believes that, due to its size, price, and location, it would not sell quickly.

Regarding funding to be received from Harbour Capital, the Plan provides:

The Debtor is in poor health, having long suffered from a degenerative spinal condition. Due to his physical condition, the Debtor is unable to find full time employment for the foreseeable future. However, Debtor continues to

generate modest revenue through his company Harbour Capital, Inc. (“Harbour Capital”). Harbour Capital continues to receive future advances for continued efforts to identify investment opportunities for long term clients in affordable housing. Though the original Schedules I and J filed in this matter indicated the Debtor had no significant disposable income to contribute to a plan of reorganization, the Debtor asserts that Harbour Capital will have future advances over the term of the Debtor’s Plan that will pay approximately \$200,000 as shown in **Exhibit 6** to the Disclosure Statement.

Exhibit 6 to the Disclosure Statement shows:

Exhibit 6 - Plan Implementation Budget

Income		Monthly	Annual
	Monthly Social Security Benefit	\$ 2,257.80	\$27,093.60
	Rental of Guest Cottage	\$ 800.00	\$9,600.00
	Future Advances Harbour Capital / Liquidation	\$ 10,416.67	\$125,000.00
		\$ 13,474.47	\$161,693.60
Expenses			
	Property Tax	\$ 701.00	\$8,412.00
	Property Insurance	\$ 766.00	\$9,192.00
	Home maintenance, repair, and upkeep	\$ 1,600.00	\$19,200.00
	Electrical	\$ 1,200.00	\$14,400.00
	Water	\$ 250.00	\$3,000.00
	Telephone / Internet	\$ 300.00	\$3,600.00
	Food and housekeeping	\$ 600.00	\$7,200.00
	Clothing/Laundry	\$ 75.00	\$900.00
	Personal care	\$ 80.00	\$960.00
	Medical and Dental	\$ 450.00	\$5,400.00
	Transportation / Gas	\$ 250.00	\$3,000.00
	Entertainment / Clubs	\$ 500.00	\$6,000.00
	Charity	\$ 25.00	\$300.00
	Life Insurance	\$ 650.00	\$7,800.00
	Vehicle Insurance	\$ 300.00	\$3,600.00
		\$ 7,747.00	\$92,964.00
Avaliable Funds			\$68,729.60
Bi-Annual Plan Payment			\$66,700.00

A significant portion of funding for Debtor’s plan comes from the proposed future advances from Harbour Capital, but no evidence before the Court gives any insight into Harbour Capital or its financial situation. At the hearing, Debtor failed to offer clear or credible testimony, and offered no documentation, convincing the Court that Harbour Capital can generate any income after being essentially defunct for nearly 10 years. Debtor retired a number of years ago, as he

stated at the hearing, in part because the majority of his business partners had either retired or died. He further failed to offer sufficient information regarding how the company operates, who the clients/investors are, or any other information lending credibility to the proposed income value. Debtor testified that any income he has received from Harbour Capital since 2016 has been an “advance” to shareholders, with Debtor being the sole shareholder. No advances were reflected on Debtor’s Schedules or Statements.

DISCUSSION AND CONCLUSIONS OF LAW

I. The Settlement Agreement is Enforceable.

“Acts of an attorney are directly attributable to and binding upon the client. Absent fraud or mistake, where attorneys of record for a party agree to settle a case, the party cannot later repudiate the agreement.” *Shelton v. Bressant*, 312 S.C. 183, 184-85, 439 S.E.2d 833, 834 (1993) (quoting *Arnold v. Yarborough*, 281 S.C. 570, 572, 316 S.E.2d 416, 417 (Ct. App. 1984)) (holding that a litigant’s “contention that the suit was not settled according to his instructions [did] not entitle him to rescind the agreement.”). Any communication failure or mistake on the part of an attorney is directly attributable to his client. *See Kirkland v. Moseley*, 109 S.C. 477, 96 S.E. 608 (1918) (a party cannot set aside settlement agreement signed pursuant to attorney’s erroneous legal advice); *see also Graham v. Town of Loris*, 272 S.C. 442, 451, 248 S.E.2d 594, 598 (1978) (“The general rule in this jurisdiction is that the neglect of the attorney is attributable to the client.”).

When a litigant voluntarily accepts an offer of settlement, either directly or indirectly through the duly authorized actions of his attorney, the integrity of the settlement cannot be attacked on the basis of inadequate representation by the litigant’s attorney. In such cases, any remaining dispute is purely between the party and his attorney.

Shelton at 185, 439 S.E.2d at 834 (quoting *Petty v. The Timken Corp.*, 849 F.2d 130, 133 (4th Cir. 1988)).

There is no dispute that Debtor's attorney in the Foreclosure Lawsuit transmitted the Settlement Agreement to opposing counsel bearing Debtor's signature and the opposition relied on that Settlement Agreement, Creditor made the \$200,000.00 payment that Debtor accepted in exchange for the releases set forth therein, and otherwise relied on the agreement. There is nothing in the record sufficient to convince the Court that there was a mistake or fraud sufficient to repudiate the agreement. Debtor is bound by the Settlement Agreement. The Settlement Agreement provides that the opportunity to settle the debt for \$1.3 million expired on September 4, 2023, at 11:59 p.m., and therefore, Debtor's reliance on the \$1.3 million payoff figure after that date is misplaced.

II. Relief From the Automatic Stay — 11 U.S.C. § 362(d)(1)

Under § 362(d)(1), relief from the automatic stay may be granted by the Court upon a showing of "cause." "Because the Code provides no definition of what constitutes 'cause,' courts must determine when discretionary relief is appropriate on a case-by-case basis." *In re Robbins*, 964 F.2d 342, 345 (4th Cir. 1992). Bankruptcy judges have broad discretion in determining what constitutes sufficient cause to grant relief from stay under section 362(d)(1). *In re Lee*, 428 B.R. 667, 669-70 (Bankr. D.S.C. 2009) (citing *In re Breibart*, No. 03-07440-W, slip op. at 2 (Bankr. D.S.C. Feb. 17, 2004)); *see also Robbins*, 964 F.2d at 345.

Debtor has made no payment toward Creditor's debt since this case was filed on September 5, 2023. A confirmation hearing has not yet been held for the plan filed on March 4, 2024. However, the Court need not wait until a confirmation hearing before considering whether Debtor has or can propose a feasible Chapter 11 plan. The failure or inability to do so may constitute

“cause” to lift the automatic stay under § 362(d)(1). *In re Smith*, 333 B.R. 94, 102 (Bankr. M.D.N.C. 2005) (citing *In re Brown*, No. 97-5302, 1998 WL 734701, at *5-6 (E.D. Pa. Oct. 19, 1998); *Centofante v. CBJ Dev. (In re CBJ Dev.)*, 202 B.R. 467, 473 (9th Cir. BAP 1996); *In re Gulph Woods Corp.*, 84 B.R. 961, 974-75 (Bankr. E.D. Pa. 1988)).

“Confirmation of a Chapter 11 plan of reorganization requires that the plan satisfy all of the confirmation criteria set forth in 11 U.S.C. § 1129(a).” *Behrmann v. Nat’l Heritage Found.*, 663 F.3d 704, 709 (4th Cir. 2011) (citation omitted). One of the requirements in § 1129(a) is that “[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.” 11 U.S.C. § 1129(a)(11). In other words, the plan must be *feasible*. *In re A.H. Robins Co., Inc.*, 880 F.2d 694, 698 (4th Cir. 1989). For a Chapter 11 plan to be feasible, “[i]t is not necessary that success be guaranteed, but only that the plan present a workable scheme of organization and operation from which there may be a reasonable expectation of success.” *In re Walker*, 165 B.R. 994, 1004 (E.D. Va. 1994) (quoting *In re Drexel Burnham Lambert Group, Inc.*, 138 B.R. 723, 762 (Bankr. S.D.N.Y. 1992)). “The test is whether the things which are to be done after confirmation can be done as a practical matter under the facts.” *Id.* (quoting *In re Hoffman*, 52 B.R. 212, 215 (Bankr. D.N.D. 1985)).

The Court in *In re Smith*, 333 B.R. 94 (Bankr. M.D.N.C. 2005) found the plan, which relied on the success of the debtors’ business, was not feasible under § 1129(a)(11) and relief from the automatic stay was appropriate, noting that the plan proposed was overly optimistic regarding future revenue and the ability to pay, and that compliance with the proposed plan was highly unlikely. The same is evident here. The Court finds little to no evidence that this Debtor’s Plan is feasible, or that Debtor could propose a feasible plan. The evidence provided to the Court fails

to offer any indication that Debtor will be able to effectively reorganize through the methods set forth in the plan. Debtor is bound by the Settlement Agreement and not entitled to the \$1.3 million payoff figure he claims, but if he was, there is no reason to believe he can pay even this lesser amount. Debtor's sources of income listed in his schedules—Social Security and rental income—are clearly inadequate to fund the plan, as his schedules reflect significantly negative net monthly income without even accounting for payments on the Loan. As noted above, there is no indication that Harbour Capital can provide sufficient, or any, funding for the plan proposed. Further, there is no evidence Debtor is likely to obtain a reverse mortgage. The letters from the potential reverse mortgage lenders produced at the hearing do not indicate that Debtor's financing is likely to be approved. The letter from Nationstar is simply insufficient to indicate anything other than that Debtor filed an application, and the myriad issues listed in Longbridge's application appear to pose an insurmountable obstacle to obtaining approval. As Debtor has failed to demonstrate any viable reorganization in prospect, relief from stay is warranted pursuant to § 362(d).

III. Motion to Dismiss — 11 U.S.C. § 1112(b)(1)

11 U.S.C. § 1112(b)(1) provides:

Except as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate.

Though not explicitly listed in the statute, bad faith in filing the petition may constitute “cause” for purposes of § 1112(b). *Carolin Corp. v. Miller*, 886 F.2d 693, 699 (4th Cir. 1989). “The right to file a Chapter 11 bankruptcy petition is conditioned upon the debtor's good faith—the absence of which is cause for summary dismissal.” *In re Premier Auto. Servs., Inc.*, 492 F.3d 274, 279 (4th Cir. 2007) (citing *Carolin*, 886 F.2d at 698). “[A] good faith requirement prevents

abuse of the bankruptcy process by debtors whose overriding motive is to delay creditors without benefitting them in any way or to achieve reprehensible purposes.” *Id.* (internal quotations omitted) (quoting *Carolin*, 886 F.2d at 698). “The good faith standard also ‘protects the jurisdictional integrity of the bankruptcy courts by rendering their powerful equitable weapons (*i.e.*, avoidance of liens, discharge of debts, marshaling and turnover of assets) available only to those debtors and creditors with clean hands.” *Id.* (quoting *Carolin*, 886 F.2d at 698).

In the Fourth Circuit, “a lack of good faith in filing a Chapter 11 petition traditionally requires a showing of ‘objective futility’ and ‘subjective bad faith.’” *Id.* at 279-80 (citing *Carolin*, 886 F.2d at 700-01). “The objective test focuses on whether there exists the realistic possibility of an effective reorganization.” *In re Auto Money N. LLC*, 650 B.R. 245, 257 (Bankr. D.S.C. 2023) (quoting *Premier*, 492 F.3d at 280) (internal quotation marks omitted). Put another way, the objective test “concentrate[s] on assessing whether ‘there is no going concern to preserve...and...no hope of rehabilitation, except according to the debtor’s terminal euphoria.’” *Carolin*, 886 F.2d at 701-02 (internal quotation marks omitted) (quoting *Little Creek Dev. Co. v. Commonwealth Mortg. Corp. (In the Matter of Little Creek Dev. Co.)*, 779 F.2d 1068, 1073 (5th Cir. 1986)). “The objective futility requirement is designed to further the statutory objective of reviving the debtor[.]” *Minority Equity S’holders of Yachting Connections, Inc. v. Resol. Tr. Corp. (In re Yachting Connections, Inc.)*, No. 92-1493, 1992 WL 372947, at *1 (4th Cir. Dec. 18, 1992) (citation omitted). On the other hand, “[t]he subjective test asks whether a Chapter 11 petition is motivated by an honest intent to effectuate reorganization or is instead motivated by some improper purpose.” *Premier*, 492 F.3d at 280 (citation omitted). “Subjective bad faith is shown where a petition is filed to abuse the reorganization process, or to cause hardship or to delay creditors by resort to the Chapter 11 device merely for the purpose of invoking the automatic stay.”

Id. (internal quotation marks and citations omitted). “The power to dismiss a bankruptcy petition at the outset of a case ‘is obviously one to be exercised with great care and caution. Decisions denying access at the very portals of bankruptcy, before an ongoing proceeding has even begun to develop the total shape of the debtor’s situation, are inherently drastic and not lightly to be made.’” *In re Bestwall LLC*, 605 B.R. 43, 48 (Bankr. W.D.N.C. 2019) (quoting *Carolin*, 886 F.2d at 700).

For the same reasons the Court finds the Plan is not feasible, the Court concludes the Plan is objectively futile.

Regarding subjective bad faith, there is some evidence Debtor’s bankruptcy filing was motivated by the improper purpose of delaying the seemingly inevitable foreclosure on his residence. Debtor has failed to make any payments on the Loan since 2011 and accepted \$200,000.00 in settlement funds shortly before filing in return for execution of the Settlement Agreement, which provided that “[Creditor] will proceed with the foreclosure action uncontested by [Debtor],” and then filed this bankruptcy case on the eve of foreclosure. However, on the evidence currently before the Court, it appears the objective futility and lack of feasibility of Debtor’s proposed plan may be more the result of Debtor’s failure to deal with reality and “terminal euphoria”⁵ than of bad faith, and therefore dismissal pursuant to § 1112 is denied.

IT IS, THEREFORE, ORDERED:

1. Wells Fargo’s Motion for Relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) is granted, and Wells Fargo may pursue any remedies it has under state law, including foreclosure, with respect to the property located at 415 Chesterfield Street South, Aiken, South Carolina 29801; and
2. Wells Fargo’s Motion to Dismiss pursuant to 11 U.S.C. § 1112 is denied.

⁵ *Carolin*, 886 F.2d at 701-02 (internal quotation marks omitted) (quoting *Little Creek Dev. Co.*, 779 F.2d at 1073).

EXHIBIT 2

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

In re:)
)
MICHAEL GAVIN MORGAN,) **Chapter 11**
)
) **Case No.: 23-02686-hb**
Debtor.)

DECLARATION OF STACIE C. KNIGHT

I, Stacie C. Knight, declare as follows:

1. I am over the age of twenty-one (21) years and I am competent to testify to the matters contained herein.

2. I am an attorney with Winston and Strawn LLP ("Winston & Strawn") in its Charlotte, North Carolina office.

3. This Declaration is given on the basis of my personal knowledge and review of the documents set forth below. I have personal knowledge of the facts contained herein with respect to the matters referenced herein based upon my review of Winston & Strawn's records. I have personally reviewed the documents relied on to make the statements in this Declaration.

4. I have access to certain records, including without limitation electronic mail ("email"), that Winston and Strawn uses to maintain, record, and create information related to litigation on behalf of its clients.

5. These records are kept in the course of Winston & Strawn's regularly conducted business activities and it is the regular practice of Winston & Strawn to keep these records. It is Winston & Strawn's custom and practice that all records are maintained in the regular course of Winston & Strawn's business as a law firm. It is the regular practice of Winston & Strawn to make such records and rely on those records in the ordinary course of its business.

6. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Michael G. Morgan (the “Debtor”) in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849. Mr. Morgan asserted a counterclaim, which together with the Complaint, any amendments to the Complaint and/or counterclaim, cross-claims, third-party claims, interventions, removals, and appeals, is referred to herein as the “Litigation.”

7. I, along with counsel from Rogers Townsend LLC, represented Wells Fargo in the Litigation.

8. On March 31, 2023, Wells Fargo and the Debtor participated in a 7-hour, in-person mediation with mediator Karl A. Folkens. The mediation was successful and the parties reached an agreement in principle.

9. At the close of the meditation session, the parties entered into a *Mediated Settlement Agreement* (the “MSA”). The MSA was executed by (1) the Debtor; (2) the Debtor’s attorney, Mr. Andrew S. Drew Radeker (“Mr. Radeker”) of Harrison Radeker & Smith P.A. in Columbia, South Carolina; (3) Ms. Holly R. Stevens, a Wells Fargo representative; and (4) me. A true and correct copy of the MSA is attached hereto as **Exhibit A-1**.

10. Broadly speaking, the Mediated Settlement Agreement provided as follows: (1) Wells Fargo would make a cash payment to the Debtor within thirty (30) days (the “Settlement Payment”); (2) the Debtor would not contest the foreclosure and would dismiss his counterclaim with prejudice; (3) Wells Fargo would accept a short payment on the mortgage loan secured by the Debtor’s property no later than September 1, 2023; (4) if the Debtor failed to make the short payment by September 1, 2023, Wells Fargo would proceed with the foreclosure sale of the

Debtor's property. See **Exhibit A-1**. In the Mediated Settlement Agreement, the parties acknowledged "that a more comprehensive release will be executed incorporating the terms of this Agreement." *Id.* The Debtor was also informed that he would be required to execute a W-9 in order to receive the Settlement Payment. *Id.*

11. On April 2, 2023, the Debtor's counsel, Mr. Radeker, informed the court of the settlement and asked the court to cancel the trial, which was scheduled to begin on April 24, 2023.

12. I drafted a proposed *Confidential Settlement Agreement and Release* and sent it to Mr. Radeker for review on April 18, 2023. True and correct copies of my transmittal email and attachment are attached at **Exhibit A-2**.

13. The original draft of the settlement agreement I sent to Mr. Radeker on April 18, 2023 provided that a check representing the Settlement Payment would be sent within thirty (30) days of the latter of (a) my receipt of a formal settlement agreement executed by the Debtor; and (b) my receipt of executed 2023 W-9 tax forms for the Debtor and his counsel, Mr. Radeker. See *id.*

14. Mr. Radeker responded with two proposed edits on April 21, 2023, and indicated that the Debtor might have additional changes. True and correct copies of Mr. Radeker's email and his proposed changes to the settlement agreement are attached at **Exhibit A-3**.¹ Mr. Radeker's edits struck the Debtor as a payee of the settlement check, struck the provision requiring the Debtor to execute a W-9, and changed the date of the Settlement Payment to April 30, 2023, which was the date set forth in the Mediated Settlement Agreement. See *id.*

¹ The second attachment to Mr. Radeker's email was a copy of the Mediated Settlement Agreement.

15. On April 21, 2023, I tried to reach Mr. Radeker by telephone at his office to discuss his proposed changes to the settlement agreement. I left Mr. Radeker a voicemail and asked him to call me. I followed up with an email to Mr. Radeker in which I explained that the Debtor needed to remain a payee of the settlement check and that he would need to execute a W-9. I also explained that, without an executed settlement agreement and W-9s, Wells Fargo could not order the settlement check, but that as soon as the documents were executed, Wells Fargo could expedite the request for the settlement check. I told Mr. Radeker that these contingencies necessitated at least a 14-day payment window. True and correct copies of my email and attachment are attached at **Exhibit A-4**.

16. Mr. Radeker returned my telephone call during the afternoon of April 21, 2023, but we were not able to speak as I was on another call at the time. Mr. Radeker sent me an email at 2:20 p.m. on April 21, 2023 wherein he indicated that having both his firm and the Debtor as the payee of the settlement check was acceptable, but he wanted to keep the April 30, 2023 payment date. A true and correct copy of the email I received from Mr. Radeker is attached as **Exhibit A-5**.

17. I reached Mr. Radeker by telephone during the afternoon of April 21, 2023. During that conversation, I explained that Wells Fargo could not order the settlement check without an executed formal settlement agreement and W-9 from the Debtor. I also explained that, because the Debtor had not executed a formal settlement agreement or a W-9, Wells Fargo could not order the settlement check and thus could not agree, in a formal settlement agreement, to make the Settlement Payment by April 30, 2023. I informed Mr. Radeker that Wells Fargo had every intention of making the Settlement Payment and that, as soon as the Debtor signed the settlement agreement and a W-9, Wells Fargo would submit an expedited request for the

settlement check, and that if the Debtor executed the documents that day (April 21, 2023), he would in all likelihood have his Settlement Payment within ten days, *i.e.*, by May 1, 2023, but in any event no later than May 5, 2023. Mr. Radeker replied that he would ask the Debtor to execute the version of the settlement agreement containing the 14-day payment window.

18. I followed up with Mr. Radeker by email on April 24, 2023. My email attached a proposed settlement agreement with a 14-day payment window. True and correct copies of my email and attachment are attached at **Exhibit A-6**. Mr. Radeker responded that the Debtor was out of town and that he would not be able to respond to me before the next day at the earliest. A true and correct copy of Mr. Radeker's email is attached as **Exhibit A-7**.

19. I did not hear from Mr. Radeker until May 10, 2023, when he sent me an email stating: "Just trying to keep you in the loop here. Mike [Debtor] wants some changes to the agreement document, and I'm working on getting him to approve them so I can send to you by tomorrow. I want to get this wrapped up." Later that day, Mr. Radeker sent me a W-9 executed by the Debtor. True and correct copies of those emails are attached at **Exhibit A-8**.²

20. On May 12, 2023, I followed up with Mr. Radeker by email. A true and correct copy of my email is attached as **Exhibit A-8**.

21. On May 17, 2023, Mr. Radeker sent me an email with proposed revisions to the proposed settlement agreement I had emailed him on April 24, 2023. True and correct copies of Mr. Radeker's email and attachment are attached at **Exhibit A-9**.

22. I accepted all of Mr. Radeker's revisions to the proposed settlement agreement except one. I did not accept the proposed changes to the timing of the short-payoff, which I left

² Due to privacy concerns, I have not included a copy of the Debtor's executed W-9, which was attached to Mr. Radeker's second email to me on May 10, 2023.

as September 4, 2023 by 11:59 p.m. I sent my revisions to Mr. Radeker on May 24, 2023. Mr. Radeker responded, "Great. That's just fine." True and correct copies of my transmittal email and attachment, and Mr. Radeker's response, are attached at **Exhibit A-10**.

23. On May 25, 2023, I received by email from Mr. Radeker in which he stated, "Stacie, attached is the agreement signed by Mr. Morgan." True and correct copies of Mr. Radeker's email and the attachment are attached at **Exhibit A-11**.

24. On May 25, 2023, I emailed the settlement agreement, executed by the Debtor, to Wells Fargo for execution.

25. On May 30, 2023, Wells Fargo emailed me the settlement agreement, executed by Wells Fargo.

26. On May 30, 2023, I sent a copy of the fully executed settlement agreement (that is, executed by both Wells Fargo and the Debtor) to Mr. Radeker. A true and correct copy of my email along with the fully executed settlement agreement that was attached to it are attached at **Exhibit A-12**.

27. On June 7, 2023, my office sent the check representing the Settlement Payment (made out to the Debtor and Mr. Radeker's firm), to Mr. Radeker. True and correct copies of the transmittal letter and check, which were sent via Federal Express, overnight delivery, are attached hereto as **Exhibit A-13**. I also sent Mr. Radeker a copy of the transmittal letter and check via email. A true and correct copy of my email (minus the attachment) is attached as **Exhibit A-14**.

I declare under penalty of perjury that the foregoing is true and correct.

Executed the 11th day of March 2024.



Stacie C. Knight

EXHIBIT A-1

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

CIRCUIT COURT

WELLS FARGO BANK, N.A. V. MICHAEL G. MORGAN; ET AL.

Docket No. 2015-CP-02-02849

MEDIATED SETTLEMENT AGREEMENT

As a result of mediation, the parties have agreed as follows:

1. Plaintiff shall pay to Defendant Michael G. Morgan (herein "Defendant") the sum of \$200,000.00 within thirty (30) days of this agreement.
2. Plaintiff will proceed with the foreclosure action uncontested by Defendant, and Defendant will dismiss his counterclaims with prejudice. The judicial foreclosure sale will be set no sooner than September 1, 2023, and Plaintiff waives any deficiency judgment. Defendant shall have the right prior to the judicial foreclosure sale to pay \$1.3 million in certified funds or wired funds to Plaintiff to pay the note and mortgage in full. As to the credit reporting, the account has had no credit reporting since December 2020. Should any foreclosure be reported, Plaintiff will request that the trade line will be deleted. Defendant further acknowledges that Plaintiff's obligations include only reporting to the Credit Reporting Agencies, and that Plaintiff shall not be responsible in any way if the Credit Reporting Agencies do not adjust Defendant's credit report or score based on Plaintiff's reporting of the loan at issue in this litigation.
3. The parties will execute a general mutual release releasing the other and the other's employees, agents, attorneys, insurers and related parties from all claims and damages.
4. The release will include a comprehensive contractual confidentiality and non-disparagement provision for which the sum of \$100.00 paid pursuant to paragraph 1 is allocated. The parties acknowledge that a more comprehensive release will be executed incorporating the terms of this Agreement. The parties intend for this Agreement to be enforceable by the Court, and if any material term is omitted, the Court shall determine what is reasonable rather than voiding this Agreement.
5. The parties shall equally divide the costs of the mediation two ways.

Michael Morgan

Michael Morgan (Mar 31, 2023 16:57 EDT)

Holly R Stevens

Holly R Stevens (Mar 31, 2023 16:59 EDT)

Drew Radeker

Drew Radeker (Mar 31, 2023 16:55 EDT)

Stacie Knight

Stacie Knight (Mar 31, 2023 17:03 EDT)

March 31, 2023

MA23-029

MA23-029 Mediated Settlement Agreement

Final Audit Report

2023-03-31

Created:	2023-03-31
By:	Karl Folkens (karl@folkenslaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAKJv3o-9FaLIZ_NXUANvr5HYIeelFczTv

"MA23-029 Mediated Settlement Agreement" History

-  Document created by Karl Folkens (karl@folkenslaw.com)
2023-03-31 - 8:53:14 PM GMT- IP address: 4.4.234.3
-  Document emailed to morganmchl@aol.com for signature
2023-03-31 - 8:53:46 PM GMT
-  Document emailed to Drew Radeker (drew@harrisonfirm.com) for signature
2023-03-31 - 8:53:46 PM GMT
-  Document emailed to holly.stevens@wellsfargo.com for signature
2023-03-31 - 8:53:46 PM GMT
-  Document emailed to sknight@winston.com for signature
2023-03-31 - 8:53:46 PM GMT
-  Email viewed by Drew Radeker (drew@harrisonfirm.com)
2023-03-31 - 8:54:33 PM GMT- IP address: 24.172.42.58
-  Document e-signed by Drew Radeker (drew@harrisonfirm.com)
Signature Date: 2023-03-31 - 8:55:03 PM GMT - Time Source: server- IP address: 24.172.42.58
-  Karl Folkens (karl@folkenslaw.com) added alternate signer radekerdrew@gmail.com. The original signer morganmchl@aol.com can still sign.
2023-03-31 - 8:56:10 PM GMT- IP address: 4.4.234.3
-  Document emailed to radekerdrew@gmail.com for signature
2023-03-31 - 8:56:10 PM GMT
-  Email viewed by radekerdrew@gmail.com
2023-03-31 - 8:56:25 PM GMT- IP address: 66.249.88.144
-  Signer radekerdrew@gmail.com entered name at signing as Michael Morgan
2023-03-31 - 8:57:20 PM GMT- IP address: 24.172.42.58



Adobe Acrobat Sign

-  Document e-signed by Michael Morgan (radekerdrew@gmail.com)
Signature Date: 2023-03-31 - 8:57:22 PM GMT - Time Source: server- IP address: 24.172.42.58
-  Email viewed by holly.stevens@wellsfargo.com
2023-03-31 - 8:58:19 PM GMT- IP address: 159.45.22.11
-  Signer holly.stevens@wellsfargo.com entered name at signing as Holly R Stevens
2023-03-31 - 8:59:09 PM GMT- IP address: 159.45.22.11
-  Document e-signed by Holly R Stevens (holly.stevens@wellsfargo.com)
Signature Date: 2023-03-31 - 8:59:11 PM GMT - Time Source: server- IP address: 159.45.22.11
-  Email viewed by sknight@winston.com
2023-03-31 - 9:01:56 PM GMT- IP address: 64.53.92.162
-  Signer sknight@winston.com entered name at signing as Stacie Knight
2023-03-31 - 9:03:37 PM GMT- IP address: 64.53.92.162
-  Document e-signed by Stacie Knight (sknight@winston.com)
Signature Date: 2023-03-31 - 9:03:39 PM GMT - Time Source: server- IP address: 64.53.92.162
-  Agreement completed.
2023-03-31 - 9:03:39 PM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.

EXHIBIT A-2

From: [Knight, Stacie C.](#)
To: [Drew Radeker](#)
Subject: Morgan - Settlement Agreement
Date: Tuesday, April 18, 2023 10:49:41 PM
Attachments: [Settlement Agreement \(18337715\) \(1\).DOCX](#)

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



The contents of this message may be privileged and confidential. If this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author. Any tax advice contained in this email was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under applicable tax laws and regulations.

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Agreement”) is made and entered into on April __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, “Wells Fargo”) and Michael G. Morgan (“Morgan”). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the “Parties,” and each individually as a “Party.”

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties’ knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the “Note”).

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the “Property”).

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the “Loan”).

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the “Counterclaim”), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the “Litigation.”

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's Counsel within 30 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Payment is Consideration. The Wells Fargo Payment, and not the consent to the judgment of foreclosure and sale, is the consideration for this Agreement and the terms herein, including but not limited to the Release.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 1, 2023.

b. Morgan Settlement Payment. On or before September 1, 2023, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 2, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the “Information”) as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations’ websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties’ attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission (“SEC”) or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Waiver of Trial by Jury. The Parties knowingly, voluntarily, and intentionally waive any right they may have to a trial by jury with respect to any litigation based upon, or arising out of, under, or in connection with this Agreement, including any document contemplated to be executed, or any underlying matter, course of dealing, statement (whether verbal or written), or action of the Parties related to this Agreement.

34. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

35. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

36. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:

Date:_____

Wells Fargo Bank, N.A.:

By:_____

Name:_____

Title:_____

Date:_____

ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

EXHIBIT A-3

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Friday, April 21, 2023 9:56:20 AM
Attachments: [image001.png](#)
[Settlement Agreement \(18337715\) \(1\) - WF draft w ASR change.docx](#)
[MA23-029 Mediated Settlement Agreement.pdf](#)

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Drew Radeker
Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
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From: Knight, Stacie C. <SKnight@winston.com>

Sent: Tuesday, April 18, 2023 10:50 PM

To: Drew Radeker <Drew@harrisonfirm.com>

Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com

**WINSTON
& STRAWN**
LLP

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CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Agreement”) is made and entered into on April __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, “Wells Fargo”) and Michael G. Morgan (“Morgan”). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the “Parties,” and each individually as a “Party.”

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties’ knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the “Note”).

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the “Property”).

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the “Loan”).

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the “Counterclaim”), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the “Litigation.”

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to ~~Morgan and Morgan's Counsel within 30 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable~~Harrison, Radeker & Smith, P.A. on or before April 30, 2023.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Payment is Consideration. The Wells Fargo Payment, and not the consent to the judgment of foreclosure and sale, is the consideration for this Agreement and the terms herein, including but not limited to the Release.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 1, 2023.

b. Morgan Settlement Payment. On or before September 1, 2023, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 2, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the “Information”) as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations’ websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties’ attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission (“SEC”) or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Waiver of Trial by Jury. The Parties knowingly, voluntarily, and intentionally waive any right they may have to a trial by jury with respect to any litigation based upon, or arising out of, under, or in connection with this Agreement, including any document contemplated to be executed, or any underlying matter, course of dealing, statement (whether verbal or written), or action of the Parties related to this Agreement.

34. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

35. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

36. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:

Date:_____

Wells Fargo Bank, N.A.:

By:_____

Name:_____

Title:_____

Date:_____

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EXHIBIT A-4

From: [Knight, Stacie C.](#)
To: [Drew Radeker](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Friday, April 21, 2023 2:12:30 PM
Attachments: [image001.png](#)
[Settlement Agreement_\(18337715\)_\(2\).DOCX](#)

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Drew Radeker

Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, April 18, 2023 10:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



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CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Agreement”) is made and entered into on April __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, “Wells Fargo”) and Michael G. Morgan (“Morgan”). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the “Parties,” and each individually as a “Party.”

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties’ knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the “Note”).

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the “Property”).

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the “Loan”).

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the “Counterclaim”), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the “Litigation.”

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's counsel within 14 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Payment is Consideration. The Wells Fargo Payment, and not the consent to the judgment of foreclosure and sale, is the consideration for this Agreement and the terms herein, including but not limited to the Release.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 1, 2023.

b. Morgan Settlement Payment. On or before September 1, 2023, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 2, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the “Information”) as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations’ websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties’ attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission (“SEC”) or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Waiver of Trial by Jury. The Parties knowingly, voluntarily, and intentionally waive any right they may have to a trial by jury with respect to any litigation based upon, or arising out of, under, or in connection with this Agreement, including any document contemplated to be executed, or any underlying matter, course of dealing, statement (whether verbal or written), or action of the Parties related to this Agreement.

34. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

35. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

36. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:

Date:_____

Wells Fargo Bank, N.A.:

By:_____

Name:_____

Title:_____

Date:_____

ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

EXHIBIT A-5

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Friday, April 21, 2023 2:19:47 PM
Attachments: [image001.png](#)

Hey, I just tried to call you a second ago. Having both Mr. Morgan and our firm as the payees on the check is fine. It's most important that we keep the April 30 payment date, though, on which we agreed at the mediation.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, April 21, 2023 2:12 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM

To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



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Post Office Box 50143,
Columbia, South Carolina 29250
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Facsimile: (803) 779-6700
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, April 18, 2023 10:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



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EXHIBIT A-6

From: [Knight, Stacie C.](#)
To: [Drew Radeker](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Monday, April 24, 2023 12:23:11 PM
Attachments: [image001.png](#)
[Settlement Agreement_\(18337715\)_\(2\).DOCX](#)

Hi Drew, thanks for speaking with me on Friday. Per our discussion I have kept the 14-day payment window; we will expedite the check upon receipt of the signed settlement agreement and a W-9 from Mr. Morgan (I have yours).

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 2:20 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hey, I just tried to call you a second ago. Having both Mr. Morgan and our firm as the payees on the check is fine. It's most important that we keep the April 30 payment date, though, on which we agreed at the mediation.

Thanks.

Drew Radeker



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Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, April 21, 2023 2:12 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
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From: Drew Radeker
Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, April 18, 2023 10:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



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CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Agreement”) is made and entered into on April __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, “Wells Fargo”) and Michael G. Morgan (“Morgan”). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the “Parties,” and each individually as a “Party.”

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties’ knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the “Note”).

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the “Property”).

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the “Loan”).

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the “Counterclaim”), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the “Litigation.”

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's counsel within 14 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Payment is Consideration. The Wells Fargo Payment, and not the consent to the judgment of foreclosure and sale, is the consideration for this Agreement and the terms herein, including but not limited to the Release.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 1, 2023.

b. Morgan Settlement Payment. On or before September 1, 2023, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 2, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the “Information”) as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations’ websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties’ attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission (“SEC”) or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Waiver of Trial by Jury. The Parties knowingly, voluntarily, and intentionally waive any right they may have to a trial by jury with respect to any litigation based upon, or arising out of, under, or in connection with this Agreement, including any document contemplated to be executed, or any underlying matter, course of dealing, statement (whether verbal or written), or action of the Parties related to this Agreement.

34. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

35. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

36. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:

Date:_____

Wells Fargo Bank, N.A.:

By:_____

Name:_____

Title:_____

Date:_____

ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

EXHIBIT A-7

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Monday, April 24, 2023 12:27:12 PM
Attachments: [image001.png](#)

Thanks. Mike is on the road still but comes back tomorrow, so I probably won't be able to get you more until at least then.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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Sent: Monday, April 24, 2023 12:23 PM
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Stacie C. Knight

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EXHIBIT A-8

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Wednesday, May 10, 2023 12:59:28 PM
Attachments: [image001.png](#)
[W-9 Morgan.pdf](#)

Oh, and here is Mike's W-9.

Thanks.

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EXHIBIT A-9

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Wednesday, May 17, 2023 11:30:24 AM
Attachments: [image001.png](#)
[Settlement Agreement w ASR changes 2.docx](#)

Stacie:

Please see the attached draft with changes. You'll note that I changes the sales date from September 1 to September 5, since that's the September sales day.

Mr. Morgan has also asked me to request that the sales date be moved to October. If Wells Fargo will do that, that would be great, but you'll notice that I didn't put that proposed change in the document.

Let me know how this looks to you. I want to get this wrapped up yesterday.

If you would go ahead and have the check sent to my office, that would be great and would calm my client some.

Thanks.

Drew Radeker



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Sent: Friday, May 12, 2023 3:03 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just checking to see if you have an update on this?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 10, 2023 12:58 PM
To: Knight, Stacie C. <SKnight@winston.com>
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Oh, and here is Mike's W-9.

Thanks.

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Winston & Strawn LLP

D: +1 704-350-7712

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**WINSTON
& STRAWN**
LLP

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ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Agreement”) is made and entered into on April __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, “Wells Fargo”) and Michael G. Morgan (“Morgan”). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the “Parties,” and each individually as a “Party.”

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties’ knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the “Note”).

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the “Property”).

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the “Loan”).

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the “Counterclaim”), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the “Litigation.”

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's counsel within 14 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Payment Performance is Consideration. ~~The Wells Fargo Payment, and not the consent to the judgment of foreclosure and sale, is~~ The parties agree that each party's performance

under this agreement is the consideration for this Agreement and the terms herein, including but not limited to the Release, and that, except as otherwise noted herein, a party's performance hereunder satisfies all claims or other obligations each party to this Agreement has or may have to the other party.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September ~~15~~, 2023.

b. Morgan Settlement Payment. ~~On or before September 1, 2023~~the foreclosure sale, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September ~~26~~, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / “Broom Clean” Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an interest in the Property shall have (a) provided Wells Fargo’s Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan’s obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo’s only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan’s only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan’s responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo’s request, and no cause of action can or will be stated, including any

for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes

of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the “Information”) as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations’ websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties’ attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission (“SEC”) or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be

deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo.

Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a

representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

~~33. Waiver of Trial by Jury. The Parties knowingly, voluntarily, and intentionally waive any right they may have to a trial by jury with respect to any litigation based upon, or arising out of, under, or in connection with this Agreement, including any document contemplated to be executed, or any underlying matter, course of dealing, statement (whether verbal or written), or action of the Parties related to this Agreement.~~

~~34.~~33. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in

connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

35:34. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

36:35. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:

Date: _____

Wells Fargo Bank, N.A.:

By: _____

Name: _____

Title: _____

Date: _____

ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

EXHIBIT A-10

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Wednesday, May 24, 2023 11:12:01 AM
Attachments: [image001.png](#)

Great. Thanks. That's just fine.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
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Columbia, South Carolina 29250
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 10:50 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew, I accepted all your changes except the payment date in paragraph 8(b) – I changed it to September 4, 2023 by 11:59 p.m.

Please let me know if we are ready for execution. We will expedite the check as soon as I have signatures in hand.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 17, 2023 11:29 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie:

Please see the attached draft with changes. You'll note that I changes the sales date from September 1 to September 5, since that's the September sales day.

Mr. Morgan has also asked me to request that the sales date be moved to October. If Wells Fargo will do that, that would be great, but you'll notice that I didn't put that proposed change in the document.

Let me know how this looks to you. I want to get this wrapped up yesterday.

If you would go ahead and have the check sent to my office, that would be great and would calm my client some.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, May 12, 2023 3:03 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just checking to see if you have an update on this?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 10, 2023 12:58 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Oh, and here is Mike's W-9.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Drew Radeker

Sent: Wednesday, May 10, 2023 11:45 AM

To: Knight, Stacie C. <SKnight@winston.com>

Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>

Subject: RE: Morgan - Settlement Agreement

Just trying to keep you in the loop here. Mike wants some changes to the agreement document, and I'm working on getting him to approve them so I can send to you by tomorrow.

I want to get this wrapped up.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>

Sent: Thursday, April 27, 2023 3:50 PM

To: Drew Radeker <Drew@harrisonfirm.com>

Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>

Subject: RE: Morgan - Settlement Agreement

Hi Drew, just following up. Thanks!

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, April 24, 2023 12:27 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. Mike is on the road still but comes back tomorrow, so I probably won't be able to get you more until at least then.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Monday, April 24, 2023 12:23 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, thanks for speaking with me on Friday. Per our discussion I have kept the 14-day payment window; we will expedite the check upon receipt of the signed settlement agreement and a W-9 from Mr. Morgan (I have yours).

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 2:20 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hey, I just tried to call you a second ago. Having both Mr. Morgan and our firm as the payees on the check is fine. It's most important that we keep the April 30 payment date, though, on which we agreed at the mediation.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, April 21, 2023 2:12 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



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From: Drew Radeker

Sent: Wednesday, April 19, 2023 7:07 AM

To: Knight, Stacie C. <SKnight@winston.com>

Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>

Sent: Tuesday, April 18, 2023 10:50 PM

To: Drew Radeker <Drew@harrisonfirm.com>

Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any

changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



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CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the “Agreement”) is made and entered into on May __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, “Wells Fargo”) and Michael G. Morgan (“Morgan”). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the “Parties,” and each individually as a “Party.”

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties’ knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the “Note”).

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the “Property”).

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the “Loan”).

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the “Counterclaim”), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the “Litigation.”

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's counsel within 14 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Performance is Consideration. The parties agree that each party's performance under this agreement is the consideration for this Agreement and the terms herein, including but

not limited to the Release, and that, except as otherwise noted herein, a party's performance hereunder satisfies all claims or other obligations each party to this Agreement has or may have to the other party.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 5, 2023.

b. Morgan Settlement Payment. On or before September 4, 2023 at 11:59 p.m. EST, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 6, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the “Information”) as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations’ websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties’ attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission (“SEC”) or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

34. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment

relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

35. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:

Date: _____

Wells Fargo Bank, N.A.:

By: _____

Name: _____

Title: _____

Date: _____

ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

EXHIBIT A-11

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Thursday, May 25, 2023 9:00:42 AM
Attachments: [image001.png](#)
[Settlement agreement MGM signature.pdf](#)

Stacie, attached is the agreement signed by Mr. Morgan.

Thank you.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Drew Radeker
Sent: Wednesday, May 24, 2023 11:33 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

My fingers are crossed. (Well, I uncrossed them to type this email).

Thanks.

Drew Radeker



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for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) Thank you.

From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 11:31 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Great, let's get this signed this week.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 24, 2023 11:12 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Great. Thanks. That's just fine.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 10:50 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew, I accepted all your changes except the payment date in paragraph 8(b) – I changed it to September 4, 2023 by 11:59 p.m.

Please let me know if we are ready for execution. We will expedite the check as soon as I have signatures in hand.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 17, 2023 11:29 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie:

Please see the attached draft with changes. You'll note that I changes the sales date from September 1 to September 5, since that's the September sales day.

Mr. Morgan has also asked me to request that the sales date be moved to October. If Wells Fargo will do that, that would be great, but you'll notice that I didn't put that proposed change in the document.

Let me know how this looks to you. I want to get this wrapped up yesterday.

If you would go ahead and have the check sent to my office, that would be great and would calm my client some.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, May 12, 2023 3:03 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just checking to see if you have an update on this?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 10, 2023 12:58 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Oh, and here is Mike's W-9.

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, May 10, 2023 11:45 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Just trying to keep you in the loop here. Mike wants some changes to the agreement document, and I'm working on getting him to approve them so I can send to you by tomorrow.

I want to get this wrapped up.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Thursday, April 27, 2023 3:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just following up. Thanks!

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, April 24, 2023 12:27 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. Mike is on the road still but comes back tomorrow, so I probably won't be able to get you more until at least then.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Monday, April 24, 2023 12:23 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, thanks for speaking with me on Friday. Per our discussion I have kept the 14-day payment window; we will expedite the check upon receipt of the signed settlement agreement and a W-9 from Mr. Morgan (I have yours).

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 2:20 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hey, I just tried to call you a second ago. Having both Mr. Morgan and our firm as the payees on the check is fine. It's most important that we keep the April 30 payment date, though, on which we agreed at the mediation.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, April 21, 2023 2:12 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>

Sent: Tuesday, April 18, 2023 10:50 PM

To: Drew Radeker <Drew@harrisonfirm.com>

Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com

**WINSTON
& STRAWN**
LLP

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ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the "Agreement") is made and entered into on May __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, "Wells Fargo") and Michael G. Morgan ("Morgan"). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the "Parties," and each individually as a "Party."

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties' knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the "Note").

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the "Property").

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the "Loan").

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the "Counterclaim"), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the "Litigation."

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's counsel within 14 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Performance is Consideration. The parties agree that each party's performance under this agreement is the consideration for this Agreement and the terms herein, including but

not limited to the Release, and that, except as otherwise noted herein, a party's performance hereunder satisfies all claims or other obligations each party to this Agreement has or may have to the other party.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 5, 2023.

b. Morgan Settlement Payment. On or before September 4, 2023 at 11:59 p.m. EST, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 6, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the "Information") as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations' websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties' attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission ("SEC") or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

34. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment

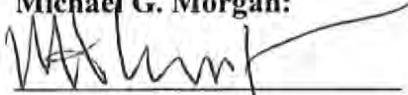
relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

35. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed
as of the last day set forth below.

Michael G. Morgan:


Date: 5-24-25

Wells Fargo Bank, N.A.:

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A-12

From: [Knight, Stacie C.](#)
To: [Drew Radeker](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Tuesday, May 30, 2023 10:49:00 AM
Attachments: [Complete with DocuSign Settlement agreement \(2\).pdf](#)
[image001.png](#)

And here is the executed agreement.

From: Knight, Stacie C.
Sent: Tuesday, May 30, 2023 10:42 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew, can you complete Box 3 on your firm's W-9?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Thursday, May 25, 2023 8:59 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, attached is the agreement signed by Mr. Morgan.

Thank you.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Drew Radeker
Sent: Wednesday, May 24, 2023 11:33 AM

To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

My fingers are crossed. (Well, I uncrossed them to type this email).

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 11:31 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Great, let's get this signed this week.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 24, 2023 11:12 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Great. Thanks. That's just fine.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 10:50 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew, I accepted all your changes except the payment date in paragraph 8(b) – I changed it to September 4, 2023 by 11:59 p.m.

Please let me know if we are ready for execution. We will expedite the check as soon as I have signatures in hand.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 17, 2023 11:29 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie:

Please see the attached draft with changes. You'll note that I changes the sales date from September 1 to September 5, since that's the September sales day.

Mr. Morgan has also asked me to request that the sales date be moved to October. If Wells Fargo will do that, that would be great, but you'll notice that I didn't put that proposed change in the document.

Let me know how this looks to you. I want to get this wrapped up yesterday.

If you would go ahead and have the check sent to my office, that would be great and would calm my client some.

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Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, May 12, 2023 3:03 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just checking to see if you have an update on this?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 10, 2023 12:58 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Oh, and here is Mike's W-9.

Thanks.

Drew Radeker



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for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) Thank you.

From: Drew Radeker
Sent: Wednesday, May 10, 2023 11:45 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Just trying to keep you in the loop here. Mike wants some changes to the agreement document, and I'm working on getting him to approve them so I can send to you by tomorrow.

I want to get this wrapped up.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Thursday, April 27, 2023 3:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just following up. Thanks!

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, April 24, 2023 12:27 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. Mike is on the road still but comes back tomorrow, so I probably won't be able to get you more until at least then.

Drew Radeker



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Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Monday, April 24, 2023 12:23 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, thanks for speaking with me on Friday. Per our discussion I have kept the 14-day payment window; we will expedite the check upon receipt of the signed settlement agreement and a W-9 from Mr. Morgan (I have yours).

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 2:20 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hey, I just tried to call you a second ago. Having both Mr. Morgan and our firm as the payees on the check is fine. It's most important that we keep the April 30 payment date, though, on which we agreed at the mediation.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, April 21, 2023 2:12 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, April 18, 2023 10:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



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CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release (the "Agreement") is made and entered into on May __, 2023 by Wells Fargo Bank, N.A. and all predecessor and related entities (collectively, "Wells Fargo") and Michael G. Morgan ("Morgan"). In the remainder of this Agreement, Morgan and Wells Fargo are collectively referred to as the "Parties," and each individually as a "Party."

RECITALS

This Agreement is entered into with reference to the following facts and recitals, which are true to the best of the Parties' knowledge and belief, and which are made part of this Agreement:

A. On or about April 25, 2008, Morgan executed an Adjustable Rate Mortgage Note pursuant to which he borrowed the sum of \$1,300,000 from Wachovia Mortgage, FSB (the "Note").

B. In connection with the Note, Morgan executed and delivered a Mortgage in favor of Wachovia Mortgage, FSB, its Successors and/or Assignees, placing a security interest on the property located at 415 South Chesterfield Street, Aiken, SC 29801-7131 (the "Property").

C. The legal description in the Mortgage is incorrect in its identification of plat reference.

D. The Note and Mortgage set forth the terms of a loan with account number ending in 2954 (the "Loan").

E. Wells Fargo is the successor-by-merger to Wachovia Mortgage, FSB and is the current holder of the Note and the beneficiary of the Mortgage.

F. Morgan defaulted under the Loan.

G. On or about December 2, 2015, Wells Fargo filed a Complaint for Judicial Foreclosure of Real Estate Mortgage against Morgan in the Aiken County, South Carolina Court of Common Pleas in the matter captioned *Wells Fargo Bank, N.A. v. Michael G. Morgan, et al.*, Case No. 2015-CP-02-2849.

H. Morgan has asserted a counterclaim against Wells Fargo (the "Counterclaim"), which, along with any amendments, cross-claims, third-party claims, interventions, removals, and appeals, shall be referred to as the "Litigation."

I. The Parties agree that it is in their mutual interests to avoid the uncertainty and expense of the Litigation by reaching a settlement and accommodation of the certain matters encompassed herein, without any admission of law or fact.

AGREEMENTS, RELEASES, AND PROMISES

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. Agreement Execution. Within five (5) business days from the date of request by Wells Fargo's Counsel, Morgan shall execute two original counterparts of this Agreement, and Morgan's Counsel as identified below shall deliver one original counterpart and completed 2023 W-9 tax forms for both Morgan and Morgan's Counsel to Wells Fargo's Counsel as identified below.

2. Payment by Wells Fargo Bank, N.A. Wells Fargo shall deliver to Morgan's Counsel the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00) (the "Wells Fargo Payment") by check made payable to Morgan and Morgan's counsel within 14 days of the latter of the following events: (a) receipt by Wells Fargo's Counsel of one original counterpart of this Agreement executed by Morgan as set forth in Paragraph 1 of this Agreement; and (b) receipt by Wells Fargo's Counsel of completed 2023 W-9 tax forms for Morgan and Morgan's Counsel as set forth in Paragraph 1 of this Agreement. Electronic copies of said documents shall be acceptable.

3. Dismissal with Prejudice. Within five (5) business days of receipt of the Wells Fargo Payment, Morgan shall cause Morgan's Counsel to dismiss the Counterclaim with prejudice. From and after the execution of this Agreement, Morgan agrees to take no further action to prosecute the Counterclaim against Wells Fargo or otherwise impede the conclusion of the Litigation.

4. Consent to Foreclosure Judgment. Morgan acknowledges that he defaulted under the terms and conditions of the Loan, and hereby consents to Wells Fargo, or its agents, affiliates, parents, subsidiaries, successors in interest and assigns, including any or all persons claiming an interest in the Note, Mortgage, or Loan and their successors and assigns, proceeding with a consent judgment of foreclosure and sale, which shall include reformation of the Mortgage to correct the incorrect plat reference. Morgan expressly waives any and all rights and defenses he may have to challenge or contest said judgment of foreclosure and sale, including, but not limited to, any claims or defenses contesting his defaults under the Note or Mortgage, contesting the validity of the foreclosure process or sale, contesting any aspect of the Note, Mortgage, or Loan, or contesting the servicing of the Loan.

5. Deficiency Waiver. Wells Fargo shall forgive that portion of the debt owed under the Loan that is not ultimately recovered through the foreclosure process (the "Deficiency"). Morgan acknowledges that Wells Fargo may report any forgiveness of the Deficiency in accordance with the requirements of the Internal Revenue Service and any applicable state tax law.

6. Performance is Consideration. The parties agree that each party's performance under this agreement is the consideration for this Agreement and the terms herein, including but

not limited to the Release, and that, except as otherwise noted herein, a party's performance hereunder satisfies all claims or other obligations each party to this Agreement has or may have to the other party.

7. Waiver of Redemption. As an additional condition precedent to Wells Fargo making the Wells Fargo Payment and as additional consideration for such payment, Morgan waives all rights, title, and interest in the Property, including the right to redeem the Property, except as expressly provided in Paragraph 8.

8. Foreclosure Sale to Be Held in Abeyance.

a. Foreclosure Sale. Wells Fargo agrees that a foreclosure sale of the Property will not occur before September 5, 2023.

b. Morgan Settlement Payment. On or before September 4, 2023 at 11:59 p.m. EST, Wells Fargo will accept payment from or on behalf of Morgan, in the form of certified funds or wire transfer, in the amount of One Million Three Hundred and No/100 Dollars (\$1,300,000.00) in exchange for a release of the Mortgage and full satisfaction of the Loan (the "Morgan Settlement Payment"). Morgan acknowledges that Wells Fargo may report any forgiveness of debt resulting from the Morgan Settlement Payment in accordance with the requirements of the Internal Revenue Service and any applicable state tax law. Within the time permitted by law after its receipt of the Morgan Settlement Payment, Wells Fargo shall record a Reconveyance / Release of Mortgage / Satisfaction of Mortgage in the County of Aiken, State of South Carolina.

c. Departure Date. Should Morgan fail to make the Morgan Settlement Payment in accordance with Paragraph 8.b., then (i) Wells Fargo shall proceed with the foreclosure sale; (ii) Morgan waives all rights, title, and interest in the Property, including any right to redeem the Property; and (iii) Morgan and all other occupants of the Property shall vacate the Property by 9:00 a.m. EST on September 6, 2023 (the "Departure Date"), after which Morgan and all other occupants of the Property shall be deemed to be trespassers on the Property and Wells Fargo will have the unqualified right to enforce its right of possession.

i. Condition of Property. During the time Morgan and any other occupants continue to occupy the Property before the Departure Date, Morgan shall maintain the Property in good and safe condition, reasonable wear and tear excepted. Morgan is responsible for all general maintenance and upkeep of the Property, including, but not limited to, clearing snow and ice and trimming grass, when necessary, and for the payment of all utilities serving the Property as well as homeowner's association or condominium dues, if applicable, during the entire period before the Departure Date.

ii. Terms of Vacating Property / "Broom Clean" Condition. Upon vacating the Property, Morgan, on behalf of himself and anyone claiming an

interest in the Property shall have (a) provided Wells Fargo's Counsel with all keys to the Property and all garage door openers; (b) removed all personal possessions from the Property; (c) left the Property in broom-clean condition, free of any and all trash, interior and exterior debris; (d) taken steps to ensure the Property is in a condition that is satisfactory to Wells Fargo; (e) removed all animals from the Property; (f) refrained from removing anything that is a part of or a fixture to the Property, including, but not limited to, appliances, fixed window treatments, lighting fixtures, water heaters, plumbing, and heating and air cooling equipment from the Property; or (g) refrained from damaging the Property in any way. Any personal property left behind at the Property will be considered abandoned and forfeited and may be disposed of by Wells Fargo or its agents in its sole discretion. Morgan expressly waives any claim or rights under any federal, state, or local rule or regulation regarding the storage, notice, inventory, or disposition of personal property left behind in the Property after the Departure Date. This clause, however, does not eliminate Morgan's obligation to remove any and all personal property from the Property on or before the Departure Date. Morgan acknowledges that he may be liable to Wells Fargo for any physical damage he or persons acting on his behalf intentionally, maliciously, or negligently cause to the Property.

iii. No Landlord-Tenant Relationship. Morgan understands and acknowledges that no landlord/tenant relationship is intended or created by this Agreement or by law. Morgan further understands and acknowledges that his legal status relative to Wells Fargo or the holder/owner of the Loan before the Departure Date is that of guest and not that of tenant.

9. Waiver of Loan Modification Review. Morgan acknowledges that, before executing this Agreement, he was informed of his option to apply for a loan modification review. Morgan acknowledges that he was given the option to apply for a loan modification review and Morgan acknowledges and agrees that he knowingly and voluntarily elected to waive any loan modification review and to proceed with the settlement set forth in this Agreement.

10. Credit Reporting. Wells Fargo has not furnished information about the Loan to the major credit reporting agencies since December 2020. Should any foreclosure be reported, Wells Fargo will electronically notify the major credit reporting agencies to which it furnishes information about the Loan that the trade line should be deleted. Wells Fargo's only duty hereunder is to request the deletion. Wells Fargo is not responsible for actions taken by the credit reporting agencies or their failure to delete the trade line as requested by Wells Fargo. Morgan expressly acknowledges that Wells Fargo does not own or control the credit reporting agencies (which are separate entities) and is not responsible for what actions or inactions they take in response to the foregoing request. Morgan's only remedy under this provision is requiring Wells Fargo to re-submit its reporting per this provision with the credit reporting agencies. It is Morgan's responsibility to contact the credit reporting agencies to verify that they have taken action consistent with Wells Fargo's request, and no cause of action can or will be stated, including any for breach of this Agreement, against Wells Fargo if any credit reporting agency fails to delete the trade line. Morgan expressly acknowledges that he understands the limitations of Wells Fargo in

this regard, and that any action, inaction, omission, or error by the credit reporting agencies is not and shall not be attributable to Wells Fargo in any way.

11. Full Satisfaction. The Wells Fargo Payment is in full satisfaction of the Released Matters (as defined herein), and it includes all attorneys' fees and costs that Morgan may have incurred in connection with the Litigation.

12. Morgan's Release of Wells Fargo. For consideration of the Wells Fargo Payment and other covenants contained herein, the receipt and sufficiency of which are hereby expressly acknowledged, Morgan, for himself and each of his present, former, and future heirs, executors, administrators, partners, co-obligors, co-guarantors, guarantors, sureties, family members, spouses, attorneys, insurers, agents, representatives, predecessors, successors, assigns, and all those who claim through them or could claim through them (collectively, "Releasors") unconditionally and irrevocably remises, waives, satisfies, releases, acquits, and forever discharges Wells Fargo and each of its present, former, and future parents, predecessors, successors, assigns, assignees, affiliates, conservators, divisions, departments, subdivisions, owners, partners, principals, trustees, creditors, shareholders, joint ventures, co-venturers, officers, and directors (whether acting in such capacity or individually), attorneys, vendors, accountants, nominees, agents (alleged, apparent, or actual), representatives, employees, managers, administrators, and each person or entity acting or purporting to act for them or on their behalf, as well as any past, present, or future person or any entity that held or holds any interest in the Property, the Loan, the Note, or the Mortgage, or any of the notes or security instruments related thereto (collectively, "Releasees"), and each of them, respectively, from and against any and all past, present, and future claims, counterclaims, actions, suits, rights, causes of action, lawsuits, set-offs, costs, losses, controversies, agreements, promises and demands, or liabilities, of whatever kind or character, direct or indirect, whether known or unknown or capable of being known, arising at law or in equity, by right of action or otherwise, including, but not limited to, suits, debts, accounts, bills, damages, judgments, executions, warranties, attorneys' fees, costs of litigation, expenses, claims, and demands whatsoever that the Releasors or their attorneys, agents, representatives, predecessors, successors, and assigns have or may have against the Releasees, for, upon, or by reason of any matter, cause, or thing, whatsoever, in law or equity, including, without limitation, the claims made or which could have been made by Morgan arising from the origination or servicing of the Loan as well as in any way related to the Property, Note, or Mortgage, any servicing act or omission thereon as well as any claim or issue which was or could have been brought in the Litigation (collectively, the "Released Matters"). The Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of Wells Fargo as a defense and complete bar to any action or claim that may be brought against or involving Wells Fargo by anyone acting or purporting to act on behalf of Morgan with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in connection with the Released Matters.

13. Confidentiality and Notices. As a material inducement and an indivisible part of the consideration to be received by Wells Fargo to enter into this Agreement, the Parties agree that it is appropriate to maintain the allegations made in the Litigation, any discovery exchanged in the Litigation, this Agreement, the terms of this Agreement, and the settlement provided for herein (collectively, the "Information") as confidential on a going forward basis as of the date of this Agreement. Toward that end, the Parties agree that they and their attorneys will neither disclose nor reveal to any person or entity or directly or indirectly publish, publicize, disseminate, or communicate to any person or entity the Information on a going forward basis as of the date of this Agreement, including but not limited to a prohibition on the Parties and their attorneys posting or otherwise disclosing Information on the Internet or any other paper or electronic media outlet (including but not limited to news organizations' websites or newspapers, email, blogs, Facebook, Instagram, Twitter, TikTok, etc.). The only permitted disclosure of Information hereunder is to the persons or entities specifically identified in subparagraphs (a) through (h) below. The confidentiality obligations of the Parties' attorneys are intended to provide for confidentiality to the full extent of, but no further than permitted by, the applicable attorney ethics or disciplinary rules.

a. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement within any lawsuit before a United States court of competent jurisdiction only in response to a Court order to that effect. The Parties further agree that, if they or their attorneys receive legal process designed to disclose any Information deemed confidential under this Agreement, the disclosing Party will provide advance written notice to counsel for the non-disclosing Party within three (3) business days of receiving such subpoena, court order, or other legal process, so that the non-disclosing Party has the option of taking steps to protect the confidentiality of this Agreement, its terms, or any Information deemed confidential under this Agreement.

b. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to their respective officers, directors, employees, attorneys, financial advisors, accountants, insurers, auditors, and other professional advisors who regularly have access to Information of this type in order to perform their duties, or with whom the Parties may consult regarding any aspect of this Agreement, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

c. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to any federal, state, or other regulatory agency, body, or governmental authority, including but not limited to the United States Securities and Exchange Commission ("SEC") or the Office of the Comptroller of the Currency, to which the Parties are required to report Information of this type, or when such disclosure is specifically requested or demanded by such regulatory agency, body, or governmental authority.

d. The Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to any investor, servicer, or sub-servicer (whether existing or

obtaining servicing rights after the execution of this Agreement) with respect to the Loan, and any trustee, beneficiary, or nominee (including their successors or assigns) identified in the Note, Mortgage, or any assignment thereof pertaining to the Loan, provided that such persons or entities first agree to maintain this Agreement, the terms of this Agreement, and the settlement provided for herein as confidential.

e. If any Releasee (as defined herein) is named in an action pertaining to any Released Matter (as defined herein), the Parties may provide a copy of this Agreement or describe the terms and conditions of this Agreement to said Releasee for the purpose of defending against any claims that may be subject to the Release provided for in this Agreement, and said Releasee may disclose so much of this Agreement as may be necessary to defend against such claims.

f. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement if it is required by the SEC to be included in public filings (such as, for example, in annual reports filed on Form 10-K or quarterly reports filed on Form 10-Q).

g. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to federal, state, and local taxing authorities (such as, for example, the United States Internal Revenue Service), as necessary, in tax returns or other tax reporting documents, or in response to an audit or similar inquiry.

h. The Parties may provide a copy of this Agreement and/or describe the terms and conditions of this Agreement to a Court of competent jurisdiction to enforce this Agreement or maintain its confidentiality (any such proceeding to be filed under seal if possible).

i. The Parties agree that this confidentiality provision and agreement is a material term of this Agreement, is mutually beneficial to the Parties, and breach of this provision will cause the Parties irreparable harm.

14. Non-Disparagement. Releasors and their attorneys will not, directly or indirectly, make any negative or disparaging statements against the Releasees maligning, ridiculing, defaming, or otherwise speaking ill of the Releasees, and their business affairs, practices or policies, standards, or reputation (including but not limited to statements or postings harmful to the Releasees' business interests, reputation or good will) in any form (including but not limited to orally, in writing, on any social media, blogs, internet, to the media, persons and entities engaged in radio, television or Internet broadcasting, or to persons and entities that gather or report information on trade and business practices or reliability) that relate to this Agreement, Information (as defined above) and the factual allegations made in the Litigation or any matter covered by the release within this Agreement. Nothing in the Agreement shall, however, be deemed to interfere with each party's obligation to report transactions with appropriate governmental, taxing, or registering agencies.

15. Disclosure. Nothing in this Agreement prohibits or limits the Parties or their counsel from initiating communications directly with, responding to any inquiry from, volunteering information to, or providing testimony before, the SEC, the Department of Justice, FINRA, any other self-regulatory organization or any other governmental, law enforcement, or regulatory authority, regarding this Agreement and its underlying facts and circumstances, or any reporting of, investigation into, or proceeding regarding suspected violations of law, and the Parties are not required to advise or seek permission from the other Party before engaging in any such activity. However, in connection with any such activity or disclosure, the Parties or their counsel shall disclose the confidential nature of this Agreement and ask for confidential treatment of such information.

16. Adequate Consideration. The consideration received in connection with this Agreement is fair, adequate, and substantial, and it consists only of the terms set forth in this Agreement.

17. Covenant Not to Sue. Morgan agrees not to cause claims to be made in any court or other forum against the Releasees for any matter within the scope of the release contained herein.

18. Further Assurances. Each Party agrees to take all reasonable steps necessary to effectuate the terms of this Agreement.

19. No Admission of Liability. Each of the Parties understands and agrees that this Agreement and the settlement provided for herein are intended to compromise disputed claims and defenses, to avoid litigation and to buy peace, and that this Agreement and the settlement provided for herein shall not be construed or viewed as an admission by any Party of liability or wrongdoing, such liability being expressly denied. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention that any of the Parties acted illegally, improperly, or in breach of law, contract, or proper conduct.

20. Waiver. The failure of Wells Fargo to demand from Morgan performance of any act under the Agreement shall not be construed as a waiver of Wells Fargo's right to demand, at any subsequent time, such performance. The failure of Morgan to demand from Wells Fargo performance of any act under the Agreement shall not be construed as a waiver of Morgan's right to demand, at any subsequent time, such performance.

21. Tax Consequences. Morgan agrees that if it is later determined by the Internal Revenue Service or any other taxing body that taxes of any type should have been paid in connection with any benefit he receives pursuant to this Agreement, he will be solely responsible for paying such taxes. Wells Fargo makes no representations or warranties regarding the legal effect or tax consequences of this Agreement, or of any such filing or reporting by Wells Fargo. Morgan further expressly acknowledges that he neither received nor relied upon any tax advice from Wells Fargo or its representatives and attorneys.

22. Choice of Law. This Agreement is entered into in South Carolina and this Agreement, and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of South Carolina.

23. No Interpretation of Captions or Headings. The captions and headings within this Agreement are for ease of reference only and are not intended to create any substantive meaning or to modify the terms and clauses either following them or contained in any other provision of this Agreement.

24. Severability. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

25. Neutral Interpretation and Counterparts. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in this Agreement shall not be interpreted against any one Party. The Parties acknowledge that this Agreement is executed voluntarily by each of them without any duress or undue influence on the part of, or on behalf of, any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiations for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement and have had it fully explained to them by their counsel, and that they are fully aware of the contents of this Agreement and its legal effect. This Agreement may be executed in counterparts and each executed counterpart shall be effective as the original. All faxed, emailed, or electronic signatures affirming this Agreement constitute an original signature.

26. Successors. This Agreement shall bind the Parties' respective successors, assigns, heirs, and personal representatives.

27. References. All references to the singular shall include the plural and all references to one gender herein shall include both genders.

28. Proper Parties. The Parties represent and warrant to each other that each is the sole and lawful owner of all right, title, and interest in and to every claim and other matter that each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title, or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against any Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend, and hold harmless the Party or Parties against whom such claim or matter is asserted and its successors from and against such claim or matter. The individuals whose signatures are affixed to this Agreement in a representative capacity represent and warrant that they are authorized to execute this Agreement on behalf of and to bind the entity on whose behalf the signature is affixed.

29. Integration / Single Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties, and the terms of the Agreement are contractual and not merely recitals. There is no other agreement, written or oral, expressed or implied between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement, or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them or upon which they have relied in any way. The terms and conditions of this Agreement may not be contradicted by evidence of any prior or contemporaneous agreement, and no extrinsic evidence may be introduced in any judicial proceeding to interpret this Agreement. This provision does not apply either to any other business relations between the Parties (*e.g.*, a credit card, investment, or bank account) not related to the subject matter of the Agreement or the Loan, Note or Mortgage.

30. Amendments to the Agreement. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All amendments or changes of any kind must be in writing, executed by all Parties.

31. Advice of Counsel. Each Party to this Agreement acknowledges that it has had the benefit of advice of competent legal counsel or the opportunity to retain such counsel with respect to its decision to enter into this Agreement. The individuals whose signatures are affixed to this Agreement in a personal or representative capacity represent that they are competent to enter into this Agreement and are doing so freely and without coercion by any other Party or non-party hereto.

32. Attorneys' Fees. Unless otherwise expressly set forth herein or authorized by the Note or Mortgage, each of the Parties shall bear its own attorney's fees, costs, and expenses in connection with the matters set forth in the Agreement, including, but not limited to, the Litigation and the negotiation and preparation of this Agreement.

33. Parties' Counsel. As used in this Agreement, the phrase "Wells Fargo's Counsel" means Stacie C. Knight, Winston & Strawn LLP, 300 South Tryon Street, 16th Floor, Charlotte, NC 28202. As used in this Agreement, the phrase "Morgan's Counsel" means Andrew S. Radeker, Harrison, Radeker, & Smith P.A., 923 Calhoun Street, Columbia, SC 29201, and any and all of their current and former owners, predecessors, successors, partners, shareholders, agents (alleged or actual), representatives, employees, and affiliates. Morgan represents and warrants that: (a) the term "Morgan's Counsel," as defined above, includes all persons (natural or legal) and entities having any interest in any award of attorneys' fees or litigation costs to Morgan's Counsel in connection with the Litigation; or (b) that, to the extent there are other persons or entities having any interest in any award of attorneys' fees or litigations costs in connection with the Litigation, they will be satisfied by Morgan's Counsel.

34. Existing Obligations. The Parties understand and agree that this Agreement does not apply to any separate and continuing contractual or equitable obligations that may currently exist between or among the parties, including, for example, existing loans encumbering other property of Morgan, credit cards held by Morgan, or any other banking, credit card, or investment

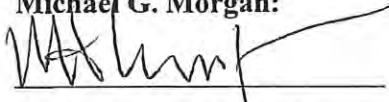
relationship with Morgan, including but not limited to Wells Fargo Bank, N.A. or its affiliated entities.

35. Other Accounts / Future Events. The Parties understand and agree that this Agreement shall not, under any circumstances, be deemed to prohibit Wells Fargo or any other person or entity from continuing to take any actions with regard to any other bank, credit, investment, mortgage or other account obtained by Morgan from Wells Fargo, including but not limited to such actions as acceleration and foreclosure as may be appropriate if Morgan defaults on any other mortgage or credit obtained by Morgan from Wells Fargo.

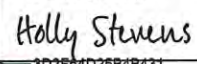
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the last day set forth below.

Michael G. Morgan:


Date: 5-24-23

Wells Fargo Bank, N.A.:

DocuSigned by:
By: 
3D2F64D25B4B431...
Name: Holly Stevens
Title: Senior Company Counsel
Date: 5/26/2023



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Certificate Of Completion

Envelope Id: B9A7E1EB39BC43E594764FED1C5E00E1	Status: Completed
Subject: Complete with DocuSign: Settlement agreement MGM signature.pdf	
Source Envelope:	
Document Pages: 12	Signatures: 1
Certificate Pages: 3	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Bradley Simpson
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	420 Montgomery St.
	San Francisco, CA 94104
	Bradley.Simpson@wellsfargo.com
	IP Address: 159.45.22.17

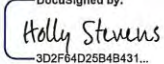
Record Tracking

Status: Original	Holder: Bradley Simpson	Location: DocuSign
5/26/2023 6:50:24 AM	Bradley.Simpson@wellsfargo.com	

Signer Events

Holly Stevens
holly.stevens@wellsfargo.com
Senior Company Counsel
Wells Fargo Bank, N.A.
Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:

3D2F64D25B4B431...
Signature Adoption: Pre-selected Style
Using IP Address: 159.45.71.23

Timestamp

Sent: 5/26/2023 6:51:35 AM
Viewed: 5/26/2023 8:57:24 AM
Signed: 5/26/2023 8:57:49 AM

Electronic Record and Signature Disclosure:

Accepted: 5/26/2023 8:57:24 AM
ID: 16fb842c-b3dc-425e-a11c-48ee226a9bb8

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/26/2023 6:51:35 AM
Certified Delivered	Security Checked	5/26/2023 8:57:24 AM
Signing Complete	Security Checked	5/26/2023 8:57:49 AM
Completed	Security Checked	5/26/2023 8:57:49 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

Electronic Record and Signature Disclosure

Last updated: April 26, 2021

You are entitled by law to receive certain information “in writing.” However, we may instead provide this information to you electronically with your prior consent. We also need your consent to use electronic signatures. In this consent (the “Consent”), “we,” “us,” “our,” and “Wells Fargo” refer to Wells Fargo Bank, N.A. and any affiliate or subsidiary of Wells Fargo Bank, N.A. “You” and “your” refer to the person agreeing to this Consent.

1. **Scope.** In our sole discretion, we may provide to you, or you may sign, submit, or agree to at our request, certain documents, records, disclosures, notices, communications, agreements, fee schedules, statements, and other information in electronic form through the DocuSign system (“Electronic Records”). We may also use electronic signatures and obtain them from you through the DocuSign system (“Electronic Signatures”). You may receive emails related to the Electronic Records and Electronic Signatures. This Consent applies to any Electronic Records or Electronic Signatures in connection with the signing event on the DocuSign system associated with this Consent (the “Signing Event”).
2. **Paper Copies.** We will not send you paper copies of any Electronic Records unless we, in our sole discretion, deem it appropriate to do so. If you desire a paper copy of an Electronic Record, you may: (a) download or print the Electronic Record after the Signing Event; or (b) contact the appropriate customer service unit and request a paper copy, for which we may charge you a fee unless prohibited by law. Any such fee will be disclosed at the time of request.
3. **Your Email Address.** To update your email address before completing the Signing Event: (a) if you arrived at the Signing Event through Wells Fargo Online® or a similar online system, follow the appropriate procedure for that system to update your email address; or (b) if you arrived at the Signing Event through a link in an email you received, please contact the Wells Fargo representative associated with that email.
4. **Withdrawal.** This Consent only applies to the Signing Event, and you will not be able to withdraw this Consent after you have completed the Signing Event. If you do not wish to agree to this Consent, you may decline to continue with the Signing Event.
5. **Software and Hardware Requirements.** To use Electronic Records and Electronic Signatures, you must meet the current minimum DocuSign system requirements, which can be found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>. In addition, you must have:
 - A web browser listed on the Wells Fargo Supported Browsers and Operating Systems page (<https://www.wellsfargo.com/help/online-banking/browser-supported>);
 - An Internet connection;
 - An active email account;
 - A currently supported version of a program that accurately displays PDF files;
 - A computer or other device and an operating system capable of supporting all of the above;
 - A printer, if you wish to print out paper copies of Electronic Records; and

- o Electronic storage, if you wish to retain Electronic Records in electronic form.

Please indicate you have read, understand, and agree to this Consent by selecting the checkbox next to “I agree to use electronic records and signatures” before clicking “CONTINUE” within the Signing Event.

EXHIBIT A-13



NORTH AMERICA SOUTH AMERICA EUROPE ASIA

300 S. Tryon Street, 16th Floor
Charlotte, NC 28202
T +1 (704) 350-7700
F +1 (704) 350-7800

STACIE C. KNIGHT
Of Counsel
704.350.7712
sknight@winston.com

June 7, 2023

VIA E-MAIL AND FEDERAL EXPRESS

Andrew S. Radeker
Harrison, Radeker & Smith, P.A.
923 Calhoun Street
Columbia, SC 29201

**Re: Wells Fargo Bank, N.A. v. Michael G. Morgan, et al., Aiken County Court of Common Pleas,
Case No. 2015-CP-02-2849**

Dear Drew:

Enclosed please find the settlement payment in the above-referenced matter. Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stacie C. Knight".

Stacie C. Knight

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Remitter:

WELLS FARGO BANK, N.A.

550 S 4TH ST, MAC N9310-074

MINNEAPOLIS MN 55415

Exhibit A-13 Page 3 of 3

WELLS FARGO BANK, N.A.

4TH AND PLUM STREETS

RED WING MN 55066

1-800-794-1522

75-46/919

1010861210

Date _____

6/6/2023

Pay Amount

\$200,000.00***

Pay

****TWO HUNDRED THOUSAND AND XX/100 DOLLAR ****

**To The
Order Of**

HARRISON RADEKER & SMITH PA AND MICHAEL G MORGAN

923 CALHOUN STREET

COLUMBIA SC 29201

Marcia S Can

Authorized Signature

11 101086121011 1:0919004651: 000002016711

[illegible]

EXHIBIT A-14

From: [Drew Radeker](#)
To: [Knight, Stacie C.](#)
Cc: [Rhonda Schaub](#)
Subject: RE: Morgan - Settlement Agreement
Date: Wednesday, June 7, 2023 1:00:50 PM
Attachments: [image001.png](#)

Thanks, Stacie. Have a great afternoon.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, June 7, 2023 12:59 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, the check will be delivered tomorrow morning. I have attached a copy. Please let me know when you receive it.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Tuesday, June 6, 2023 8:16 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Just checking on the check. Is there anything more you need from us?

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Thursday, June 1, 2023 10:36 AM
To: 'Knight, Stacie C.' <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, please let me know the status of the settlement payment check when you can.

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Tuesday, May 30, 2023 11:45 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Not your error. I didn't attach it. Here it is.

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, May 30, 2023 11:44 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

No attachment – can you resend?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Tuesday, May 30, 2023 11:33 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Here's a W-9 with that box checked in Section 3. Don't know what that wasn't done on the other one. We're an S corporation.

Thanks.

Drew Radeker



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information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) Thank you.

From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, May 30, 2023 10:50 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

And here is the executed agreement.

From: Knight, Stacie C.
Sent: Tuesday, May 30, 2023 10:42 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew, can you complete Box 3 on your firm's W-9?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Thursday, May 25, 2023 8:59 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, attached is the agreement signed by Mr. Morgan.

Thank you.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, May 24, 2023 11:33 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

My fingers are crossed. (Well, I uncrossed them to type this email).

Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 11:31 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Great, let's get this signed this week.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 24, 2023 11:12 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Great. Thanks. That's just fine.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Wednesday, May 24, 2023 10:50 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew, I accepted all your changes except the payment date in paragraph 8(b) – I changed it to September 4, 2023 by 11:59 p.m.

Please let me know if we are ready for execution. We will expedite the check as soon as I have signatures in hand.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 17, 2023 11:29 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie:

Please see the attached draft with changes. You'll note that I changes the sales date from September 1 to September 5, since that's the September sales day.

Mr. Morgan has also asked me to request that the sales date be moved to October. If Wells Fargo will do that, that would be great, but you'll notice that I didn't put that proposed change in the document.

Let me know how this looks to you. I want to get this wrapped up yesterday.

If you would go ahead and have the check sent to my office, that would be great and would calm my client some.

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Thanks.

Drew Radeker



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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, May 12, 2023 3:03 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just checking to see if you have an update on this?

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Wednesday, May 10, 2023 12:58 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Oh, and here is Mike's W-9.

Thanks.

Drew Radeker



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for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) Thank you.

From: Drew Radeker
Sent: Wednesday, May 10, 2023 11:45 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Just trying to keep you in the loop here. Mike wants some changes to the agreement document, and I'm working on getting him to approve them so I can send to you by tomorrow.

I want to get this wrapped up.

Thanks.

Drew Radeker



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Columbia, South Carolina 29201
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Columbia, South Carolina 29250
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Thursday, April 27, 2023 3:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, just following up. Thanks!

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, April 24, 2023 12:27 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. Mike is on the road still but comes back tomorrow, so I probably won't be able to get you more until at least then.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Monday, April 24, 2023 12:23 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hi Drew, thanks for speaking with me on Friday. Per our discussion I have kept the 14-day payment window; we will expedite the check upon receipt of the signed settlement agreement and a W-9 from Mr. Morgan (I have yours).

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 2:20 PM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Hey, I just tried to call you a second ago. Having both Mr. Morgan and our firm as the payees on the check is fine. It's most important that we keep the April 30 payment date, though, on which we agreed at the mediation.

Thanks.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
Telephone: (803) 779-2211
Facsimile: (803) 779-6700
www.harrisonfirm.com

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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Friday, April 21, 2023 2:12 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Drew,

I tried to call you earlier—we need to keep the payees as your firm and Morgan and will need a W-9 from him. I also changed the payment interval to 14 days—the bank can't order the check without an executed settlement agreement and W-9s. It usually takes about 14 days to get a check, but we can submit an expedited request as soon as we have executed documents in hand. I don't want the agreement to blow up over this, so please give me a call to discuss.

Thanks.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, April 21, 2023 9:55 AM
To: Knight, Stacie C. <SKnight@winston.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Morgan - Settlement Agreement

Stacie, I'm waiting right now for Mike's proposed changes, if he has any, but I definitely have one. In paragraph 2, I have revised the payment date to keep it consistent with that agreed to at the mediation.

Thanks.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, April 19, 2023 7:07 AM
To: Knight, Stacie C. <SKnight@winston.com>
Subject: RE: Morgan - Settlement Agreement

Thanks. I had a reminder set for myself this morning to check with you about this very thing. I'll take a look and let you know, probably today, of any proposed changes.

Drew Radeker



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Columbia, South Carolina 29201
Post Office Box 50143,
Columbia, South Carolina 29250
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Facsimile: (803) 779-6700
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From: Knight, Stacie C. <SKnight@winston.com>
Sent: Tuesday, April 18, 2023 10:50 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Morgan - Settlement Agreement

Hi Drew,

Please review the attached proposed settlement agreement and let me know if you have any changes. I'm also running this by foreclosure counsel so there may be additional changes on our end (unlikely, but wanted to caveat just in case).

Thanks.

Stacie C. Knight

Winston & Strawn LLP

D: +1 704-350-7712

sknight@winston.com

winston.com



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EXHIBIT 3

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-02-2849

WELLS FARGO BANK, N.A.

PLAINTIFF,

v.

MICHAEL G. MORGAN; MARGARET H.
FITCH, M.D.; ERIC J. OLIG; SOUTH
CAROLINA DEPARTMENT OF REVENUE;
LINDA LAWRENCE BOWEN,

DEFENDANTS.

STIPULATION REGARDING DISMISSAL
OF COUNTERCLAIMS, CONSENT TO
FORECLOSURE, AND WAIVER OF
DEFICIENCY JUDGMENT

The parties through their below-signed counsel stipulate as follows:

- a) Defendant Morgan's counterclaims are dismissed with prejudice;
- b) Defendant Morgan consents to the entry of a deficiency-waived foreclosure judgment and withdraws his defenses to the same; and
- c) The Plaintiff waives its right to have a personal money judgment (i.e., deficiency judgment) against Defendant Morgan.

WE SO STIPULATE:

/s/ Stacie C. Knight

Stacie C. Knight
(S.C. Bar No. 77968)
WINSTON & STRAWN LLP
300 South Tryon Street, 16th Floor
Charlotte, North Carolina 28202
(704) 350-7700
(704) 350-7800 (fax)
sknight@winston.com

*Attorneys for Plaintiff
Wells Fargo Bank, N.A.*

/s/ Andrew S. Radeker

Andrew S. Radeker
HARRISON, RADEKER & SMITH, P.A.
P.O. Box 50143
Columbia, SC 29250
(803) 779-2211
(803) 779-6700 (fax)
drew@harrisonfirm.com

Attorney for Defendant Michael G. Morgan

EXHIBIT 4

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:)
)
MICHAEL GAVIN MORGAN,) Chapter 11
)
) Case No.: 23-02686-hb
Debtor.)

**WELLS FARGO BANK NATIONAL ASSOCIATION'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

Wells Fargo Bank National Association (“Wells Fargo”), a creditor and party-in-interest in the above-captioned Chapter 11 bankruptcy case of Michael Gavin Morgan (the “Debtor”), hereby respectfully requests that this Court grant Wells Fargo relief from the automatic stay pursuant to the 11 U.S.C. § 362(d)(1) for cause. The instant motion is supported by (1) the *Affidavit of Tonya R. Caldwell* (the “Affidavit”) attached hereto as **Exhibit A**, with exhibits; (2) a completed form Local Rule 4001-1 Stay Relief Certification Form¹ as **Exhibit B**, with an exhibit; and (3) a proposed Order granting the instant motion attached hereto as **Exhibit C**. In support of this request, Wells Fargo states as follows:

I. INTRODUCTION

The Debtor lives in a home worth well over \$1,000,000 which he cannot remotely afford. He has not made a payment on his mortgage loan from Wells Fargo – on which he currently owes more than \$2.1 million – since June 2011. In March 2023, he reached an extremely favorable (for him) settlement with Wells Fargo after years of state court litigation regarding the loan and Wells

¹ Upon information and belief, this form is no longer required given the abrogation of Local Rule 4001-1 effective December 1, 2023, but Wells Fargo is submitting it for the Court’s convenience.

Fargo's right to foreclose.² Unfortunately, the Debtor was not able to take advantage of the ability Wells Fargo offered him in the settlement agreement to resolve all outstanding issues between the parties. While Wells Fargo continued to discuss a possible global resolution with the Debtor after he filed Chapter 11 bankruptcy, unfortunately those discussions have not been successful. The bottom line is that the Debtor is simply unwilling or unable to resolve his issues with Wells Fargo.

The Debtor simply cannot afford his home. He cannot possibly confirm a Chapter 11 plan that treats Wells Fargo's mortgage loan correctly under Chapter 11. For that reason and others, this Court should dismiss his Chapter 11 case or in the alternative grant Wells Fargo relief from stay so that it may foreclose on its collateral.

II. FACTUAL AND PROCEDURAL BACKGROUND.

1. On or about April 25, 2008, Wachovia Mortgage FSB ("Wachovia") made a loan (the "Loan") to the Debtor as evidenced by that certain *Adjustable Rate Note* (the "Note") executed by the Debtor on the same date in the original amount of \$1,300,000. (Affidavit, ¶ 8).

2. The maturity date of the Note is May 15, 2038. (Affidavit, ¶ 9).

3. The Note was secured by that certain *Mortgage* (the "Mortgage") executed by the Debtor in favor of Wachovia on the same date pursuant to which the Debtor granted a lien on and security interest in certain real property located at 415 Chesterfield Street South, Aiken, South Carolina 29801, as more fully described therein (the "Property"). The Mortgage was recorded on or about May 6, 2008, in the appropriate real property recording office in Aiken County, South Carolina at Instrument No. 2008012456, Book No. 4201, Page 1737. (Affidavit, ¶ 10).

4. Wells Fargo is the successor in interest to Wachovia. (Affidavit, ¶ 11).

² Because the settlement agreement between the parties has a confidentiality provision, Wells Fargo will not describe the terms of the agreement.

5. The Debtor has not made any payments on the Loan since June 2011. (Affidavit, ¶ 12).

6. On or about December 2, 2015, Wells Fargo filed a state court foreclosure action against the Debtor and the Property in the Court of Common Pleas for Aiken County, South Carolina (the “State Court”), Civil Action No. 2015-CP-02-2849 (the “Foreclosure Lawsuit”). (Affidavit, ¶ 13).

7. On or about May 10, 2018, the Debtor filed an amended answer asserting counterclaims against Wells Fargo in the Foreclosure Lawsuit. (Affidavit, ¶ 14).

8. On or about August 24, 2018, the State Court granted Wells Fargo’s motion to dismiss the Debtor’s counterclaims. (Affidavit, ¶ 15).

9. On September 1, 2021, the South Carolina Court of Appeals reversed the Trial Court’s dismissal of the Debtor’s counterclaims. (Affidavit, ¶ 16).

10. On or about May 31, 2022, Wells Fargo filed an amended complaint in the Foreclosure Lawsuit. (Affidavit, ¶ 17).

11. On June 15, 2022, the Debtor answered Wells Fargo’s amended complaint and again asserted a counterclaim. (Affidavit, ¶ 18).

12. Wells Fargo and the Debtor ultimately agreed to mediation in an attempt to resolve their differences. (Affidavit, ¶ 19).

13. The mediation was held on March 31, 2023 with mediator Karl A. Folkens, and the parties reached a successful resolution of their differences in principle. (Affidavit, ¶ 20).

14. On or about May 26, 2023, the parties confirmed their successful resolution by entering into a written *Confidential Settlement Agreement And Release* (the “Settlement Agreement”). (Affidavit, ¶ 21).

15. The Debtor filed the instant Chapter 11 case (the “Bankruptcy Case”) on September 5, 2023 (the “Petition Date”). (Case No. 23-02686, Doc. 1).

16. As of the Petition Date, the amount owing on the Loan was \$2,176,448.70. (Affidavit, ¶ 23).

17. As of the Petition Date, the total amount of past due monthly payments (principal, interest and escrow), fees, charges and expenses was \$1,110,847.57 (the “Prepetition Arrearage”).³ (Affidavit, ¶ 24).

18. Since the Petition Date, an additional \$36,550.72 has come due on the Loan for the payments due September 15, 2023; October 15, 2023; November 15, 2023; and December 15, 2023 (the “Postpetition Arrearage” and collectively with the Prepetition Arrearage, the “Total Arrearage”). (Affidavit, ¶ 25).

19. The sum of the Prepetition Arrearage and the Postpetition Arrearage is \$1,147,398.29. (Affidavit, ¶ 26).

20. In addition, Wells Fargo has made a postpetition disbursement of \$9,697.00 for insurance. (Affidavit, ¶ 27).

21. In his Schedule D, the Debtor listed the Loan as indebtedness secured by the Property and did not indicate in Schedule D that the Loan was contingent, unliquidated, or disputed. (Doc. 11).

³ The *Mortgage Proof of Claim Attachment* (Form B410A) attached to Wells Fargo’s *Proof of Claim* filed on January 4, 2024 in this matter contains a different “Total prepetition arrearage” sum in Part 3 (“Arrearage as of Date of the Petition”) than the “Prepetition Arrearage” as defined in Paragraph 17. This difference is because of the way escrow is treated in the *Mortgage Proof of Claim Attachment* – it requires removing the escrow component of the missed monthly payments and instead including the petition-date escrow shortage and deficiency (if any). The “Postpetition Arrearage” as defined herein is simply the sum of the full amount of each of the missed prepetition monthly payments, with the monthly escrow amount included.

22. In his Schedule J, the Debtor lists monthly income of negative \$5,907.20 without listing any monthly payment on the Loan. (Doc. 11).

23. In his Schedule A/B, the Debtor lists a sum of \$113,300 in deposit accounts. (Doc. 11).

III. ARGUMENT.

A. The Debtor Cannot Confirm A Chapter 11 Plan Because The “Anti-Modification” Clause In Section 1123(b)(5) And The “Unimpairment” Provisions in Section 1124(2) Either Require Him To Pay The Total Arrearage On The Loan Either At Confirmation Or Over The Life Of The Plan, Neither Of Which He Can Do.

1. The Debtor Cannot Confirm A Chapter 11 Plan Because He Cannot Pay The Total Arrearage On The Loan At Confirmation.

An individual Chapter 11 plan that does not cure all preconfirmation arrearages as of the confirmation date cannot be confirmed. *E.g., In re Jacobs*, 644 B.R. 883, 90 (Bankr. D.N.M. 2022). “The prevailing view, developed mostly in the context of determining whether a commercial loan is deemed unimpaired under § 1124(2), is that § 1124(2)(A) requires the chapter 11 plan to provide for payment of pre-confirmation arrearages on the secured claim in full by the plan effective date to satisfy the cure requirement for the claim to be deemed unimpaired.” *Jacobs*, 644 B.R. at 901, n. 75 (numerous citations omitted).⁴

In *Jacobs*, the court conducted a detailed examination of the “anti-modification” clause for residential loans found in section 1123(b)(5). *Id.* at 895. The court first noted there is no specific subsection or other statute in Chapter 11 recognizing a right to cure as there is in Chapter 13. *Id.* at 896. Given that section 1123(b)(5)’s language that a plan may also “leave unaffected the rights

⁴ *Jacobs* cites the following seven (7) decisions for this rule: *In re Cottonwood Corners Phase V, LLC*, 2012 WL 566426, at *13 (Bankr. D.N.M. Feb. 17, 2012); *In re Schatz*, 426 B.R. 24, 27-28 (Bankr. D.N.H. 2009); *In re Tri-Growth Ctr. City, Ltd.*, 136 B.R. 848, 852 (Bankr. S.D. Cal. 1992); *In re Hall*, 117 B.R. 425, 429 (Bankr. S.D. Ind. 1990); *In re Kuljis Seafood Co.*, 73 B.R. 659, 661, n.1 (Bankr. S.D. Miss. 1986); *In re Jones*, 32 B.R. 951, 960 (Bankr. D. Utah 1983); and *In re Otero Mills, Inc.*, 31 B.R. 185, 186 (Bankr. D.N.M. 1983).

of holders of any class of claims,” the Court equated lack of impairment under section 1124 with a lack of modification as required for residential loans under section 1123(b)(5). *Id.* at 898-99 (“Instead, to determine whether a chapter 11 plan permissibly (or impermissibly) modifies the contractual rights of a holder of a claim secured only by the debtor’s principal residence, the Court must look to § 1124, which governs when a claim is ‘impaired.’”). Turning to section 1124, the Court noted that under subsection (2) an impaired claim may be “unimpaired” if certain conditions are met, one of which is cure of preconfirmation defaults. *Id.* at 899. After extensive analysis, the Court found that the “cure” referred to in section 1124(2)(B) must be accomplished at or prior to confirmation, because, among other reasons, nothing else in the Bankruptcy Code would prevent the debtor from finishing the cure at the original maturity date, which could be many years into the future. *Id.* at 901.

The Debtor’s Schedule J lists monthly income of negative \$5,907.20, and his Schedule A/B lists \$113,300 in deposit accounts. He lists no other liquid assets from which he could possibly have an ability to pay the Total Arrearage (which after he misses the January 15, 2024 payment will only increase) at confirmation.

2. Even If This Court Allows The Debtor To Cure The Total Arrearage Over The Life Of His Chapter 11 Plan, He Cannot Do It.

There are some reported cases holding that a debtor may cure preconfirmation arrearages over the life of a Chapter 11 plan instead of requiring payment at confirmation. The *Jacobs* court cited two cases for this proposition which it found “discuss the issue at some length” – *In re LaPorta*, 578 B.R. 792, 798-800 (Bankr. N.D. Ill. 2017) and *In re Lennington*, 288 B.R. 802, 804-06 (Bankr. C.D. Ill. 2003) – and in considerable detail explained why they reached the wrong conclusion. *Id.* at 903-06.

Respectfully, this Court need not wade into a review of this case law. Even if the minority rule applies, the Debtor cannot possibly cure the Total Arrearage over the life of a Chapter 11 plan. Assuming Wells Fargo did not request default rate interest or additional interest that would only increase the Total Arrearage (which numerous reported cases would support), and assuming the Chapter 11 plan is confirmed in April 2024 with the first payment on the Total Arrearage due in June 2024, the Debtor would be required to make monthly payments of \$6,965.12 (Total Arrearage divided by 168 months through the Maturity Date in May 2038).⁵ This would be in addition to making the regular monthly postpetition mortgage payments of \$9,137.68 as they come due. He simply has no ability to do this.

B. This Court Should Grant Relief From The Automatic Stay To Wells Fargo For Cause Pursuant To 11 U.S.C. § 362(d)(1).

“Section 362(d)(1) allows relief from the automatic stay to be granted ‘for cause, including the lack of adequate protection of an interest in property of such party in interest.’” *In re Wolsonovich*, 2020 WL 5607738, at *2 (Bankr. D.S.C. Apr. 1, 2020). “Section 362(d)(1) does not define ‘cause,’ therefore, courts determine whether cause exists on a case-by-case basis.” *Wolsonovich*, 2020 WL 5607738, at *2 (citing *Robbins v. Robbins (In re Robbins)*, 964 F.2d 342, 345 (4th Cir. 1992)). “The bankruptcy court has ‘broad discretion to determine what constitutes ‘cause’ sufficient to warrant relief from stay.’” 2020 WL 5607738, at *2 (quoting *In re Lee*, 428 B.R. 667, 669-70 (Bankr. D.S.C. 2009)).

⁵ Numerous cases hold that an extension of a maturity date on a loan is a modification and not a cure. *Jacobs*, 644 B.R. at 901 (“Section 1124(2)(B) requires reinstatement of the maturity of the loan in order to deem the claim unimpaired, which means the entire claim must be paid in full prior to the maturity date.”); 644 B.R. at 901, n. 72 (“A chapter 11 plan providing for payments on a loan secured only by the debtor's principal residence beyond the loan maturity date would violate the anti-modification prohibition in § 1123(b)(5).”) (citing *In re Brock*, 628 B.R. 509, 511 (Bankr. N.D. Miss. 2021)); *In re Sampson*, 2018 WL 4786404, at *2 (Bankr. M.D. Fla. Sept. 6, 2018); and *In re Crump*, 529 B.R. 106, 111-12 (Bankr. D.S.C. 2015)). Wells Fargo has not been able to find any reported case that allows an individual Chapter 11 debtor to cure prepetition arrearages over the life of a Chapter 11 plan past the maturity date.

“Confirmation of a Chapter 11 plan of reorganization requires that the plan satisfy all of the confirmation criteria set forth in 11 U.S.C. § 1129(a).” *Behrmann v. National Heritage Foundation*, 663 F.3d 704, 709 (4th Cir. 2011) (citation omitted). One of the requirements in section 1129(a) is subsection (11), which states that “[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.” 11 U.S.C. § 1129(a)(11). This requirement is commonly referred to as the “feasibility” requirement. *E.g.*, *In re A.H. Robbins Co., Inc.*, 880 F.2d 694, 698 (4th Cir. 1989). “The feasibility standard under § 1129(a)(11) ‘is whether the [P]lan offers a reasonable assurance of success. Success need not be guaranteed.’” *In re Tree of Life Church*, 522 B.R. 849, 864 (Bankr. D.S.C. 2015) (quoting *Kane v. Johns–Manville Corp.*, 843 F.2d 636, 649 (2d Cir.1988)).

It is well-settled that “cause” exists under section 362(d)(1) for relief from the automatic stay when confirmation of a debtor’s proposed plan is denied or will be denied because of a lack of feasibility. *E.g.*, *In re Brown*, 1998 WL 734701, at *5–6 (E.D. Pa. Oct. 19, 1998) (“Appellant could not propose a feasible reorganization plan to the satisfaction of the Bankruptcy Court. Thus, this Court cannot conclude that the Bankruptcy Court abused its discretion in concluding that cause existed to grant a relief from the stay”); *In re RIM Dev., LLC*, 448 B.R. 280, 292 (Bankr. D. Kan. 2010) (“At day’s end, even under the lighter scrutiny to be applied in deciding a motion under § 362(d)(3), the Court cannot conclude that RIM’s plan has a reasonable possibility of being confirmed within a reasonable time over the persistent objections of TFC.”) *In re Smith*, 333 B.R. 94, 102 (Bankr. M.D.N.C. 2005) (“‘Cause’ lift the automatic stay when a debtor fails to propose a feasible chapter 11 plan of reorganization.”); *In re Pennsylvania Footwear Corp.*, 204 B.R. 165, 183 (Bankr. E.D. Pa. 1997) (“The Debtor’s inability to present a confirmable plan also results in a

lack of adequate protection of the Bank's interests and gives rise to cause for relief under 11 U.S.C. s 362(d)(1)."); *In re Gulph Woods Corp.*, 84 B.R. 961, 974–75 (Bankr. E.D. Pa. 1988) (“The poor prospects for a successful reorganization and performances under the Plan result in our conclusion that cause for relief from the stay exists, pursuant to § 362(d)(1).”).

In the instant case, the Debtor’s 120-day exclusivity to file a Chapter 11 plan pursuant to 11 U.S.C. § 1121(c)(2) expired on January 3, 2024, and his six-month deadline to file a plan pursuant to Local Bankruptcy Rule 3016-1 expires on March 5, 2024. Nevertheless, a debtor’s inability to propose a feasible plan may be grounds in and of itself for relief from the automatic stay for “cause” under section 362(d)(1). *In re CBJ Development, Inc.*, 202 B.R. 467 (B.A.P. 9th Cir. 1996) (“That a Debtor is unable to propose a feasible plan, may be grounds for relief from the automatic stay for ‘cause’ under § 362(d)(1).”).

For these reasons, this Court should grant Wells Fargo relief from stay for cause under section 362(d)(1) to exercise its in rem rights and remedies to the Property.

IV. CONCLUSION.

WHEREFORE, Wells Fargo respectfully requests that the Court enter an Order (A) granting Wells Fargo relief from the automatic stay for cause pursuant to 11 U.S.C. § 362(d)(1), and (B) granting Wells Fargo such further and additional relief as the Court deems just and proper.

Dated January 11, 2024.

/s/ G. Benjamin Milam

G. Benjamin Milam, Esq.

Bradley Arant Boult Cummings LLP

214 North Tryon Street, Suite 3700

Charlotte, NC 28202

Telephone: (704) 338-6000

Email: bmilam@bradley.com

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2024, I (a) electronically filed the foregoing with the Clerk of the Court and served the following using the CM/ECF system which will send notification to all parties of record, including the following:

Brandon K. Poston
United States Trustee's Office
Strom Thurmond Federal Building
1835 Assembly St.
Suite 953
Columbia, SC 29201
Phone: 803-765-5218
Email: keith.poston@usdoj.gov

William Harrison Penn
Penn Law Firm, LLC
P.O. Box 11332
1517 Laurel Street
Columbia, SC 29211-1332
Phone: 803-771-8836
Email: hpenn@mccarthy-lawfirm.com

and (b) personally served a copy of the foregoing on the debtor Michael G. Morgan by first-class United States mail at:

Michael Gavin Morgan
415 Chesterfield Street South
Aiken, SC 29801

and (c) personally served a copy of the foregoing on all other parties listed on the Court's Creditor Matrix attached hereto as **Exhibit D**.

/s/ G. Benjamin Milam
Of Counsel

EXHIBIT 5

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

In re:

Michael Gavin Morgan,

Debtor.

Case No. 23-02686-hb

Chapter 11

**DEBTOR’S OBJECTION TO MOTION OF WELLS FARGO BANK, N.A.
FOR RELIEF FROM THE STAY**

Michael Gavin Morgan (“Debtor”) hereby objects to the January 11, 2024 Motion of Wells Fargo Bank, N.A. (“Wells Fargo” or “Movant”) for Relief from the Automatic Stay (the “Motion”). In support of his objection, the Debtor would show as follows:

BACKGROUND FACTS

1. On September 4, 2023 (the “Petition Date”) the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of South Carolina (the “Court”), thereby commencing this Chapter 11 Case. The Debtor is managing his assets as a debtor in possession pursuant to §§1107(a) and 1108 of the Bankruptcy Code.

2. The Debtor resides at 415 South Chesterfield Street, Aiken, South Carolina (the “Residence”). The Residence is approximately 10,000 square foot, 22 room house, built in 1840 situated on approximately 2 acres in downtown Aiken, South Carolina. In addition to the house, the Residence includes a 17-stall barn, three paddocks, and a guest cottage.

3. Wells Fargo asserts a first priority mortgage on the Debtor’s residence as successor-in-interest to Wachovia Mortgage FSB (“Wachovia”).

4. In April 2008, the Debtor refinanced his home with a \$1,300,000 “Pick-A-Payment” mortgage loan from Wachovia. The Debtor previously mortgaged the property with GRP Financial Services and had an approximate principal balance of \$1,250,000. The Debtor’s intent with the Pick-A-Payment loan was to obtain a lower monthly payment as advertised in the associated marketing material, not to take cash out. The additional Wachovia loan proceeds of \$50,000 were used entirely to pay points and closing costs associated with the loan.

5. In 2010, the Debtor was contacted by plaintiff’s counsel in a class action lawsuit against Wells Fargo relating to the failures of the Pick-A-Payment loan product. Mr. Morgan joined as a class participant in the matter styled as *In re Wachovia Corporation “Pick-A-Payment” Mortgage Marketing and Sales Practices Litigation*, Case No. 5:09-md-02015-JF in the United States District Court for the Northern District of California (the “Class Action”).

6. The Class Action resulted in the approval of a settlement on May 17, 2011 which is attached as **Exhibit A**. The Settlement Agreement, as detailed in the Order, called for Wells Fargo to provide mortgage modifications to class members.

7. The Debtor vigorously sought approval for the promised mortgage modification from May 2011 to 2015, but his applications were repeatedly denied for various reasons.

8. Wells Fargo filed a foreclosure action seeking recovery of the residence and deficiency judgment against the Debtor on December 2, 2015. That action is pending in the Court of Common Pleas for Aiken County, South Carolina and has been assigned Civil Action No. 2015-CP-02-2849 (the “Foreclosure Action”).

9. The Debtor’s Answer in the Foreclosure Action included several counterclaims. Wells Fargo moved to dismiss the counterclaims in the Foreclosure Action, arguing that the

Debtor was prohibited from raising counterclaims related following settlement of the Class Action in 2011.

10. On May 10, 2018, Morgan filed an amended answer and a single counterclaim for “Violation of the Attorney Preference Statute with Unconscionability” pursuant to S.C. Code Ann. § 37-10-102.

11. Following a hearing, the circuit court dismissed Debtor’s counterclaim, with prejudice, by order dated August 24, 2018. The Debtor timely moved to reconsider, or alternatively allow him leave to amend his pleading at the hearing that was held on October 15, 2018. On October 28, 2018 the circuit court e-filed an order granting Debtor’s motion to reconsider, reinstating the Debtor’s counterclaim, and transferring the case to the master-in-equity. On November 2, 2018, the circuit court e-filed a subsequent order denying the Debtor’s Motion to reconsider. On November 5, 2018, the circuit judge’s law clerk notified the parties by email that the October “order that was electronically signed was signed in error. The order filed on Friday is the correct order. The motion to reconsider is denied.”

12. On appeal, the South Carolina Court of Appeals reversed and remanded the circuit court’s dismissal of the Debtor’s counterclaim by order filed on September 1, 2021, which is attached as **Exhibit B**.

13. Wells Fargo filed an amended complaint in the Foreclosure Action on May 31, 2022.

14. On June 15, 2022, the Debtor filed his amended answer and asserted counterclaims for unclean hands and “Violation of the Attorney Preference Statute with Unconscionability” pursuant to S.C. Code Ann. § 37-10-102.

15. During discovery, Wells Fargo produced a copy of the Debtor's loan application, which was not the document submitted by the Debtor and included portions that were not in the Debtor's handwriting. The changes to the document substantially inflated both the Debtor's income and his assets. The Debtor engaged Marvin Dawson, a noted handwriting expert, who confirmed the forgery.

16. Wells Fargo and the Debtor reached a resolution of the matter and signed a settlement agreement at the mediation that was conducted on March 31, 2023. Wells Fargo neglected to timely perform under the terms of the March 31, 2023 Settlement Agreement.

17. Upon information and belief, Wells Fargo presented a new document to the Debtor in May 2023, for the purpose of settling the Foreclosure Action. The Debtor hand wrote changes on the document and signed the May 24, 2023 agreement, as revised. The settlement agreement signed by Wells Fargo on May 26, 2023 does not include the changes made by the Debtor on May 24, 2023.

18. On August 28, 2023 the Debtor obtained an appraisal of the Residence from Sutherland Group, LLC which gives an opinion of value in the amount of \$2,996,000. This appraisal is attached and incorporated herein as **Exhibit C**.

19. Seeking to avoid the imminent entry of a foreclosure decree and the unpracticable provisions of the May 26, 2023 document, the debtor filed a petition for relief in bankruptcy on September 5, 2023 at 11:37am.

ARGUMENT

Wells Fargo's Motion asserts that relief from the automatic stay is proper "for cause" pursuant to 11 U.S.C. §362(d)(1). Despite these assertions by Wells Fargo, relief from the automatic stay is not appropriate in this matter, and the Motion should be denied.

Movant asserts that it is entitled to relief from the stay for cause pursuant to 11 U.S.C. §362(d)(1), asserting a lack of adequate protection. In support of this alleged lack of adequate protection, Wells Fargo has filed a proof of claim which does not account for its commitments pursuant to the Mediated Settlement Agreement entered between the parties on March 31, 2023. Further the value of the Residence claimed by Wells Fargo is radically out of line with the values for a property comparable to the Debtor's Residence. Debtor disputes Proof of Claim 2 as filed by Wells Fargo in the amount of \$2,176,448.70. As indicated on the Debtor's Schedule D, the Debtor does not dispute that Wells Fargo held a claim secured by a mortgage on the Residence of \$1,300,000 on the Petition Date. Appropriately measured, Wells Fargo is protected by an equity cushion of \$1,696,000.

While Wells Fargo has indeed paid the post-petition property tax and insurance payments for the Residence, Wells Fargo has failed to detail that such payments were made voluntarily, without notice to the Debtor, and prior to the due date. At the Meeting of Creditors held in this matter, the Debtor testified directly on these issues and in the presence of counsel for Wells Fargo stated that he was and remains prepared to make such payments. In making these post-petition payments, Wells Fargo acted voluntarily and without notice to the Debtor. Allowing such voluntary payments to be a basis for relief from the automatic stay is inequitable.

Wells Fargo's Motion makes a number of arguments against any Plan the Debtor could file. Wells Fargo's motion seems to indicate that "cause" exists and Wells Fargo is not "adequately protected" because the Debtor's Plan cannot propose to pay Wells Fargo's claim in full. However, being undersecured, a fact that the Debtor disputes, is not the same thing as a lack of adequate protection as Wells Fargo seemingly argues. Adequate protection is focused on a decrease in value

of the collateral rather than payment in full. As discussed above, there is no such post-petition decrease in the value of Wells Fargo's collateral, and the Debtor believes and asserts that Wells Fargo will receive the value of its collateral by way of the Debtor's Plan.

Despite the allegation that Wells Fargo's interest in the Debtor's assets may be undersecured, the value of their secured interest is not decreasing. Additionally, evidence would demonstrate that regardless of whether the Wells Fargo claim is established at the proper amount of \$1,300,000 or the disputed amount of \$2,176,448.70, there is a sufficient equity cushion to adequately protect Wells Fargo's interest in the Residence. For the foregoing reasons, 11 U.S.C. §362(d)(1) "cause" does not exist in this matter and Movant's motion should be denied.

CONCLUSION

WHEREFORE, having set forth the bases for its objection, the Debtor requests that the Motion be denied and the Debtor be granted such other and further relief that the Court deems just and appropriate.

RESPECTFULLY SUBMITTED on this the 25th day of January 2024 at Columbia, South Carolina.

PENN LAW FIRM, LLC

By: /s/ W. Harrison Penn
W. Harrison Penn (DSC # 11164)
Attorneys for the Debtor
1517 Laurel Street
Columbia, SC 29201
(803) 771-8836
hpenn@pennlawsc.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

Michael Gavin Morgan,
Debtor.

Case No. 23-02686-hb

Chapter 11

CERTIFICATE OF FACTS

In the above-entitled proceeding in which relief is sought by Wells Fargo Bank, N.A. ("Wells Fargo" or "Movant") from the automatic stay provided by 11 U.S.C. §362, I do hereby certify to the best of my knowledge the following:

1. Nature of Movant's Interest – **Mortgage lien on Debtor's real property.**
2. Brief Description of Security Agreement –
Mortgage dated April 15, 2008
3. Description of Property Encumbered by Stay -
**415 South Chesterfield Street
Aiken, South Carolina 29801,**
4. Basis for Relief -
Movant has failed to show that it is entitled to relief from the automatic stay pursuant to any subsection of 11 U.S.C. §362(d), though Movant alleges relief is proper pursuant to 11 U.S.C. §§362(d)(1).
5. Prior Adjudication by other Courts - **N/A**
6. Valuation of Property - **\$2,996,000 based upon appraised value on August**

Movant's Lien: **Wells Fargo asserts its 1st Mortgage is \$2,176,448, which is properly calculated at \$1,300,000.**

Other Liens: **Margaret H. Fitch 2nd Mortgage scheduled in the amount of \$250,000.**

Net Equity: **\$1,446,000.**

Source/Basis of Value: **Appraisal dated August 28, 2023.**

7. Amount of Debtor(s) Estimated Equity - **\$1,446,000**
8. Month and Year in Which First Direct Post-Petition Payment Came Due to Movant (if applicable): **No payments are due pursuant to the Mediated Settlement Agreement dated March 31, 2023.**
9. (a) For Movant/Lienholder: List or attach a list of all post-petition payments received directly from debtors, clearly showing the date received, amount, and month and year for which each such payment was applied: **N/A**

(b) For Objecting Party (if applicable): List or attach a list of all post-petition payments included in the Movant's list from (a) above which objecting party disputes as having been made. Attach written proof of such payments or a statement as to why such proof is not available at the time of filing this objection.

No payments are due pursuant to the Mediated Settlement Agreement dated March 31, 2023.
10. Month and Year for which Post-petition account of Debtor is due as of the Date of this Motion: **Debtor believes that no post-petition payments are due.**

January 25, 2024
Columbia, SC

PENN LAW FIRM, LLC

By: /s/ W. Harrison Penn
W. Harrison Penn (DSC # 11164)
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re:

Michael Gavin Morgan,

Debtor.

Case No. 23-02686-hb

Chapter 11

CERTIFICATE OF SERVICE BY FIRST CLASS MAIL

I, W. Harrison Penn, counsel for the Debtor, do hereby certify that I served a copy of the attached **Objection to Motion of Wells Fargo Bank, N.A. for Relief from the Automatic Stay and Certification of Facts**, both filed January 25, 2024, upon the list of parties on January 25, 2024.

Parties Served via CM/ECF:

G. Benjamin Milam, Esq.
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214 North Tryon Street, Suite 3700
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Brandon K. Poston
Trial Attorney
Office of the United States Trustee
1835 Assembly Street, Suite 953
Columbia, SC 29201
Keith.poston@usdoj.gov

Parties Served via First Class Mail:

Margaret H. Fitch
103 Quaker Ridge Rd.
Aiken, SC 29803-5259

/s/W. Harrison Penn
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ELECTRONICALLY FILED - 2024 Aug 12 3:26 PM - AIKEN - COMMON PLEAS - CASE#2015CP0202849

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF AIKEN)
 CASE NO. 2015-CP-02-2849

WELLS FARGO BANK, N.A.	)	
	)	
PLAINTIFF,	)	
V.	)	AMENDED
	)	
MICHAEL G. MORGAN:	)	MOTION TO WITHDRAW AND STRIKE
MARGARET H. FITCH, M.D.;	)	THE STIPULATION DISMISSING
ERIC J. OLIG; SOUTH CAROLINA	)	COUNTERCLAIMS, CONSENTING TO
DEPARTMENT OF REVENUE AND	)	FORECLOSURE AND WAIVING
LINDA LAWRENCE BOWEN;	)	DEFICIENCY.
	)	
DEFENDANTS.	)	

TO: THE ABOVE-NAMED PARTIES:

This amended motion is filed to correct a typographical error in subparagraph 2a (July 8, 2024 incorrectly shown in original as July 8, 2023)

TAKE NOTICE that 10 days after service hereof upon you exclusive of the date of service or at such time thereafter as the Court may set, the Defendant, Michael G Morgan will move before the Master of Equity for Aiken County in chambers at the Aiken County Judicial Center 109 Park Ave SE, Aiken, SC 29801, as follows:

1. Pursuant to Rule 41 (a) (1) (B) SCRPC, the stipulation which was filed without this Defendant's consent and which has not been made an Order of this Court is without prejudice. In that regard, this Defendant respectfully invites the Court's attention to the language of Rule 41 (a) (1) (B) SCRPC which in pertinent part reads as follows (**emphasis added**) :

RULE 41
DISMISSAL OF ACTIONS; NON-SUIT

(a) Voluntary Dismissal: Effect Thereof.

(1) By Plaintiff; By Stipulation. Subject to the provisions of Rule 23(c), of Rule 66(a), and of any statute, an action may be dismissed by the plaintiff

without order of court (A) by filing and serving a notice of dismissal at any time before service by the adverse party of an answer or motion for summary judgment, whichever first occurs, or *(B) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice,* except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action based on or including the same claim

Because the stipulation is, pursuant to Rule 41(a) (1) (B), without prejudice, and because the stipulation has not been reduced to an Order specifying that the dismissal is with prejudice, this Defendant may rescind his purported consent to the stipulation. His right to rescind his purported consent is further supported by the fact that this Defendant never knew about the stipulation prior to the week of July 8, 2024, and never at any time consented to the stipulation and further would never consent to any stipulation which is so harmful to his rights under the facts of this case.

This Defendant craves reference to Rule 41 (a) (2) SCRPC which also provides that even an Order dismissing an action at the Plaintiff's request or dismissing counterclaims at the request of the Defendant is without prejudice. Thus, even if there were an Order confirming the dismissal, it is, pursuant to Rule 41 (a) (2) SCRPC, without prejudice which would mean that a party may rescind consent to the stipulation of dismissal. Rule 41 (a) (2) SCRPC reads as follows **(emphasis added)**

(2) By Order of Court. Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, **a dismissal under this paragraph is without prejudice.**

2. The Defendant Michael Morgan withdraws the Stipulation wrongfully filed on July 13, 2023, by his then attorney in which Michael Morgan purportedly withdrew his counterclaims with prejudice, consented to judgment in foreclosure and withdrew his defenses and moves that the stipulation be stricken from the record and declared to be void and of no effect. . The Grounds for this withdrawal are that:

a. Although the stipulation was filed on July 13, 2023, this Defendant was not aware of the Stipulation until the week of July 8, 2024. The terms of the alleged stipulation were neither discussed with nor agreed to by Michael Morgan. Michael Morgan is entitled to withdraw the stipulation because it was not approved nor was it consented to by him, and he therefore moves that the Stipulation be stricken and declared void. .

b. The stipulation has not been approved or accepted by the Court and the Court has not entered any Order confirming the stipulation. The stipulation is therefore without prejudice and is voidable by the Defendant at the Defendant's option. This Defendant does hereby declare the stipulation void and moves that the Stipulation be stricken and declared void. .

c. The stipulation, if not stricken, deprives this Defendant of substantial rights and is manifestly unjust and would be, if enforced, be a contract of adhesion because the abandonment of counterclaims would deny this Defendant of rights the value of which far exceed any possible deficiency judgment that the Plaintiff might obtain. This Defendant therefore moves that the Stipulation be stricken and declared void.

d. The stipulation was filed on July 13, 2024, less than one year prior to the filing of this Motion. This Defendant is entitled to have the proceeding stricken pursuant to Rule 60 SCRPC on the grounds that the stipulation was entered without the consent of the Defendant and was thus entered by mistake or inadvertence on the part of counsel for the Defendant. Under

the circumstances presented in this case, failure to allow this Defendant relief from the stipulation which he has herewith denounced and rescinded would make it a great wrong. This Defendant therefore moves that the Stipulation be stricken and declared void.

e. The consideration given for the stipulation has no value because any claim of value is speculative. The likelihood of a deficiency judgment is so small as to be totally without value. The only way a sale of the property would produce a deficiency would be for the Plaintiff to manipulate the sale so that the sales price did not match fair market value. Because there is no consideration for the stipulation, it is unenforceable. This Defendant is entitled to withdraw the appearance of consent and have the Stipulation declared void. This Defendant therefore moves that the Stipulation be stricken and declared void.

3. Michael Morgan reserves the right to supplement this Motion with such legal authorities and affidavits as may be applicable and appropriate and to amend this Motion as may be necessary to fully protect Michael Morgan's interest.

I SO MOVE

s/John W. Harte
SC Bar No. 2773
Attorney for the Defendant Michael Morgan
john@jwhartelaw.com
803 226 0755

July 12, 2024

Physical Address
702 Chaffee Lane
Aiken, S.C., 29801

Mailing Address
PO Box 7215
Aiken, S.C., 29804

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
CASE NO. 2015-CP-02-2849

WELLS FARGO BANK, N.A.

PLAINTIFF,

V.

**MICHAEL G. MORGAN; MARGARET H.
FITCH, M.D.; ERIC J. OLIG; SOUTH
CAROLINA DEPARTMENT OF REVENUE;
LINDA LAWRENCE BOWEN,**

DEFENDANTS.

NOTICE OF HEARING

YOU WILL PLEASE TAKE NOTICE THAT, by virtue of the Order of Reference issued in the above-referenced matter, a final foreclosure hearing has been set for **March 12, 2025 at 10:00 a.m.** before the Honorable M. Anderson Griffith, Master in Equity for Aiken County at

**Courthouse, 109 Park Avenue SE
Aiken, SC 29801**

Pursuant to S.C. Code Ann. 14-11-110 (as amended) and/or applicable case law, Plaintiff intends to prepare and submit a Record of Hearing containing written testimony. The Master in Equity is authorized to take testimony, make findings of fact and conclusions of law, enter a final judgment, and to order the judicial sale of the property subject to foreclosure herein.

If you plan to join or attend this hearing, we would respectfully appreciate your sending an email to sknight@winston.com or leaving a message for the undersigned at (704) 350-7712. This is for the purpose of notifying you in the event that the hearing is canceled.

Records in possession of the undersigned as of this date reflect only the above parties and

the above Defendants' counsel (if any). Please contact the undersigned immediately if any counsel has filed an appearance and their name is not reflected above as a recipient of this Notice.

This 28th day of February 2025.

/s/ *Stacie C. Knight*

Stacie C. Knight

S.C. Bar No. 77968

WINSTON & STRAWN LLP

300 South Tryon Street, 16th Floor

Charlotte, North Carolina 28202

(704) 350-7700

(704) 350-7800 (fax)

Attorneys for Plaintiff Wells Fargo Bank, N.A.

CERTIFICATE OF SERVICE

The undersigned does certify that on February 28, 2025, she did cause to have served a copy of the Notice of Hearing via U.S. Postal Service, regular mail, with postage-prepaid and return address clearly indicated identified below:

ALSO SERVED VIA ELECTRONIC NOTICE

John W. Harte
P.O. Box 7215
Aiken SC 29804
Attorney for Defendant Michael G. Morgan

ALSO SERVED VIA ELECTRONIC NOTICE

Andrew S. Radeker
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Columbia SC 29260

ALSO SERVED VIA ELECTRONIC NOTICE

Taylor Smith
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Mary Guynn
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Aiken, SC 29802
Attorney for Margaret H. Fitch

ALSO SERVED VIA ELECTRONIC NOTICE

Brittany Kilpatrick
SC Department of Revenue
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Evans, GA 30809

Linda Lawrence Bowen
484 Powder House Rd.
Aiken, SC 29801

/s/ *Stacie C. Knight*
Stacie C. Knight