

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

FRANK INVESTMENTS, INC., *et al.*,

Lead Case No. 18-20019-EPK

Debtors.

Chapter 11
(Jointly Administered)

**MOTION TO AUTHORIZE SALE OF CERTAIN REAL PROPERTY
OF THE DEBTOR *NUNC PRO TUNC* TO AUGUST 20, 2018**

Debtor in Possession, Frank Investments, Inc. (the "Debtor"), pursuant to 11 U.S.C. § 363(b) and (f), respectfully requests entry of an order authorizing the sale of certain of its real property free and clear of all liens, claims and encumbrances, *nunc pro tunc* to August 20, 2018.

In support of this request the Debtor states:

FACTUAL BACKGROUND

1. The Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code on Friday August 17, 2018 (the "Petition Date").

2. The Debtor is operating its business and managing its assets as a debtor in possession pursuant to §§ 1107(a) of 1108 of the Code. No trustee, examiner, or statutory committee has been appointed in the case.

3. The Debtor is part of a group of companies that manage and operate movie theaters and similar commercial properties.

4. As of the Petition Date, the Debtor owned real property located at 5207 and 5213 Ventnor Avenue, Ventnor, New Jersey 08406 (the "Property" or "Real Property"). ECF No. 50. The Debtor estimates the value of the Property to be approximately \$325,000.00. *Id.*

5. Pursuant to a 2014 omnibus loan modification between The Bancorp Bank

("Bancorp"), the Debtor and several affiliates of the Debtor, the Property was cross-collateralized in order to secure repayment of a consolidated note owing to Bancorp in the amount of \$19.5 million. Bancorp has filed a proof of claim in this bankruptcy case that asserts some \$17.2 million still owing under the note. The filed claim includes copies of relevant loan documents. *See* Proof of Claim No. 25. The claim is secured by several items of collateral, including the Property. Upon information and belief, said collateral was fully encumbered by Bancorp's security interest as of the Petition Date. *See* ECF No. 50 and Proof of Claim No. 25.

6. The Property consists of a movie theater and several storefronts. The theater was last operational in the early 1990's. The Debtor historically leased certain of the storefronts to tenants, but has been unable to do so since Hurricane Sandy struck New Jersey in 2012. The Debtor derives no revenue from the Property and incurs administrative expenses owning the Property, such as real estate taxes.

7. Prior to the Petition Date, on April 25, 2018, the Debtor entered into a contract (as amended, the "APA") to sell the Property to third party, Stone Harbor Theatre, LLC (the "Buyer") for \$350,000.00. A copy of the APA is attached hereto as **EXHIBIT "A"**.

8. The Buyer is not an insider and has no affiliation with the Debtor.

9. The closing of the sale was to originally scheduled take place prepetition, on or before May 31, 2018, but was later extended to Monday August 20, 2018, or three days following the Petition Date. *See* Ex. A (Second Amendment to Agreement of Sale). The extension was due to investigating and testing underground storage tanks on the Property. The Buyer ultimately agreed to be responsible for the tanks after the Debtor agreed to contribute a portion of the investigative cost. Additionally, the property was under a demolition order from the City of Ventnor, New Jersey.

10. On August 20, 2018 Bancorp issued correspondence to the Debtor regarding the sale (the "Letter"). Through the Letter, Bancorp consented to the sale based on a HUD-1 settlement statement showing \$269,053.69 in net proceeds being paid to Bancorp following payment of: (a) customary settlement charges, (b) \$15,000 being paid to the Debtor's real estate counsel, Astor Weiss Kaplan & Mandel, LLP and (c) \$35,000 being paid to the Debtor's broker, Long & Foster.

11. (Deborah Frank, the sister of the principal of the Debtor, Bruce Frank, is a real estate agent at Long & Foster. Of the \$35,000 being paid to Long & Foster from the sale proceeds, the Letter represents that \$30,000 of the funds will be held in escrow for the benefit of Deborah Frank and used to pay monthly debt service on a Bancorp loan ending in 587. *See Letter.*)

12. A copy of the Letter is attached as **EXHIBIT "B"**.

13. An executed copy of the HUD-1 settlement statement that is referenced in the Letter (the "HUD-1") is attached as **EXHIBIT "C"**.

14. The sale closed on August 20, 2018 and, upon information and belief, the sale proceeds were disbursed in accordance with the Letter and HUD-1.¹

15. Through this Motion, the Debtor respectfully requests that the Court approve the sale, and authorize the transfer of the Property free and clear of all liens, claims and encumbrances *nunc pro tunc* to August 20, 2018.

RELIEF REQUESTED

A. The Court Should Approve the Sale Under 11 U.S.C. § 363(b).

16. Section 363(b) of the Bankruptcy Code permits the use, sale or lease, "other than in the ordinary course of business," of property of the estate. 11 U.S.C. § 363(b). In evaluating proposed uses of property under § 363(b), courts employ the business judgment rule, which "is a

¹ The Debtor is in the process of preparing and filing applications to employ professionals retained in connection with the sale.

policy of judicial restraint born of the recognition that directors are, in most cases, more qualified to make business decisions than are judges." *In re Friedman's, Inc.*, 336 B.R. 891, 895 (Bankr. S.D. Ga. 2005) (quotation omitted). "Courts should approve an exercise of a debtor's business judgment unless it is so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, whim or caprice." *Friedman's*, 336 B.R. at 895 (quotation omitted); see *In re Chateaugay Corp.*, 973 F.2d 141, 143 (2d Cir. 1992); *In re Lionel Corp.*, 722 F.2d 1063 (2nd. Cir. 1983).

17. The Debtor respectfully submits that all of the factors demonstrating its sound business judgments are met, and the sale of the Property (the "Sale") should be approved. The Debtor lacks equity in the Property. The Debtor does not derive revenue from the Property, and incurred administrative costs in its operation. The Sale appears to be the best manner in which to maximize value for the estate, and Bancorp consented to carveouts of the Sale proceeds to pay transactional costs.

18. Once a court is satisfied that there is a sound business justification for the proposed sale, the court must then determine whether (a) the sale price is fair and reasonable; (b) the debtor in possession has provided interested parties with adequate and reasonable notice; and (c) the purchaser is proceeding in good faith. See *In re Abbotts Dairies of Pennsylvania*, 788 F.2d 143, 147 (3d Cir. 1986) (noting that the phrase "good faith" encompasses one who purchases in good faith and for value); *In re Weatherly Frozen Food Group, Inc.*, 149 B.R. 480, 483 (Bankr. N.D. Ohio 1992). All of the factors are or will be satisfied in this matter.

19. First, the purchase price is fair and reasonable. The Debtor believes the fair market value of the Property to be approximately \$350,000, and the APA reflects that sale price. The Debtor attempted to market and sell the Property at various points prepetition, and believes that

the \$350,000 Sale figure reflects a fair and reasonable price for the Property. Additionally, the Property is wholly encumbered by a lien in favor of Bancorp, and Bancorp consented to the Sale at that price point.

20. Second, the Debtor is providing adequate and reasonable notice to all parties. The Debtor shall serve this Motion, including exhibits, and the Court's notice of hearing on its creditor matrix, the Buyer, the Clerk of Atlantic County, New Jersey (which is the location of the Property), the New Jersey Division of Taxation, and the Office of the United States Trustee. The Debtor submits that such notice constitutes good and sufficient notice and that no further notice need be given.

21. Finally, the Buyer is a good faith purchaser. The Buyer is not an insider of, or otherwise affiliated with, the Debtors, and the Sale was negotiated at arm's length. As such, the Debtor requests that the Court find that the Buyer constitutes a good faith purchaser of the Property pursuant to 11 U.S.C. § 363(m), such that the reversal or modification on appeal of the sale shall not affect its validity. *See, e.g.*, 11 U.S.C. § 363(m) (reversal or modification on appeal of a transaction authorized under § 363(b) of the Bankruptcy Code does not affect the validity of the sale to an entity that acquired the property in good faith); *In re Adamson Co., Inc.*, 159 F.3d 896 (4th Cir. 1998.).

B. The Court Should Approve the Sale Free and Clear of All Liens, Claims and Encumbrances Under 11 U.S.C. § 363(f).

22. Section 363(f) of the Bankruptcy Code permits the trustee (or debtor in possession) to sell property of the estate free and clear of any third-party interests in such property if certain conditions are satisfied, including the consent of the affected parties. *See* 11 U.S.C. § 363(f)(1)–(5). Here, the Debtor requests that the Property be transferred free and clear of all liens, claims and encumbrances, including the lien of Bancorp, because, *inter alia*, Bancorp consents to the sale

and Bancorp could be compelled to accept a money satisfaction of its interest in a legal or equitable proceeding. *See* 11 U.S.C. § 365(f)(2) and (5).

CONCLUSION

23. The Sale should be approved because all of the requirements exist for the Court to authorize the proposed sale.

WHEREFORE, the Debtor requests that the Court enter an order: (1) authorizing the sale of the Property free and clear of all liens, claims, and encumbrances, *nunc pro tunc* to August 20, 2018, and (2) granting such other relief as is appropriate under the circumstances.

ATTORNEY CERTIFICATION

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via Notice of Electronic Filing by CM/ECF to all parties registered to receive such service in this case on January 29, 2019.

Respectfully submitted,

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By: /s/ Bradley Shraiberg

Bradley S. Shraiberg
Florida Bar No. 121622

EXHIBIT A

AGREEMENT OF SALE

THIS AGREEMENT OF SALE (the "Agreement") is made this 20th day of April, 2018 ("Effective Date") by and between **FRANK INVESTMENTS, INC.**, a New Jersey corporation (the "Seller"); **STONE HARBOR THEATRE, LLC**, a New Jersey limited liability company having an address at 42 Rehoboth Ave. Suite 23, Rehoboth Beach, DE 19971 (the "Buyer");

BACKGROUND

A. Seller is the owner of certain real estate known as Ventnor Theatre Building, 5207 & 5213 Ventnor Avenue and vacant tract known and designated as Block #101, Lots #1, #2 and #9 on the tax map of the City of Ventnor, Atlantic County, New Jersey (more particularly described as set forth on Exhibit "A"), together with any easements, rights-of-way and appurtenances belonging or in any way appertaining thereto (the "**Premises**").

B. Seller desires to sell the Premises to Buyer and Buyer desires to purchase the Premises from Seller upon the terms set forth in this Agreement.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **SALE OF PREMISES.** Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell, transfer and convey to Buyer and Buyer agrees to purchase from Seller the Premises, together with all buildings and improvements thereon, including:

A. All right, title and interest, if any, of Seller in and to any land in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Premises;

B. All right, title and interest, if any, of Seller to any rights-of-way or rights of ingress or egress on or to any land, street, road or avenue, open or proposed, in, on, across, in front of, abutting or adjoining any part of the Premises;

C. All right, title and interest, if any, of Seller in and to any easements adjacent to or serving the Premises; and

D. Any reversionary rights attributable to Seller with respect to the Premises.

2. The term "Premises" shall be deemed to include all of the appurtenances pertaining thereto and all buildings and improvements thereon. **PURCHASE PRICE.** Buyer shall pay in exchange for the Premises the sum of **THREE HUNDRED and FIFTY THOUSAND (\$350.000.00) DOLLARS** (the "**Purchase Price**").

3. **MANNER OF PAYMENT OF PURCHASE PRICE.** The Purchase Price shall be paid in the following manner:

A. **Deposit.**

(1) **Payment of Deposit.** Upon execution of this Agreement, Buyer shall deliver to Seller cash, certified funds or wire transfer, in the sum of Thirty Five Thousand Dollars (\$35,000.00) (the "Deposit"). If the Agreement is terminated by Buyer as permitted herein including but not limited to the termination provisions set forth in Paragraphs 4(B), 9(A)(1), 12(B), 16 and 17 below the Deposit shall be refunded to Buyer. Buyer shall also be entitled to any interest accrued on the Deposit.

(2) **Credit of Deposit.** The Deposit, plus any interest accruing on the Additional Deposit, shall be credited against the Purchase Price at Closing. In the event Buyer shall terminate this Agreement as a result of the failure of a contingency set forth herein, Escrow Agent shall refund the Deposit to Buyer.

(3) **Holding of Deposit.** The Additional Deposit shall be held by Buyer's selected title company licensed to do business in New Jersey, ("Escrow Agent") in an interest-bearing account until consummation or termination of this Agreement or until disbursed pursuant to the provisions of this Agreement.

B. Payment of Balance of Purchase Price. At the Closing, Buyer shall pay to Seller the Purchase Price (subject to adjustments and apportionments set forth in this Agreement and less the Deposit and all interest accrued thereon) by certified check, bank check, attorney trust account check, title insurance company check or wire transfer of immediately available federal funds. If Seller desires that the balance of the Purchase Price be paid by wire transfer, Seller shall provide wire instructions to Buyer at least three (3) business days prior to Closing.

4. TITLE.

A. Status of Title. The Premises are to be conveyed free and clear of any liens, encumbrances, easements, restrictions and agreements, excepting only the title exceptions . set forth on Exhibit "B" attached hereto and made a part hereof ("Permitted Exceptions"). Any other title exceptions are subject to Buyer's review of title during the Duye Diligence Period and acceptance thereof. Title shall be conveyed by delivery of a bargain and sale deed with covenants against grantor's acts. Title to the Premises shall be good and marketable and such as will be insured by a reputable title company selected by Buyer (the "Title Company") at its regular rates for regular risks pursuant to the standard stipulations of an ALTA policy of owner's title insurance. Seller shall furnish such customary title affidavits as the Title Company may require for the removal of standard title objections.

B. Inability to Convey Title. If Seller is unable to convey title at Closing in accordance with the requirements of this Agreement, Buyer shall have the option:

Of taking such title to the Premises as Seller is able to convey, with abatement of the Purchase Price in the amount (fixed or ascertainable) of any liens or monetary encumbrances on the Premises; or

Of terminating Buyer's obligations under this Agreement, in which event the Deposit shall be refunded to Buyer, together with all interest accrued thereon, and this Agreement shall be null and void and neither party shall have any further obligations hereunder.

Notwithstanding the foregoing, if title to the Premises is not as described in **Paragraph 4A** by reason of any willful act or omission of Seller subsequent to the Agreement Date, or by reason of the failure of Seller to pay or discharge any monetary liens, the same shall constitute a breach by Seller and Buyer shall be entitled to pursue those remedies set forth in **Paragraph 12**. Additionally, in the event that any liens or other claims exceed the Purchase Price, the Seller is hereby required to satisfy same from funds at Closing, or Buyer shall have the right to cancel this Agreement and receive a refund of the Deposit. In the event that the Buyer's title report shows liens and judgments in excess of the purchase price, Seller shall cause such liens and/or mortgages to be removed prior to or at Closing..

5. CLOSING. Closing on the sale of the Premises (the "**Closing**") shall take place on a date chosen by Buyer, BUT IN NO EVENT ANY LATER THAN **MAY 31, 2018**, and shall take place at the offices of the Escrow Agent, or at such other time or place as Seller and Buyer may agree. The date of Closing is referred to in this Agreement as the "**Closing Date**."

6. POSSESSION and DEED. Possession and title to the Premises shall be given on the Closing Date by Bargain and Sale Deed with Covenants Against Grantors' Acts conveying fee simple title to the Premises subject only to the Permitted Exceptions and –no existing tenancies.

7. APPORTIONMENTS. At Closing, the following apportionments shall be made:

A. Real Estate Taxes. Real estate taxes shall be apportioned on a per diem basis on the basis of the fiscal or calendar year of each taxing authority.

B. Water, Sewer and Other Utility Charges. Any water, sewer or other utility charges assessed against or incurred because of the Premises shall be apportioned on a per diem basis.

C. Real Estate Transfer Taxes. All real estate transfer taxes imposed by any governmental body or bodies, or any other governmental agency fees, shall be paid by Seller.

D. Taxes, Vendors and Service Providers. Seller shall remain responsible for all taxes owed to governmental authorities, including without limitation, sales & use tax, annual corporate registration fees, property maintenance fees and/or assessments, licensing and inspection fees (except those directly incurred by the Buyer) and all outstanding amounts owed to Seller's vendors and/or service providers prior to Closing (the "Vendors"). Buyer shall not assume any of Seller's accounts, contracts or Vendor relationships unless Buyer specifically agrees to in writing.

8. REPRESENTATIONS AND WARRANTIES.

A. Representations and Warranties of Seller. Seller hereby warrants and represents to Buyer as follows:

(1) **Power to Perform.** Seller has full power and authority to enter into and fulfill its obligations under this Agreement and to consummate the sale of the Premises, and the execution, delivery and performance of this Agreement by Seller constitutes a valid and binding obligation of Seller in accordance with its terms. No consent, **other than that of Bancorp** (the "Bancorp Approval") is required in connection with the execution and delivery by Seller of this Agreement or the performance by Seller of the obligations to be performed by it under this Agreement or any instrument contemplated hereby. Neither the entering into of this Agreement nor the consummation of such sale will constitute a violation or breach by Seller of any contract or other instrument to which Seller is a party or of any judgment, order, writ, injunction or decree issued against or imposed upon Seller, nor will the said sale result in a violation of any applicable law, order, rule, or regulation of any governmental authority. Notwithstanding the foregoing, this transaction is strictly contingent on the Bancorp Approval and release of Premises from any and all liens, mortgages and other encumbrances. If Seller has not obtained the Bancorp Approval by the expiration of the Due Diligence period, Buyer may terminate the Agreement and receive a refund of the Deposit.

(2) **Title to Premises.** The Premises is not subject to any lease or to any outstanding option or agreement of sale.

(3) **Condemnation.** Subject to section 8A.(10) below, there are no condemnation proceedings pending with regard to the Premises, and Seller does not know of any proposed condemnation proceeding with regard to any portion of the Premises.

(4) **Assessments.** Subject to section 8A.(10) below, Seller has received no notice of assessments for public improvements, property maintenance violations, demolition liens or special assessments, or outstanding Vendor claims against the Premises which are unpaid by Seller.

(5) **Water, Sewer and Tax Bills.** On the Closing Date, all taxes and all water and sewer charges due in connection with the Premises will have been paid by Seller or will be paid at Closing.

(6) **Environmental Matters.** Seller has not received any notice from any individual or entity including without limitation surrounding property owner(s), local, state or federal agency or other party with respect to any pending or threatened action or complaint, notice of violation, or proceeding respecting the Premises and arising out of any violation or alleged violation of any Environmental Law (as herein defined). Subsequent to the Effective Date, Seller will promptly notify Buyer of any pending or threatened claim, action, complaint, notice of violation or proceeding by any individual or entity including without limitation surrounding property owner(s), local, state or federal agency or other party, governmental authority or third party respecting the Premises and Business Assets arising out of any violation or alleged violation of any Environmental Law occurring upon the Premises.

As used in this section, the term "Environmental Laws" shall mean and include the Resource Conservation and Recovery Act ("RCRA"); the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Industrial Site Recovery Act,

N.J.S.A. 13:1K-6, et seq. ("ISRA"), the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq., and all other similar existing federal, state and municipal statutes, ordinances governing the environment, and all rules and regulations promulgated thereunder. The term "Hazardous Material" as used herein shall mean and include asbestos, polychlorinated biphenyls, petroleum products and any other hazardous or toxic materials, wastes and substances which are defined as such in any Environmental Law.

Seller has no knowledge of the presence, use, generation, release, discharge, storage, disposal, transportation, abatement or remediation of, or failure to disclose, any Hazardous Material on, in, to or from the Premises; provided however, Seller and Purchaser acknowledge that they are aware of the presence of asbestos on Premises. This Agreement and Buyer's obligation to close are contingent on the satisfactory results of any of Buyer's Inspections.

(7) **Litigation.** Subject to section 8A.(10) below, there is no litigation or proceeding pending involving the Premises that could affect the sale of the property.

(8) **Use of Premises.** The Seller makes NO REPRESENTATIONS but to the best of its knowledge that the Premises has only been used as a movie theatre, commercial stores, and apartments since at least 1980 and has never been used for any purpose which has an SIC Number which would subject the Property to review under ISRA.

(9) **Survival of Representations.** The representations of Seller shall survive Closing for a period of twelve (12) months.

(10) Court Order – NOTWITHSTANDING ANYTHING CONTAINED IN SECTIONS (3), (4) AND (7) ABOVE, PURCHASER ACKNOWLEDGES THAT CERTAIN ASSESSMENTS, POSSIBLE CONDEMNATION AND LITIGATION BY THE CITY OF VENTNOR HAVE BEEN COMMENCED AND THE SELLER AND THE CITY HAVE REACHED A RESOLUTION AS SET FORTH ON EXHIBIT "C" ATTACHED HERETO (the "Litigation").

B. Inspections and Tests. Buyer has engaged various professionals as relates to the Premises to conduct the Inspections. The Seller will continue to permit Buyer and Buyer's agents, employees, surveyors, engineers, land planners and appraisers to inspect the Premises at the Buyer's cost, from time to time at reasonable times. Commencing with the Effective Date, Buyer and Buyer's agents and employees shall have the right to enter upon the Premises at any and all reasonable times to conduct or cause to be conducted upon Premises ground tests, soil analysis, topographical surveys, engineering studies and other physical examination of the Premises as Buyer may deem necessary. Buyer shall hold Seller harmless and shall indemnify and defend Seller against any and all claims, including costs, fees, expenses and reasonable attorneys' fees, for or in respect of injuries (including death) or damage of any kind to the person or property of Seller, Buyer or of any other person whomsoever caused by or in connection with Buyer's entry onto the Premises and/or such tests or related activities. If, however, any such injury, death or damage is caused by the act or omission (negligent or otherwise) of Seller or any employee or representative of Seller, Seller shall be liable therefor. Buyer shall restore any damage to the Premises resulting from any inspection or investigation

undertaken by Buyer. Buyer may further file an application for subdivision or other governmental applications prior to Closing, and Seller shall reasonably cooperate with same at no cost to Seller. Buyer shall have no responsibility to remediate or correct any adverse environmental condition or presence of Hazardous Material on or affecting the Premises or Business Assets unless specifically agreed to by Buyer in writing.

C. **Representations and Warranties of Buyer.** In order to induce Seller to enter into this Agreement, Buyer hereby warrants and represents to Seller that (1) Buyer has the full power and authority to enter into and fulfill its obligations under this Agreement; (2) the execution of this Agreement by Buyer constitutes the valid and binding obligation of Buyer in accordance with its terms; and (3) Buyer has sufficient financial capacity, or access to financing, in order to purchase the Premises; (4) Buyer has advised Seller that it intends to renovate, repair, replace or demolish the premises and herein purchases the property in an **“AS IS”** condition without **ANY** warranty or representations by Seller, except as provided for herein and subject to Buyer’s right to terminate the Agreement pursuant to paragraph 17 herein..

9. **REAL ESTATE BROKERS.** Seller and Buyer respectively warrant to each other that no finders, real estate brokers or other persons entitled to claim a fee or Commission, other than FOSTER & LONG REALTORS, have interested either of them in this transaction and that they have not had any dealings with any person which may entitle that person to a fee or commission. The said broker shall be entitled to a commission at Closing payable by Seller in the amount of Thirty Five Thousand (\$35,000.00) Dollars, which commission shall be paid from Seller’s proceeds of the sale. Neither Buyer nor Seller shall have any liability to said broker in the event this Agreement shall terminate for any reason. Each party hereby agrees to indemnify the other party harmless against any losses, costs or expenses (including attorneys' fees out of any claim of any broker or finder, other than the brokers set forth above, in conjunction with this transaction, the obligation for which was incurred by the other party. This paragraph shall survive the Closing Date.

10. **CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS.**

A. **Conditions Precedent.** The obligation of Buyer to purchase the Premises from Seller in accordance with this Agreement is subject to satisfaction of each of the following conditions (any of which may be waived in whole or in part by Buyer) on or prior to the Closing Date:

(1) **Seller’s Representations and Warranties.** Each of the representations and warranties of Seller contained in this Agreement shall be true and correct in all respects as of the Closing Date as though made on the Closing Date.

(2) **Compliance With Covenants.** Seller shall have performed and complied with all the covenants, terms and conditions required by this Agreement to be performed and complied with by Seller prior to or on the Closing Date.

B. **Conditions Precedent.** The obligation of Seller to sell the Premises to Buyer in accordance with this Agreement is subject to satisfaction of each of the following conditions (any of which may be waived in whole or in part by Seller) on or prior to the Date:

(1) **Buyer's Representations and Warranties.** Each of the representations and warranties of Buyer contained in this Agreement shall be true and correct in all respects as of the Closing Date as though made on the Closing.

(2) **Compliance With Covenants.** Buyer shall have performed and complied with all the covenants, terms and conditions required by this Agreement to be performed and complied with by Buyer prior to or on the Closing Date.

(3) **Certificate of Occupancy.** Buyer will not be responsible to provide a Certificate of Occupancy on any of the Premises and if one is required to transfer ownership, Seller herein assumes all liability for same.

(4) Seller shall have obtained the Bancorp Approval in writing prior to the expiration of the Due Diligence Period.

11. **DEFAULT.**

A. **By Buyer.** If Buyer, without justification, fails to complete the Closing upon satisfaction of all Conditions Precedent and contingencies as set forth in this Agreement, or fails to post the Deposit as required by Paragraph 3A, and Seller is not in default hereunder, then as Seller's sole and exclusive remedy, Escrow Agent shall pay the Deposit to Seller, and Seller shall retain such payment as liquidated damages and not a penalty, such being agreed between Buyer and Seller to be a necessary condition to this Agreement to compensate Seller for expenses and expenditures incurred and made in connection therewith, the damages sustained as a result of withdrawing the Premises from the market, and otherwise for Buyer's non-compliance with this Agreement. Thereupon, this Agreement shall become null and void and of no further force and both parties shall be released of further liability and obligations. Seeking specific performance or being repaid the Deposit shall be Buyer's sole remedies for Seller's breach of this Agreement.

B. **By Seller.** If title to the Premises is not as described in Paragraph 4A by reason of any willful act of Seller or by reason of any other willful default hereunder by Seller, Buyer shall be entitled to pursue all rights and remedies which are available at law or in equity, including, without limitation, the right to specific performance. If the Seller breaches this Agreement- the Buyer may elect to terminate this Agreement and be repaid the Deposit.

12. **1445 CERTIFICATION.** Seller acknowledges that Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform Buyer that withholding of tax is not required upon the disposition of the Premises by Seller, Seller shall deliver on the Closing Date a sworn certification to the effect that Seller is not a non-resident alien for federal income tax purposes, in a form reasonably satisfactory to Buyer.

13. **ESCROW AGENT.** Buyer and Seller have requested that the Deposit be held in escrow and disbursed by Escrow Agent in accordance with this Agreement. Escrow Agent is merely responsible for the safe-keeping of the Deposit and shall not be required to determine any questions of fact or law. Escrow Agent shall dispose of the Deposit in accordance with the provisions of this Agreement. Escrow Agent shall not have any duties except those which are

expressly set forth herein. Escrow Agent shall not be bound by any notice of, or demand with respect to, any waiver, modification, or amendment of this Agreement unless in writing, signed by all of the parties to this Agreement and if the duties or responsibilities of Escrow Agent are affected, unless Escrow Agent shall have given its prior written consent thereto. Escrow Agent shall not be entitled to a fee for its services as escrow agent.

14. CONDITION OF PREMISES. Buyer is acquiring the Premises in “as is” and “where is” condition. Seller therefore makes no representations or warranties with respect to the improvements on the Premises except as provided in this Agreement.

15. RISK OF LOSS. If prior to Closing the Premises are damaged by fire or other casualty, then in Buyer’s sole discretion this Agreement may be terminated in writing by Buyer and the Deposit shall be refunded to Buyer, or Closing may proceed at Buyer’s election with a reasonable abatement of the Purchase Price. Seller shall have no obligation to repair or restore the Premises.

16. BUYER’S DUE DILIGENCE- The Buyer shall have a period of forty-five (45) days from the Effective Date (the “Due Diligence Period”) to conduct such inspections, assessments and testing of the Premises without limitation and to review the title to the Premises including easements, restrictions and instruments of record, survey, Bancorp Approval and evaluate zoning, redevelopment, parking, the Litigation and any and all other aspects of the Premises including without limitation title, survey, Litigation, physical, structural, environmental, zoning and/or governmental aspects on or affecting the Premises in the Buyer’s sole and absolute discretion (the “Inspections”). In the event the Buyer is not satisfied with the results of the Inspections for any reason or no reason in the Buyer’s sole and absolute discretion, Buyer may terminate the Agreement on written notice as provided herein and Buyer shall be entitled to a complete refund of the Deposit and the parties will be free of further obligation or liability to one another.

17. BULK SALE NOTICE. With respect to the sale contemplated by this Agreement, Buyer and Seller shall comply with the requirements of N.J.S.A. 54:50-38 (the “Bulk Sales Act”) as follows:

(a) Within 15 calendar days following the Effective Date, Buyer shall file Form C-9600 with the New Jersey Division of Taxation, Bulk Sale Section (the “Division”), which shall include a copy of this Agreement;

(b) Seller shall provide to Buyer all information requested by Buyer in order to complete Form C-9600 in accordance with the requirements of the Bulk Sales Act, including but not limited to Form TTD, or such similar or successor form that may be promulgated by the New Jersey Division of Taxation;

(c) If the Division requires an escrow of funds by Seller, then Seller shall have the right during the Due Diligence Period in order to file additional financial documents with the Division, seeking to reduce the requested escrow. Any escrow shall be held for Seller in escrow by the Escrow Agent. Upon demand by the Division, the Escrow Agent shall disburse to the Division such amounts from the escrow as the Division shall require. Any escrowed funds not payable to the

Division shall be promptly released and delivered to Seller, upon receipt of appropriate notification from the Division that an escrow is no longer required, or has been reduced or paid.

18. GENERAL PROVISIONS.

A. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, executors, administrators, successors, and assigns.

B. Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto and supersedes all prior negotiations, understandings and agreements of any nature whatsoever with respect to the subject matter hereof. No amendment, waiver or discharge of any provision of this Agreement shall be effective against either party unless that party shall have consented thereto in writing. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the drafter.

C. Governing Law. This Agreement shall be governed, interpreted, and construed in accordance with the laws of the State of New Jersey.

D. Notices. All notices or other communications required or permitted to be given under the terms of this Agreement shall be in writing, sent by Certified Mail, postage prepaid, return receipt requested, or by private carrier guaranteeing next day service, addressed as follows:

If to Seller, addressed as follows:

Mr. Bruce Frank
Frank Investments, Inc.
1003 W. Indiantown Rd Suite 210
Jupiter, FL 33458

With a copy to:

David S. Mandel, Esq.
200 S. Broad Street,
Suite 600
Philadelphia, PA 19102

If to Buyer, addressed as follows:

STONE HARBOR THEATRE, LLC

42 Rehoboth Ave. Suite 23
Rehoboth Beach, DE 19971

With a copy to:

John A. Ridgway
Ridgway Legal
15 Shore Road
PO Box 277
Linwood, New Jersey 08221

If to Escrow Agent, addressed as follows:

or to such other address or addresses and to the attention of such other person or persons as any of the parties hereto may notify the others in accordance with the provisions of this Agreement.

E. Captions. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

F. Time is of the Essence. Time is of the essence with this Agreement and all of its terms and conditions.

G. All information concerning the terms of the within transaction will be kept confidential and shall not, without the prior consent of the Seller, be disclosed by Buyer or its agents and shall not be used other than in connection with the transaction described. Moreover, each party agrees to transmit the information only to its agents and employees who have a need to know the information for the purpose of carrying out the terms of the transaction described above and who are informed by of the confidential nature of the information.

H. Assignment. Buyer may not assign this Agreement without the prior written consent of Seller, except that Buyer may assign this Agreement to an entity in which Buyer holds a majority interest.


I. Recording. This Agreement may NOT be recorded.

(SIGNATURES CONTAINED ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first above written.

SELLER:

FRANK INVESTMENTS, INC.

By: 
Name: BRUCE FRANK
Title: PREC

BUYER:

STONE HARBOR THEATRE, LLC

By: 
Name: Brett DeVito
Title: Member

EXHIBIT LIST

Exhibit "A" – Legal Description

Exhibit "B"- Title Exceptions

Exhibit "C"- Litigation

EXHIBIT "A"

LEGAL DESCRIPTION

Real property in the City of Ventnor, County of Atlantic, State of New Jersey, described as follows:

ALL that certain land and premises situate in the City of Ventnor, County of Atlantic and the State of New Jersey bounded and described as follows:

Beginning at the Northwesterly corner of Ventnor Avenue, (80 feet wide) and Weymouth Avenue (50 feet wide) and extending from said beginning point; thence

1. South 58 degrees 05 minutes 00 seconds West, in and along the Northerly line of Ventnor Avenue a distance of 100.00 feet to a point in the Easterly line of Lot 3, in Block 101 as shown on the current official tax map of the City of Ventnor City, said point being 75.00 feet East of the Easterly line of Little Rock Avenue (50 feet wide) as measured in and along the aforesaid Northerly line of Ventnor Avenue;

thence

2. North 31 degrees 55 minutes 00 seconds West, in and along the said Easterly line of said Lot 3, and parallel with Weymouth Avenue, a distance of 115.00 feet to a point in the northerly line of a 20.00 feet wide right of way; thence

3. South 58 degrees 05 minutes 00 seconds West, in and along same and parallel with Ventnor Avenue, a distance of 25.00 feet to the Southeasterly corner of Lot 5, in said Block 101 said point being distant 50.00 feet East of the Easterly line of Little Rock Avenue when measured at right angles thereto; thence

4. North 31 degrees 55 minutes 00 seconds West, in and along the rear line of Lots fronting on Little Rock Avenue and parallel with Weymouth Avenue a distance of 125.00 feet to a point in the Southerly line of Winchester Avenue (37 feet wide); thence

5. North 58 degrees 05 minutes 00 seconds East in and along the said southerly line of Winchester Avenue, a distance of 50.00 feet to an angle point in same, said point being distance 75.00 feet West of the Westerly line of Weymouth avenue, when measured at right angles thereto; thence

6. South 31 degrees 55 minutes 00 second East, parallel with Weymouth Avenue a distance of 117.00 feet to a point in the southerly line of Lot 13, in said Block 101; thence

7. North 58 degrees 05 minutes 00 seconds East in and along same and parallel with Ventnor Avenue a distance of 75.00 feet to a point in the aforesaid Westerly line of Weymouth Avenue; thence

8. South 31 degrees 55 minutes 00 seconds East in and along same a distance of 133.00 feet to the point and place of beginning

Together with the rights title and interest of the said party of the first part, in and to the lands beginning, at a point fifty feet East of Little Rock Avenue and one hundred and twenty-five feet East of Little Rock Avenue and one hundred and twenty five feet south of Winchester Avenue, and extending thence

Southwardly ten feet and thence Eastwardly between parallel lines of that width twenty five feet with the right of ingress and egress over and across a piece of land beginning in the East line of Little Rock Avenue one hundred and twenty five feet south of Winchester Avenue and extending Southwardly ten thence Eastwardly of the width of breadth parallel with Winchester Avenue fifty feet.

NOTE: FOR INFORMATION ONLY: Being Lot(s) 1, 9 & 2, Block(s) 101; Tax Map of the City of Ventnor, County of Atlantic, State of New Jersey.

EXHIBIT B –PERMITTED EXCEPTIONS

1. Rights of or claims by parties in possession of the land not shown by the public records.
2. Easements, or claims of easements, not shown by the Public Records.
3. Any lien or right to a lien, for service, labor or material heretofore or hereafter furnished,
imposed by law and not shown by the Public Records.
4. Subject to added or omitted assessments pursuant to N.J.S.A 54:4-63.1 et seq.
5. Taxes, charges and assessments.
This property is subject to current year's taxes levied or to be levied and not yet certified to by the County Board of Taxation in accordance with Chapter 397 Laws of 1941, as amended and supplemented.
6. Easement as shown on Tax Map.
6. Rights, public and private in and to all roads, streets and avenues crossing, bounding of affecting premises.

EXHIBIT "C"

LITIGATION

TIMOTHY PATRICK MAGUIRE, ESQ.
MAGUIRE & MAGUIRE, P.C.
200 Jackson Avenue
Northfield, New Jersey 08225
Phone: 609-641-1166
NJ Attorney License 024391985

**IN RE BLOCK 101, LOT 1
AS SHOWN ON THE TAX
MAP OF THE CITY OF
VENTNOR WITH COMMON
PROPERTY ADDRESS OF
5207 VENTNOR AVENUE,
VENTNOR, NEW JERSEY**

**ASSESSED TO FRANK
INVESTMENTS, INC.**

ORDER

WHEREAS, a hearing was scheduled for Monday, March 26, 2018 at 9 a.m. in the Ventnor City Commission Chambers in this matter; and

WHEREAS, the property owner appeared being represented by Eric Goldstein, Esquire;
and

WHEREAS, the City of Ventnor was represented by Timothy Patrick Maguire, Esquire;
and

WHEREAS, in lieu of a hearing, the parties reached a mutual resolution of this matter;
and

WHEREAS, the resolution and settlement of this matter was placed on the record and this Order is intended to memorialize the same.

NOW, THEREFORE, IT IS on this 28TH day of March, 2018,

ORDERED as follows:

1. The parties stipulate and agree that the subject property is unfit for human habitation, occupancy or use. Whether the property is unfit for human habitation, occupancy or use is no longer an issue in these proceedings.

2. The property owner shall have seventy-five (75) days from the date of this Order in which to demolish any and all structures on the property.

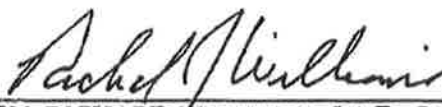
3. To the extent that the property owner does not demolish any and all structures on the property within seventy-five (75) days of this Order, the property owner shall be granted a final fourteen (14) day extension in which to demolish said structures on the property.

4. To the extent the property owner has not demolished any and all structures on the property within the fourteen (14) day extension (which equals a total of eighty-nine (89) days from the signing of this Order), the City of Ventnor shall have full right and authority to enter upon the property and to take any and all action necessary to demolish the property, or have the property demolished by a third party, and place a lien against the property for any and all costs incurred in such demolition and securing of the property. Said amount may be placed as a lien against the property to be paid, accumulate interest on, and be collected in the same manner as municipal real estate taxes.

5. The parties understand and agree that the property was formerly used as a movie theater. There is a currently existing marquee on the structure at the property. To the extent the marquee must be removed or altered due to emergency repairs and/or to the extent that the marquee is removed through demolition, any new purchaser of the property shall be authorized to place a similar marquee on a structure at the property if such new owner intends to use the structure on the property as a movie theater.

6. To the extent the property is sold to a new owner that is not a member of the Frank family and is not a corporation or other business entity primarily controlled by a member or members of the Frank family, officials of the City of Ventnor will work in good faith with any purchaser who has a plan to repair, renovate or demolish the structure or structures on the property. While officials of the City of Ventnor agree to work in good faith with any purchasers as described above, the findings and conditions as set forth in this Order will remain in full force and effect including, but not limited to, the finding that the property is unfit for human habitation, occupancy or use.

IT IS SO ORDERED.


HON. RICHARD WILLIAMS, J.A.D., Retired
Hearing Examiner

AMENDMENT TO AGREEMENT OF SALE

This Amendment is made this 4th day of JUNE, 2018 between Stone Harbor Theatre, LLC ("Buyer") and Frank Investments, Inc., ("Seller") and shall be incorporated and made part of the Agreement for the sale and purchase of 5207 & 5213 Ventnor Avenue and 5212 Winchester Avenue, in the City of Ventnor, County of Atlantic and State of New Jersey (the "Agreement").

TERMS

The Buyer and Seller agree as follows:

The Agreement of Sale between the Seller and the Buyer for the purchase and sale of 5207 & 5213 Ventnor Avenue and 5212 Winchester Avenue, in the City of Ventnor, County of Atlantic and State of New Jersey, a copy of which is attached, is hereby ratified and confirmed by the parties except as modified below:

1. The Due Diligence Deadlines pertaining to environmental, title, the Litigation and survey in Paragraph 16 shall be extended to June 29, 2018. All other due diligence has been completed by Buyer and Buyer waives any right to terminate the Agreement as a result thereof.
2. The parties shall cooperate with the City of Ventnor to extend the time period for compliance with the Litigation.

The parties signify their Agreement by signing below.

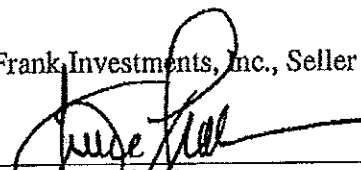
Date: 6-4-18

Stone Harbor Theatre, LLC, Buyer


By: Brett DeNafo
Title: Member

Date: 6-4-18

Frank Investments, Inc., Seller


By: Bruce Frank
Title: President

SECOND AMENDMENT TO AGREEMENT OF SALE

This Amendment is made this ____ day of _____, 2018 between **Stone Harbor Theatre, LLC** ("Buyer") and **Frank Investments, Inc.**, ("Seller") and shall be incorporated and made part of the Agreement for the sale and purchase of 5207 & 5213 Ventnor Avenue and 5212 Winchester Avenue, in the City of Ventnor, County of Atlantic and State of New Jersey (the "Agreement").

TERMS

The Buyer and Seller agree as follows:

The Agreement of Sale between the Seller and the Buyer for the purchase and sale of 5207 & 5213 Ventnor Avenue and 5212 Winchester Avenue, in the City of Ventnor, County of Atlantic and State of New Jersey (the "Property"), as amended by the First Amendment, a copy of which are attached, is hereby ratified and confirmed by the parties except as modified below:

1. Seller shall provide a Purchase Price credit to Buyer in the amount of Twenty Five Thousand Dollars (\$25,000.00) at Closing (the "Credit"). The revised Purchase Price after the deduction of the Credit, shall be Three Hundred Twenty Five Thousand Dollars (\$325,000.00). In consideration of the Credit Buyer accepts the Property in "AS IS" condition.

2. As a condition to the issuance of the Credit to Buyer, Buyer acknowledges receipt of the environmental report issued by Calmar Associates, LLC dated July 19, 2018 (the "Environmental Report") and Buyer agrees that it shall be solely responsible for the implementation and completion of all environmental investigation and remediation set forth in the Environmental Report. Buyer further agrees that it shall be solely responsible for the implementation and completion of the requirements set forth in that certain order issued by the City of Ventnor set forth in Exhibit C to the Agreement (the "Order"). Buyer further releases Seller, its shareholders, officers, directors, agents, employees, successors and assigns from any responsibility to implement or complete the environmental investigation and/or remediation set forth by Calmar in the Environmental Report and the responsibility to implement and complete the requirements set forth in the Order.

3. Buyer hereby agrees to unconditionally indemnify, defend, and hold Seller, its shareholders, officers, directors, agents, employees, successors and assigns harmless of, from and against any directive, compliance order, notice of violation, enforcement order, penalty assessment or other administrative action imposed by any governmental authority, including any lien or so-called "super priority lien" placed upon the Property by any local, state or federal authority, as well as all losses, claims, costs, liabilities, judgments, penalties, punitive damages, causes of action, actions, demands, damages, fines (civil or criminal), penalties, expenses, clean-up costs, attorney's fees and court costs, caused by Buyer's failure to implement or complete the work set forth in the Environmental Report. Indemnification will be required whether the harm suffered was directly or indirectly incurred, as long as it is established that the harm was suffered or sustained by Seller, its officers, agents, directors, employees, successors or assigns, at any time by reason of or arising from Buyer's failure to implement or complete the work set forth in the Environmental Report.

4. Buyer has not agreed to indemnify nor hold the Seller harmless from claims or causes of action by non-governmental third-parties for losses, costs, damages, liabilities, judgments, punitive damages, expenses, clean-up costs, attorneys fees or court costs unless those claims or causes of action arise directly from explicit assertions that the claimant's injury, damages or harm arose from the Buyer's failure to implement the investigation and remediation set forth in the Environmental Report

5. Closing shall be scheduled for August 20, 2018 on the condition that Bancorp has provided its Approval of the transaction terms as set forth in this Second Amendment. In the event that Bancorp has not provided its Approval by August 20, 2018 Buyer may terminate the Agreement and

receive a refund of the Deposit.

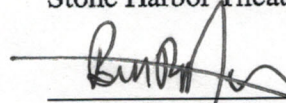
6. The Due Diligence Deadline is extended to 5:00PM on August 2, 2018.

[Signature Page Follows]

The parties signify their Agreement by signing below, with intent to be legally bound hereby.

Stone Harbor Theatre, LLC, Buyer

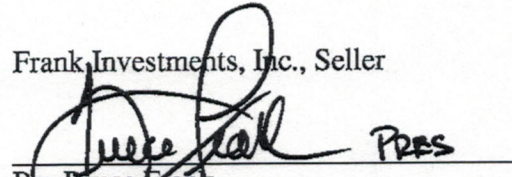
Date: _____



By: Brett DeNafo
Title: Member

Frank Investments, Inc., Seller

Date: _____



By: Bruce Frank
Title: President

EXHIBIT B



409 Silverside Road
Suite 105
Wilmington, DE 19809
o +1 302.385.5000
f +1 302.385.5194

thebancorp.com

August 20, 2018

Frank Investment, Inc.
1003 W. Indiantown Road, Suite 210
Jupiter, Florida 33458

Astor Weiss Kaplan & Mandel, LLP
The Bellevue
200 South Broad Street, Suite 600
Philadelphia, PA 19102

Re: Agreement of Sale by and between Frank Investments, Inc. and Stone Harbor Theatre, LLC dated April 20, 2018, for the properties as 5207 & 5213 Ventnor Avenue and vacant tracts known and designated as Block #101, Lots #1, #2, #9, (the "Premises").

To all concerned parties:

Whereas, The Bancorp, aka The Bancorp Bank (the "Mortgagee"), holds a collateral mortgage on the Premises described above.

Whereas Stone Harbor Theatre, LLC has entered into an agreement to purchase the Premises for consideration in the amount of \$350,000 subject to a subsequent reduction in the purchase price to \$325,000.

Whereas the Mortgagee is aware of expenses to be paid from the sale proceeds, in addition to the customary settlement charges. Those charges include \$15,000 to Astor Weiss Kaplan & Mandel, LLP, \$5,000 to Long & Foster, and \$30,000 to Deborah Frank.

Now, Therefore, Mortgagee agrees to release the Property for consideration in the amount equal to the Net Proceeds resulting from the sale of the Premises, after customary settlement charges and additional charges summarized herein. With respect to the \$30,000 due to Deborah Frank, all relevant parties have agreed that those funds will be directed to Mortgagee and held in an escrow account for the benefit of Deborah Frank. The funds will be used to pay monthly debt service on The Bancorp Loan ending in 587.

This approval is based on the draft HUD-1 Settlement Statement showing \$269,053.69 in proceeds due to The Bancorp. The final HUD-1 Settlement Statement should show this as "Bancorp - Release of Collateral Mortgage" as the Premises represents only a small portion of the collateral securing a large loan which will remain outstanding.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian R. Ford Jr.", is written over a light blue horizontal line.

Brian R. Ford Jr.
Director

Please see the following page for wire instructions

Banking services provided by
The Bancorp Bank,
Equal Housing Lender,
Member FDIC.

Wiring Instructions:

Net Proceeds:

The Bancorp
ABA: 031101114
Account: General Ledger 119100
Further Credit to Loan Number 139023607

Payment Due to Deborah Frank:

The Bancorp
ABA: 031101114
Account: General Ledger 119100
Further Credit to Deborah Frank Escrow

EXHIBIT C



B. Type of Loan

| | | | | | |
|---------------------------------|--|--|------------------------------|-----------------|------------------------------------|
| 1. <input type="checkbox"/> FHA | 2. <input type="checkbox"/> RHS | 3. <input type="checkbox"/> Conv. Unins. | 6. File Number: 1804-2519 | 7. Loan Number: | 8. Mortgage Insurance Case Number: |
| 4. <input type="checkbox"/> VA | 5. <input type="checkbox"/> Conv. Ins. | | | | |

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agents are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

| | | |
|--|--|---|
| D. Name & Address of Borrower: Ventnor Theatre, LLC 42 Rehobeth Avenue, Suite 23, Rehobeth Beach, DE 19971 | E. Name & Address of Seller: Frank Investments, Inc. 1003 West Indiantown Road, Suite 210, Jupiter, FL 33458 | F. Name & Address of Lender: Cash Transaction |
| G. Property Location: 5207 & 5213 Ventnor Avenue, 5212 Winchester Avenue Ventnor, NJ 08406 City of Ventnor | H. Settlement Agent: Equity Plus Land Transfer 660 New Road, Second Floor, Northfield, NJ 08225 Phone: 609-927-8330 Fax: 609-927-8066 Place of Settlement: 660 New Road, Second Floor, Northfield, NJ 08225 | I. Settlement Date: 08/20/2018 Disbursement Date: 08/20/2018 TitleExpress |

J. Summary of Borrower's Transaction

| | | |
|--|--|-------------------|
| 100. Gross Amount Due from Borrower | | |
| 101. Contract sales price | | 350,000.00 |
| 102. Personal property | | |
| 103. Settlement charges to borrower (line 1400) | | 2,796.00 |
| 104. | | |
| 105. | | |
| Adjustments for items paid by seller in advance | | |
| 106. City/town taxes 08/20/2018 to 09/30/2018 | | 2,590.43 |
| 107. County taxes to | | |
| 108. Municipal Services to | | |
| 109. Water/Sewer 08/20/2018 to 09/30/2018 | | 426.28 |
| 110. | | |
| 111. | | |
| 112. | | |
| 120. Gross Amount Due from Borrower | | 355,812.71 |
| 200. Amounts Paid by or in Behalf of Borrower | | |
| 201. Deposit or earnest money | | 35,000.00 |
| 202. Principal amount of new loan(s) | | |
| 203. Existing loan(s) taken subject to | | |
| 204. | | |
| 205. | | |
| 206. | | |
| 207. Seller Credit | | 25,000.00 |
| 208. | | |
| 209. | | |
| Adjustments for items unpaid by seller | | |
| 210. City/town taxes to | | |
| 211. County taxes to | | |
| 212. Municipal Services to | | |
| 213. | | |
| 214. | | |
| 215. | | |
| 216. | | |
| 217. | | |
| 218. | | |
| 219. | | |
| 220. Total Paid by/for Borrower | | 60,000.00 |
| 300. Cash at Settlement from/to Borrower | | |
| 301. Gross amount due from borrower (line 120) | | 355,812.71 |
| 302. Less amounts paid by/for borrower (line 220) | | 60,000.00 |
| 303. Cash <input checked="" type="checkbox"/> From <input type="checkbox"/> To Borrower | | 295,812.71 |

K. Summary of Seller's Transaction

| | | |
|--|--|-------------------|
| 400. Gross Amount Due to Seller | | |
| 401. Contract sales price | | 350,000.00 |
| 402. Personal property | | |
| 403. | | |
| 404. | | |
| 405. | | |
| Adjustments for items paid by seller in advance | | |
| 406. City/town taxes 08/20/2018 to 09/30/2018 | | 2,590.43 |
| 407. County taxes to | | |
| 408. Municipal Services to | | |
| 409. Water/Sewer 08/20/2018 to 09/30/2018 | | 426.28 |
| 410. | | |
| 411. | | |
| 412. | | |
| 420. Gross Amount Due to Seller | | 353,016.71 |
| 500. Reductions In Amount Due to Seller | | |
| 501. Excess deposit (see instructions) | | |
| 502. Settlement charges to seller (line 1400) | | 328,016.71 |
| 503. Existing loan(s) taken subject to | | |
| 504. Payoff of first mortgage loan | | |
| 505. Payoff of second mortgage loan | | |
| 506. | | |
| 507. Seller Credit | | 25,000.00 |
| 508. | | |
| 509. | | |
| Adjustments for items unpaid by seller | | |
| 510. City/town taxes to | | |
| 511. County taxes to | | |
| 512. Municipal Services to | | |
| 513. | | |
| 514. | | |
| 515. | | |
| 516. | | |
| 517. | | |
| 518. | | |
| 519. | | |
| 520. Total Reduction Amount Due Seller | | 353,016.71 |
| 600. Cash at Settlement to/from Seller | | |
| 601. Gross amount due to seller (line 420) | | 353,016.71 |
| 602. Less reductions in amount due seller (line 520) | | 353,016.71 |
| 603. Cash <input checked="" type="checkbox"/> To <input type="checkbox"/> From Seller | | 0.00 |

The Public Reporting Burden for this collection of information is estimated to average 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.

| L Settlement Charges | | Paid From Borrower's Funds at Settlement | Paid From Seller's Funds at Settlement |
|--|--|--|--|
| 700. | Total Real Estate Broker Fees \$5,000.00 | | |
| Division of commission (line 700) as follows: | | | |
| 701. | \$5,000.00 to Long & Foster Real Estate, Inc. | | |
| 702. | \$0.00 to | | |
| 703. | Commission paid at settlement | | 5,000.00 |
| 800. Items Payable in Connection with Loan | | | |
| 801. | Our origination charge (Includes Origination Point 0.000% or \$0.00) \$ (from GFE #1) | | |
| 802. | Your credit or charge (points) for the specific interest rate chosen \$ (from GFE #2) | | |
| 803. | Your adjusted origination charges (from GFE A) | | |
| 804. | Appraisal fee to (from GFE #3) | | |
| 805. | Credit report to (from GFE #3) | | |
| 806. | Tax service to (from GFE #3) | | |
| 807. | Flood certification to (from GFE #3) | | |
| 808. | to | | |
| 900. Items Required by Lender to be Paid in Advance | | | |
| 901. | Daily interest charges from 08/20/2018 to 09/01/2018 @ \$0.00/day (from GFE #10) | | |
| 902. | Mortgage insurance premium months to (from GFE #3) | | |
| 903. | Homeowner's insurance months to (from GFE #11) | | |
| 904. | months to (from GFE #11) | | |
| 1000. Reserves Deposited with Lender | | | |
| 1001. | Initial deposit for your escrow account (from GFE #9) | | |
| 1002. | Homeowner's insurance months @ \$ /month | | |
| 1003. | Mortgage insurance months @ \$ /month | | |
| 1004. | Property taxes months @ \$ 0.00/month \$ | | |
| 1005. | months @ \$ /month | | |
| 1006. | Assessments months @ \$ 0.00/month \$ | | |
| 1007. | Aggregate Adjustment \$ | | |
| 1100. Title Charges | | | |
| 1101. | Title services and lender's title insurance \$ (from GFE #4) | 1,111.00 | |
| 1102. | Settlement or closing fee to Equity Plus Land Transfer \$200.00 | | 200.00 |
| 1103. | Owner's title insurance - Old Republic National Title Insurance Co. \$ (from GFE #5) | 1,588.00 | |
| 1104. | Lender's title insurance - Old Republic National Title Insurance Co. \$ | | |
| 1105. | Lender's title policy limit \$0.00 Lender's Policy | | |
| 1106. | Owner's title policy limit \$350,000.00 Owner's Policy | | |
| 1107. | Agent's portion of the total title insurance premium \$1,349.80 to Equity Plus Land Transfer | | |
| 1108. | Underwriter's portion of the total title insurance premium \$238.20 to Old Republic National Title Insurance Co. | | |
| 1109. | | | |
| 1200. Government Recording and Transfer Charges | | | |
| 1201. | Government recording charges \$ (from GFE #7) | 97.00 | |
| 1202. | Deed \$97.00 Mortgage \$ Release \$ | | |
| 1203. | Transfer taxes \$ (from GFE #8) | | |
| 1204. | Really Transfer Fee Deed \$2,105.00 Mortgage \$ | | 2,105.00 |
| 1205. | Real Estate Transfer Fee Deed \$ Mortgage \$ | | |
| 1206. | Deed \$ Mortgage \$ Release \$ | | |
| 1300. Additional Settlement Charges | | | |
| 1301. | Required services that you can shop for (from GFE #6) | | |
| 1302. | to | | |
| 1303. | to | | |
| 1304. | 3rd Quarter Taxes 2018 LOT 1 to Ventnor City Tax Collector | | 3,502.29 |
| 1305. | 3rd Quarter Taxes 2108 Lot 2 to Ventnor City Tax Collector | | 1,284.45 |
| 1306. | 3rd Quarter Taxes 2018 Lot 9 to Ventnor City Tax Collector | | 887.53 |
| 1307. | Water Sewer Lot 1 to Ventnor City MUA | | 726.25 |
| 1308. | Water Sewer Lot 2 to Ventnor City MUA | | 207.50 |
| 1309. | Water Sewer Lot 9 LAND ONLY to Ventnor City MUA | | |
| 1310. | Attorney Fees to Astor, Weiss, Kaplan & Mandel | | 15,000.00 |
| 1311. | Final Water Reading (2 Properties) to Ventnor City MUA | | 50.00 |
| 1312. | Payment for Loan # 587 to Bancorp | | 30,000.00 |
| 1313. | Release of Collateral Mortgage to Bancorp | | 269,053.69 |
| 1400. | Total Settlement Charges (enter on lines 103, Section J and 502, Section K) | 2,796.00 | 328,016.71 |

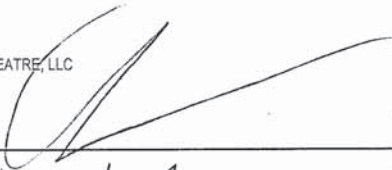
*Paid outside of closing by (B)orrower, (S)eller, (L)ender, (I)nvester, Bro(K)er. **Credit by lender shown on page 1. ***Credit by seller shown on page 1.

HUD CERTIFICATION OF BUYER AND SELLER

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Buyers

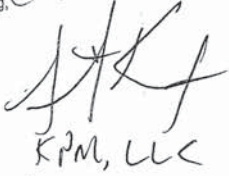
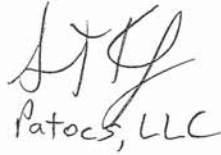
VENTNOR THEATRE, LLC



Clinton Bunting,



Brett DeNafo,


KPM, LLC
Patocs, LLC

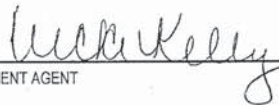
Sellers

FRANK INVESTMENTS, INC.



Settlement Agent

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.


SETTLEMENT AGENT

8/20/18
DATE

WARNING: IT IS A CRIME TO KNOWINGLY MAKE FALSE STATEMENTS TO THE UNITED STATES ON THIS OR ANY SIMILAR FORM. PENALTIES UPON CONVICTION CAN INCLUDE A FINE AND IMPRISONMENT. FOR DETAILS SEE TITLE 18: U.S. CODE SECTION 1001 AND SECTION 1010.