

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

In re:

PATRICIA L. PRUITT,

Debtor-in-Possession.

**Case No. 17-72266-SCS
Chapter 11**

**NOTICE OF MOTION TO APPROVE AGREEMENT AND
TRANSFER REAL ESTATE IN SATISFACTION OF SECURED CLAIMS**

TO ALL CREDITORS AND PARTIES IN INTEREST:

Please take notice that Patricia L. Pruitt, by counsel, has filed a Motion to Approve to Approve Agreement and Transfer Real Estate in Satisfaction of Secured Claims (the "**Motion**"), whereby she proposes to transfer the real estate located at 812 W. 41st St., Norfolk, Virginia and 4101 Colley Avenue, Norfolk, VA, which property is owned with her non-filing spouse, to Colley Associates, LLP, a secured creditor of the Debtor and her non-filing spouse.

A copy of the Motion is included with this Notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

An order approving the settlement will be submitted to the Court for entry unless an objection is filed within twenty-one (21) days of the date of this Notice. Any objections to the settlement must be filed with the Clerk's Office for the United States Bankruptcy Court, Eastern District of Virginia, Room 400, Walter B. Hoffman Courthouse, 600 Granby Street, Norfolk, VA 23510, with a copy to counsel listed below.

Dated: January 26, 2018

/s/Kelly M. Barnhart
Kelly M. Barnhart

Kelly M. Barnhart, VSB No. 65246
Roussos, Glanzer & Barnhart, PLC
580 E. Main St., Ste. 300
Norfolk, VA 23510
Telephone: (757) 622-9005
Facsimile: (757) 624-9257
barnhart@rgblawfirm.com
Counsel for Patricia L. Pruitt

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2018, I will file the foregoing Notice with the Court via its CM/ECF system, which will thereupon send notice of electronic filing thereof to all registered participants associated with the case, thereby completing service upon them.

In addition, on January 26, 2018, I will serve the foregoing Notice to those parties identified on the Attached Service List, via first-class mail, and in accordance with 9014 and 7004, as appropriate.

/s/Kelly M. Barnhart

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

In re:

PATRICIA L. PRUITT,

Debtor-in-Possession.

**Case No. 17-72266-SCS
Chapter 11**

**MOTION TO APPROVE AGREEMENT AND
TRANSFER REAL ESTATE IN SATISFACTION OF SECURED CLAIMS**

Patricia L. Pruitt (the “**Debtor**”), by counsel, moves the Court to approve a settlement with own of her secured creditors, Colley Associates, LLP, which would result in the transfer of certain assets of the Debtor, in satisfaction of obligation owed to, free and clear of certain liens, claims and interests, outside the ordinary course of business, pursuant to 11 U.S.C. § 363(b) and Rules 6004 and 9019 of the Federal Rules of Bankruptcy Procedure, and in support thereof, states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this core proceeding pursuant to 28 U.S.C. §§ 157(b)(2) and 1334(b), 11 U.S.C. §§ 363 and 1107 and related statutes and rules.
2. Venue is proper by virtue of 28 U.S.C. § 1409(a).

Background

3. On June 21, 2017 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”).

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barnhart@rgblawfirm.com
Counsel for the Debtor

4. The Debtor remains in possession of her assets and properties as a debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

5. The Debtor has, since the Petition Date, continued to operate as a debtor-in-possession pursuant to § 1104 of the Bankruptcy Code.

6. The Debtor and her non-filing spouse, Thomas W. Pruitt (**“Mr. Pruitt”**), own the real estate and improvements located at 812 W. 41st St., Norfolk, Virginia and 4101 Colley Avenue, Norfolk, Virginia (collectively, the **“Property”**), the legal description of which is:

Parcel One: All that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia, near the northwestern corner of Colley Avenue and 41st Street, and designated and shown as Lot Thirty-two (32), in Block 269, on the plat of “Lambert’s Point Investment Company,” which is recorded in the Clerk’s Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 5, at pages 30 and 31.

Parcel Two: All those certain lots, pieces and parcels of land, lying and being in the City of Norfolk, Virginia, known and designated as Lots 33, 34, 35 36, and 37, in Block 269, on the plat of “Lambert Point Investment Company,” which is recorded in the Clerk’s Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 5, at pages 30 and 31.

7. The Property has a total tax assessed value, as provided by the City of Norfolk, of \$260,900.00 (the **“Value”**).

8. On September 25, 2012, the Debtor, Mr. Pruitt, and Colley Associates, LLP (**“Colley”** and with the Debtor and Mr. Pruitt, the **“Parties”**) entered into a note (the **“2012 Note”**) whereby the Debtor and Mr. Pruitt borrowed \$225,000 from Colley, which obligation was secured by a deed of trust taken against the Property, and the Parties into an Option Agreement, whereby the Parties agreed that Colley would have

the option to purchase the Property at its fair market value on the date that the option was exercised and the option would be effective on the date that Mr. Pruitt's lease with Colley for another parcel of property terminated, which option remained in effect until May 31, 2037. A copy of the 2012 Note is attached hereto, and incorporated herein, as **Exhibit A**.

9. The Debtor and Mr. Pruitt defaulted in payments due under the 2012 Note, and Mr. Pruitt's company, The Wave, Inc. (the "**Wave**"), which was party to a lease with Colley that Mr. Pruitt had guaranteed, also defaulted on rent due and as a result of the defaults, the parties entered into a modification agreement of the 2012 Note (the "**Loan Modification Agreement**"), with an effective date of July 15, 2015, whereby:

- A. 2012 Note and the rent defaults would be addressed, resulting in a modification of the 2012 Note's interest rate to eight percent *8%), with an unpaid principal balance of \$179,771.40, with monthly payments to be paid by the fifteenth day (15th) day of each month, beginning August 15, 2015 through the maturity date of October 15, 2017, with the entire balance then due;
- B. The Parties agreed there was a default under the terms of the 2012 Note, of both principal and interest, as well as certain rent, totaling \$60,671.97, and that the Parties would enter into a new promissory note, dated July 15, 2015, for this amount, plus interest and late fees, and bearing interest at a rate of eight percent (8%), payable interest only beginning August 15, 2015 and due every 15th day of each month until the maturity date of October 15,

2017, with this note being secured by a second deed of trust on the Property.

A copy of the Loan Modification Agreement is attached hereto, and incorporated herein, as **Exhibit B**.

10. On July 15, 2015, the Parties entered into a Negotiable Promissory Note (the “**Note**”), a copy of which is attached and incorporated herein as **Exhibit C**, which note provided that the Debtor and Mr. Pruitt promised to pay Colley \$60,671.97, with interest at a rate of eight percent 8%), in monthly payments of \$404.48 between August 15, 2015 through October 15, 2017, with the balance of the Note due on October 15, 2017.

11. The Parties entered into a deed of trust (the “**July DoT NO. 1**”), securing the Note, a copy of which is attached hereto, and incorporated herein, as **Exhibit D**.

12. Also on July 15, 2015, the Parties entered into a Deed of Trust Modification Agreement (the “**July Agreement**”), whereby the parties agreed that the 2012 Note would be modified and that the sum owed would be \$179,771.40 as of July 15, 2015 and that the monthly payment amounts beginning August 15, 2015 through October 15, 2017, when the entire balance would be due would be \$1,198.48. A copy of the July Agreement is attached hereto, and incorporated herein, as **Exhibit E**.

13. As of the date of this Motion, the balance owed to Colley is \$240,443 and the obligations came due, in full, on October 15, 2017, which balance does not include any late fees, attorney’s fees or costs.

14. The Parties have agreed, subject to Court approval, for the transfer of the Property in satisfaction, in full, of all obligations owed to Colley. A copy of the

agreement, subject to this Court's approval, is attached hereto, and incorporated herein, as **Exhibit F**.

15. The transfer of the Property in exchange for a full release of any and all obligations owed by the Debtor and Mr. Pruitt to Colley is a fair exchange, especially if considering that it avoid the costs of sale they may experience if they were to try and sell the Property and considering that Colley could exercise its rights to foreclose at this time pursuant to the applicable deeds of trust in place.

16. The Debtor also seeks a finding that the transaction contemplated herein has been negotiated and proposed in good faith.

17. A prompt transfer of the Property will enable the Debtor to realize the maximum value and cancel out certain debts owed by her, such that the recovery available to her other creditors may actually be maximized by eliminating Colley as a creditor, maintaining the expenses associated with the Property and any costs to be incurred if she attempted to sell the Property through an agent.

18. The Debtor believes the terms and conditions set forth in this Motion are fair and equitable to both the Debtor and the Buyer, and thus reflects a transaction that will result in a successful sale of the property.

Argument and Authority

19. A debtor-in-possession, after notice and a hearing, may sell, or otherwise use property of the estate, outside the ordinary course of business, pursuant to 11 U.S.C. §§ 363(b) and 1107(a), and has the same rights as a trustee with respect to § 363.

20. "Section 363(b) of the Code seems on its face to confer upon the bankruptcy judge virtually unfettered discretion to authorize the use, sale or lease, other

than in the ordinary course of business, of property of the estate.” *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983).

21. Courts have consistently held that approval of a proposed sale of property under § 363(b)(1) is appropriate where the transaction is consistent with a debtor’s sound business judgment. *See, e.g. In re W.A. Mallory Co.*, 214 B.R. 834 (Bankr. E.D. Va. 1997); *In re Oakwood Country Club, Incorporated*, 2010 Bankr. LEXIS 4339, *9 (Bankr. W.D. Va. Apr. 6, 2010); *In re Cadkey Corp.*, 317 B.R. 19, 22-23 (D. Mass. 2004) (*citing In re Aerovox*, 269 B.R. 74, 80 (Bankr. D. Mass. 2001 (citations omitted)) (the court noted that the sale of assets outside of the ordinary course of business “should be approved by the court unless it is shown to be so manifestly unreasonable that it could not be based on sound business judgment, but only bad faith, or whim or caprice.”).

22. The Debtor and her professionals have carefully considered and analyzed the proposed transfer of the Property and believe that it will result in the maximum benefit to the estate and the creditors and allow the full satisfaction of one of the secured creditors in this case.

23. The amount to be credited for the Property is reasonable, and the proposed transfer is the result of good faith negotiations with Colley.

24. The proposed sale of the Property is consistent with the Debtor’s sound business judgment, in the best interest of the estate and the creditors, and in addition, the property is co-owned by the Debtor’s husband, and he is in support of the transfer contemplated herein.

25. This Court has the authority to approve the compromise and settlement reached by the Debtor, Mr. Pruitt and Colley, pursuant to Fed. R. Bankr. P. 9019(a) and § 105 of the Bankruptcy Code.

26. Fed. R. Bankr. P. 9019(a) provides that, after notice and a hearing, the Court may approve a proposed settlement or compromise.

27. 11 U.S.C. § 102(1)(A) provides that the phrase “after notice and a hearing” may be read to mean simply an opportunity for a hearing as is appropriate under the circumstances.

28. The decision whether to accept or reject a compromise or settlement is within the sound discretion of the Court. *In re Vaughn*, 779 F.2d 1003, 1010 (4th Cir. 1985); *In re Three Rivers Woods, Inc.*, 2001 Bankr. LEXIS 737 (Bankr. E.D. Va. March 20, 2001); *In re Frye*, 216 B.R. 166, 174 (Bankr. E.D. Va. 1997).

29. In reviewing a proposed compromise and settlement, the Court must determine whether the settlement is (i) “fair and equitable,” *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968), and (ii) in the “best interests of the estate.” *Frye*, 216 B.R. at 174. *See also Vaughn*, 779 F.2d at 1010; *In re McNallen*, 197 B.R. 215, 221 (Bankr. E.D. Va. 1995).

30. Settlements are favored by courts. *Frye*, 216 B.R. at 172. A proposed settlement should be approved so long as “it is within the acceptable range of reasonableness.” *Nellis v. Shugrue*, 165 B.R. 115, 123 (S.D.N.Y. 1994). Furthermore, the Court need not “be convinced that the settlement is the best possible compromise or that the parties have maximized their recovery.” *Id.* *See also In re Austin*, 186 B.R. 397, 400 (Bankr. E.D. Va. 1995)(citations omitted).

31. The criteria generally relevant in determining whether to approve a settlement include:

- a. The probability of success in any ensuing litigation;
- b. Any collection difficulties;
- c. The complexity, time and expense of the litigation; and
- d. The interests of creditors with proper deference to their reasonable views.

Austin, 186 B.R. at 400 (citations omitted).

The Trustee believes that the proposed settlement to be in the best interests of all parties.

32. The Debtor believes that the proposed settlement to be in in the best interests of all parties.

33. The Debtor requests the waiver of the 14-day stay insofar as the stay may be otherwise applicable pursuant to Fed. R. Bankr. P. 6004(h).

Conclusion

WHEREFORE, the Debtor respectfully requests that this Court enter an order approving the proposed settlement contemplated herein and for such other and further relief as this Court deems just and proper.

/s/Kelly M. Barnhart

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580 E. Main St., Ste. 300
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barnhart@rgblawfirm.com
Counsel for the Debtor

Certificate of Service

I hereby certify that on January 26, 2018, the foregoing Motion was served via the Court's ECF system to all registered users who have been designated to receive filings in this case, thereby completing service upon them, and that a true copy of the foregoing Motion was served, via first-class mail, and in accordance with Fed. R. Bankr. P. 9014 and 7004, where appropriate, upon those parties identified on the attached Service List.

/s/ Kelly M. Barnhart

Exhibit A

\$225,000.00

Norfolk, Virginia

Date: September 25, 2012

NEGOTIABLE PROMISSORY NOTE

FOR VALUE RECEIVED, THOMAS W. PRUITT and PATRICIA L. PRUITT,
promise to pay to the order of **COLLEY ASSOCIATES L.L.P.**, or order, or assigns,
(the "Noteholder"), negotiable and payable without offset at 213 62nd Street, Virginia
Beach, Virginia 23451, or such other address as Noteholder may designate in
writing, the principal sum of **TWO HUNDRED AND TWENTY FIVE THOUSAND**
AND 00/100-----DOLLARS (\$225,000.00). Said sum shall
bear interest at the rate of eight percent (8.00%) per annum. Said sum shall be
payable in equal monthly installments of \$2,729.87 commencing November 15, 2012
and on the 15th day of each month thereafter, with all principal and interest being
due and payable in full on October 15, 2017. However, Noteholder does hereby
agree to grant to the Makers hereof a one time option to renew this Note for an
additional term of five (5) years. Maker must give Noteholder, at its address set out
above, sixty (60) days written notice prior to the expiration of the initial term that it
desires to exercise its option to renew this Note. If the option is exercised, the
interest rate on the unpaid principal balance after the October 15, 2017 installment
shall increase by a rate which is equal to the prime rate of interest of SunTrust Bank,
or its successors or assigns, as of October 15, 2012, plus five (5) percentage points.
In no event, however, shall the interest rate on the Note go below eight (8) percent
per annum. The then principal, and interest payments, shall be amortized over a
period of five years, with the first payment due November 15, 2017 and shall
continue to be due on the 15th of each and every month during the option period

with the entire principal and interest being due and payable in full on October 15, 2022.

In the event of default in the payment of any installment due herein, or a default in the Deed of Trust securing this Note, bankruptcy by either a maker, or endorser, or a default by the tenant under, or the termination, for any reason, of, a certain lease agreement with Colley Associates, L.L.P of even date, the entire unpaid balance of said indebtedness shall at the option of the holder hereof, forthwith become due and payable without notice or demand. The failure to exercise said option in any instance shall not constitute a waiver of any subsequent right to exercise the same.

The right of anticipation in whole or in part is reserved to the maker.

Maker shall pay a late charge of ten percent (10%) of any amount of any installment not paid within 10 days of its due date and a like amount for each 10-day period thereafter.


All the parties liable herein in any capacity, whether as maker, endorser, guarantor or otherwise, waive their homestead exemption as to this debt; waive presentment, demand, protest and notice; and agree that the time of payment of this note may be extended from time to time, without notice to them or the further consent of them and further agree to pay an attorney's fee of 25% if incurred. This note shall be a joint and several obligation of all makers, sureties, guarantors and endorsers and shall be binding upon them, their heirs, successors and assigns.

INTENTIONALL LEFT BLANK

**THIS NOTE IS SECURED BY A DEED OF TRUST ON PROPERTY COMMONLY
KNOWN AS 4101 COLLEY AVENUE, NORFOLK, VIRGINIA 23508 AND 812
WEST 41ST STREET, NORFOLK, VIRGINIA 23508.**

**THIS NOTE IS SUBJECT TO CALL IN FULL UPON THE SALE OR
CONVEYANCE OF THE ABOVE DESCRIBED PROPERTY.**


THOMAS W. PRUITT


PATRICIA L. PRUITT

COPY

Exhibit B

LOAN MODIFICATION AGREEMENT

THIS LOAN MODIFICATION AGREEMENT is made this 7th day of August, 2015 with an effective date of July 15, 2015, by and between Thomas W. Pruitt and Patricia L. Pruitt, hereinafter collectively referred to as "Pruitt", and Colley Associates, LLP, hereinafter referred to as "Noteholder", and The Wave, Inc., a Virginia corporation t/a The Wave, hereinafter referred to as "Wave".

RECITALS

WHEREAS, Pruitt has executed a certain Promissory Note (Colley Note), payable to Noteholder dated the 25th day of September, 2012 in the original principal amount of \$225,000.00, said property being secured by a Deed of Trust on real property known as Lots 32, 33, 34, 35, 36 & 37, Block 269, Lambert's Point, also known as 812 W. 41st Street and 4101 Colley Avenue, Norfolk, Virginia; and

WHEREAS, Pruitt is in default of the payment of the Colley Note and back rent; and

WHEREAS, Noteholder is willing to forebear at this time from the potential collection and foreclosure regarding the default of Pruitt; and

WHEREAS, Noteholder does not waive any of its rights that it has under the Colley Note and/or the Deed of Trust, which secures the Colley Note and is recorded in the Circuit Court of the City of Norfolk as Instrument No. 120022957; and

WHEREAS it is the desire of Pruitt and Noteholder to modify the terms of the Colley Note in order to be of accommodation to Pruitt, and

WHEREAS, to induce the Noteholder to make the concessions regarding the late payment of rents as well as Note payments that are in arrears, Wave is willing to offer

as collateral for the Notes a Financing Statement to be recorded as a lien against the furniture, fixtures and equipment of Wave and further consents to the guarantor of the hereinafter described notes; it is

W I T N E S S E T H

THAT FOR AND IN CONSIDERATION of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties do hereby agree as follows:

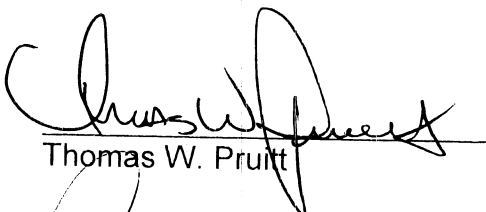
1. That the recitals as outlined above are incorporated herein as if fully set out.
2. That the Colley Note in the amount of \$225,000.00 dated September 25, 2012, shall be modified to provide that Pruitt shall pay interest only on the unpaid principal balance which is \$179,771.40 as of July 15, 2015 at the rate of eight percent (8%) per annum due monthly on the 15th of each month in the amount of \$1,198.48 which represents interest only, commencing August 15, 2015 until the maturity date of October 15, 2017. Noteholder grants to Pruitt the right to make curtailments of principal, with the first curtailment in the amount of at least \$2,000.00 and any additional payments to curtail the Note shall be at the rate of at least \$1,000.00 per payment.
3. That Pruitt and Colley agree that Pruitt is in arrears and the payment of principal and interest on the Note and rent in the amount of \$60,671.97.
4. That Pruitt agrees to execute this date a new Promissory Note, dated July 15, 2015, in the amount of \$60,671.97 which represents all outstanding Note payments due under the Colley Note, plus interest and late fees, as well as past due rent for the premises. The new Note shall bear interest at the rate of eight percent (8%) per annum, payable interest only commencing August 15,

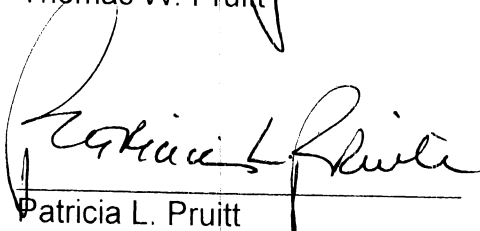
2015 and on the 15th day of each and every month thereafter until the maturity date of October 15, 2017, said Note to be secured by a second Deed of Trust on the property hereinbefore described. Noteholder grants to Pruitt the right to make curtailments of principal, with the first curtailment in the amount of at least \$2,000.00 and any additional payments to curtail the Note shall be at the rate of at least \$1,000.00 per payment.

5. The parties acknowledge that Pruitt's right to exercise a one-time option to renew the Note for an additional term of five (5) years is hereby extinguished.
6. That Wave does hereby consent to the filing of a UCC-1 Financing Statement with the State Corporation Commission and the Clerk of the Circuit Courts of Isle of Wight and Norfolk, Virginia as security for the above-mentioned Notes. Further, Wave agrees to execute a Guaranty in order to provide a guaranty for the full and faithful performance of the payment for the above-mentioned Notes.

The effective date of this agreement shall be July 15, 2015.

WITNESS THE FOLLOWING SIGNATURES AND SEALS this 27th day of August, 2015.

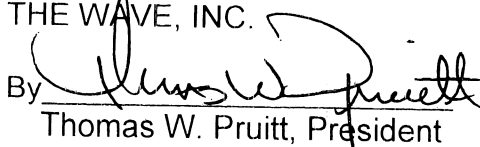

Thomas W. Pruitt


Patricia L. Pruitt

COLLEY ASSOCIATES, LLP

By _____
Member

THE WAVE, INC.

By 
Thomas W. Pruitt, President

COPY

Exhibit C

\$60,671.97

Norfolk, Virginia
Date: July 15, 2015

NEGOTIABLE PROMISSORY NOTE

FOR VALUE RECEIVED, THOMAS W. PRUITT and PATRICIA L. PRUITT, promise to pay to the order of COLLEY ASSOCIATES L.L.P, or order, or assigns, (the "Noteholder"), negotiable and payable without offset at 213 62nd Street, Virginia Beach, Virginia 23451, or such other address as Noteholder may designate in writing, the principal sum of **SIXTY THOUSAND SIX HUNDRED SEVENTY-ONE AND 97/100-----**
-----DOLLARS (\$60,671.97). Said sum shall bear interest at the rate of eight percent (8.00%) per annum. Said sum shall be payable in equal monthly installments of interest only payments in the amount of \$404.48 per month, commencing August 15, 2015 and on the 15th day of each month thereafter, with all principal and interest being due and payable in full on October 15, 2017. The Maker may make curtailments of principal in the initial amount of \$2,000.00 and any additional payments to curtail the principal of the Note shall be at the rate of at least \$1,000.00 per payment.

In the event of default in the payment of any installment due herein, or a default in the Deed of Trust securing this Note, bankruptcy by either a maker, or endorser, or a default by the tenant under, or the termination, for any reason, of, a certain lease agreement with Colley Associates, L.L.P of even date, the entire unpaid balance of said indebtedness shall at the option of the holder hereof, forthwith become due and payable without notice or demand. The failure to exercise said option in any instance shall not constitute a waiver of any subsequent right to exercise the same.

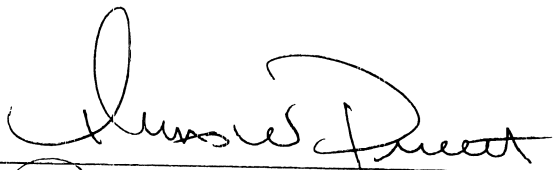
The right of anticipation in whole or in part is reserved to the maker.

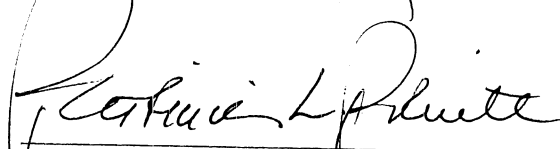
Maker shall pay a late charge of ten percent (10%) of any amount of any installment not paid within 10 days of its due date and a like amount for each 10-day period thereafter.

All the parties liable herein in any capacity, whether as maker, endorser, guarantor or otherwise, waive their homestead exemption as to this debt; waive presentment, demand, protest and notice; and agree that the time of payment of this note may be extended from time to time, without notice to them or the further consent of them and further agree to pay an attorney's fee of 25% if incurred. This note shall be a joint and several obligation of all makers, sureties, guarantors and endorsers and shall be binding upon them, their heirs, successors and assigns.

**THIS NOTE IS SECURED BY A DEED OF TRUST ON PROPERTY
COMMONLY KNOWN AS 4101 COLLEY AVENUE, NORFOLK, VIRGINIA 23508
AND 812 WEST 41ST STREET, NORFOLK, VIRGINIA 23508.**

**THIS NOTE IS SUBJECT TO CALL IN FULL UPON THE SALE OR
CONVEYANCE OF THE ABOVE DESCRIBED PROPERTY.**


THOMAS W. PRUITT


PATRICIA L. PRUITT

VIRGINIA LAND RECORD COVER SHEET
FORM A - COVER SHEET CONTENT

Exhibit D

Instrument Date: 7/15/2015
Instrument Type: DOT
Number of Parcels: 2 Number of Pages: 7
☒ City ☐ County

150019543

2015 SEP -3 PM 4: 54

NORFOLK

TAX EXEMPT? VIRGINIA/FEDERAL LAW

☐ Grantor: _____

☐ Grantee: _____

Consideration: \$60,671.97

Existing Debt: \$0.00

Actual Value/Assumed: \$0.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):

Original Principal: \$0.00

Fair Market Value Increase: \$0.00

(Area Above Reserved For Deed Stamp Only)

Original Book Number: _____ Original Page Number: _____ Original Instrument Number: _____

Prior Recording At: ☒ City ☐ County
NORFOLK Percentage In This Jurisdiction: 100.00000%

BUSINESS / NAME

1 ☐ Grantor: PRUITT, THOMAS W.

2 ☐ Grantor: PRUITT, PATRICIA L.

1 ☐ Grantee: HOWLETT, BOBBY L. JR.

☐ Grantee: _____

GRANTEE ADDRESS

Name: BOBBY L. HOWLETT JR.

Address: 327 DUKE STREET

City: NORFOLK State: VA Zip Code: 23510

Book Number: _____ Page Number: _____ Instrument Number: _____

Parcel Identification Number (PIN): 0143-9620 Tax Map Number: 0143-9620

Short Property Description: 32 BLK 269

LAMBERTS PT INV CO

Current Property Address: 812 W 41ST STREET

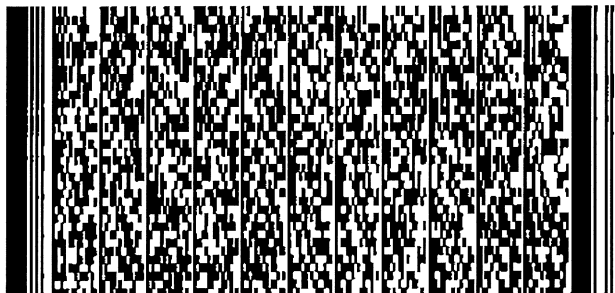
City: NORFOLK State: VA Zip Code: 23505

Instrument Prepared By: F SULLIVAN CALLAHAN Recording Paid By: PRUITT

Recording Returned To: F. SULLIVAN CALLAHAN

Address: 327 DUKE STREET

City: NORFOLK State: VA Zip Code: 23510



VIRGINIA LAND RECORD COVER SHEET

FORM C – ADDITIONAL PARCELS

Instrument Date: 7/15/2015
Instrument Type: DOT
Number of Parcels: 2 Number of Pages: 7
☒ City ☐ County
NORFOLK

PARCELS IDENTIFICATION OR TAX MAP

Prior Recording At: ☒ City ☐ County
NORFOLK
Percentage In This Jurisdiction: 100.00000%
Book Number: _____ Page Number: _____
Instrument Number: _____

Parcel Identification Number (PIN): 2592-9800

(Area Above Reserved For Deed Stamp Only)

Tax Map Number: 2592-9800

Short Property Description: 33 THRU 37 BLK 269
LAMBERTS PT INV CO

Current Property Address: 4101 COLLEY AVENUE

City: NORFOLK State: VA Zip Code: 23508

Prior Recording At: ☐ City ☐ County

Percentage In This Jurisdiction: _____

Book Number: _____ Page Number: _____

Instrument Number: _____

Parcel Identification Number (PIN): _____

Tax Map Number: _____

Short Property Description: _____

Current Property Address: _____

City: _____ State: _____ Zip Code: _____



RETURN TO:
F. Sullivan Callahan, PLC
327 Duke Street
Norfolk, VA, 23510

THIS DEED OF TRUST, made this 15th day of July, 2015 by and between **THOMAS W. PRUITT** and **PATRICIA L. PRUITT**, husband and wife, hereinafter called Grantor, party of the first part and **BOBBY L. HOWLETT, JR.**, whose mailing address is 327 Duke Street, Norfolk, VA 23510, hereinafter called Trustee, party of the second part.

WITNESSETH

That, Grantor does hereby grant and convey unto said Trustee the following property, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

IN TRUST to secure COLLEY ASSOCIATES, L.L.P., OR ORDER, hereinafter called Noteholder, the payment of one (1) certain negotiable promissory note in the principal amount of SIXTY THOUSAND SIX HUNDRED SEVENTY-ONE and 97/100 DOLLARS (\$60,671.97) with interest thereon at the rate of eight percent (8%) per annum. Interest only monthly payments of \$404.48 shall be due on the 15th day of August, 2015 and on the 15th of each and every month thereafter with the entire principal balance and all accrued interest being due and payable in full on October 15, 2017. Grantor may make curtailments of principal in the initial amount of \$2,000.00 and any additional payments to curtail the Note shall be at the rate of at least \$1,000.00 per payment.

And in further trust to secure the payment of any renewals, replacements, amendments or modifications hereof or any indebtedness to Noteholder or to Trustee arising under any of Grantor's covenants and agreements herein, including attorneys fees and fees and expenses of agents, incurred in connection with the performance by them of their respective rights and/or duties set forth herein.

Grantor covenant and agree as follows:

- A. Grantor will promptly pay when due, all sums secured hereby.
- B. Grantor will, at Grantor's expense, keep all improvements on the Property insured against fire (with extended coverage) in the amount of at least \$100,000 against such other hazards, casualties and contingencies as practical, all such insurance to be payable under any of said policies, the same may be released for repairing or rebuilding said improvements if the Grantor desires to rebuild the property or may be paid, to the extent of the said promissory note then remaining unpaid, whether then due or not, to Trustee. Grantor will obtain from the insurance companies such assurances as may be required by Noteholder. In the event of foreclosure hereunder, Noteholder may surrender all such insurance and receive all funds with respect thereto to the extent of Grantor's unpaid obligations hereunder or under said note. Renewal policies and any replacement policies shall be delivered to Noteholder thirty (30) days prior to expiration of existing policies. Furthermore insurance policy should provide to Noteholder thirty (30) days notice prior to any cancellation of said policy. Grantor appoints Noteholder as attorney-in-fact to endorse in the name of Grantor any insurance draft or check.

C. Grantor will pay, when due, all taxes and assessments, both general and special, now or hereafter assessed against said Property and all improvements; all premiums on insurance of any type which Grantor may be required to carry under the terms of this Deed of Trust or of said notes. In default of any such payment, the Noteholder is permitted, but shall not be required, to make payment thereof or may lend money to Grantor for their payment and all sums so advanced for such purposes, with interest thereon at the rate set out in the said note and secured hereby from the date of each advance, shall forthwith attach as a lien hereunder and shall be added to the amount secured hereby. Grantor shall pay all such advances immediately upon demand.

D. Grantor will keep the Property and all improvements thereon in good repair and fully protected from the elements to the satisfaction of the Trustee and Noteholder; it will commit or permit no waste thereon and will do or permit no act by which said Property shall become less valuable; Grantor will not, without written permission of Noteholder, remove, demolish, or alter the exterior of any structure on the said Property to any significant degree except that Grantor may repair or upgrade the Property without such consent, and Grantor will use said Property and premises in compliance with all applicable laws and regulations.

E. Grantor will pay upon demand all expenses incurred or paid by Noteholder or Trustee (including but not limited to reasonable counsel fees and court costs) on account of any litigations which may arise on account of any attempt with or without litigation to enforce the terms of this Deed of Trust or said notes. In case the property shall be advertised for foreclosure sale and not sold, Grantor shall pay all

costs in connection therewith, including, but not limited to, advertising and reasonable attorney's fees.

F. THE GRANTOR DOES HEREBY FURTHER COVENANT AND AGREE THAT UPON THE SALE OR CONVEYANCE OF CERTAIN PROPERTY OWNED BY THE GRANTOR COMMONLY KNOWN AS 4946 GEORGE WASHINGTON MEMORIAL HIGHWAY, HAYES, VA, THAT THE SAID GRANTOR SHALL FORTHWITH PAY TO THE NOTEHOLDER THE SUM OF \$50,000.00 TO REDUCE THE OUTSTANDING PRINCIPAL BALANCE OF THE NOTE SECURED BY THIS INDEBTEDNESS.

Noteholder shall have the power, to be exercised at any time or times hereafter, with or without cause and with or without notice, to substitute a trustee or trustees in place of the Trustee herein named, by an instrument in writing duly executed, acknowledged and recorded among the land records of the jurisdiction where said land is located, and when such instrument is recorded, all the estate of the Trustees this superseded shall terminate, and all the right, title and interest of the Trustee hereunder shall be vested in the trustee named as their successor or successors, who shall have the same powers, rights and duties which the Trustee so superseded has under this Deed of Trust; and that the exercise of this right to appoint a successor trustee, no matter how often exercised, shall not be deemed an exhaustion of said right.

Except as otherwise herein expressly provided, this Deed of Trust shall be construed to impose and confer upon the parties hereto, including the Noteholder, all

duties, rights and obligations as set forth and further to incorporate herein the following provisions by short form reference:

Exemptions waived

Renewal or extensions permitted

Any Trustee may act.

Advertisement required: Advertisement of the time, place terms of sale for five (5) days, which need not be successive days, in a newspaper or newspapers having a general circulation in the City of Norfolk, State of Virginia.

Bidder's deposit of not more than five percent (5%) of the sale price may be required.

Trustee shall be allowed a trustee's fee of 5% for all services rendered in the event of foreclosure.

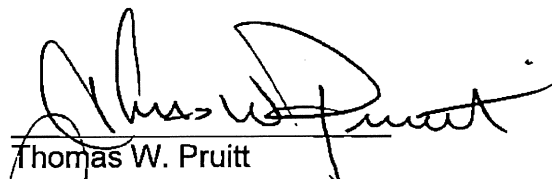
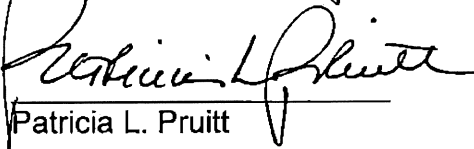
If all or any part of the property or any interest in it is sold or transferred without Noteholder's prior written consent, Noteholder may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. If Noteholder exercises this option, Noteholder shall give Grantor notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Grantor must pay all sums secured by this Deed of Trust. If Grantor fails to pay these sums prior to the expiration of this period, Noteholder may invoke any remedies permitted by this Deed of Trust without further notice or demand on Grantor.

This Deed of Trust shall be governed by the law of the Commonwealth of Virginia.

Upon payment of all indebtedness hereby secured and upon the performance of all of the covenants and conditions hereunder, Grantor covenant to pay the expense of releasing this Deed of Trust.

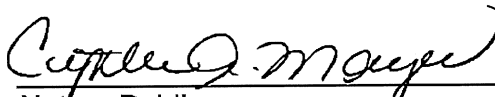
NOTICE: THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED.

WITNESS the following signature and seal:

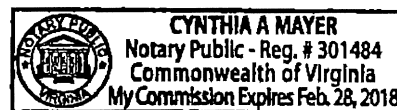

Thomas W. Pruitt

Patricia L. Pruitt

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to wit

I HEREBY CERTIFY that on August 7, 2015, before me, a Notary Public in and for the jurisdiction aforesaid, personally appeared Thomas W. Pruitt and Patricia L. Pruitt, known to me (or satisfactorily proven) to be the person(s) who signed the foregoing instrument, and acknowledged that he executed the foregoing document as his free and voluntary act and for the purposes therein contained.


Notary Public

My Commission Expires: 2/28/18



VIRGINIA LAND RECORD COVER SHEET
FORM A - COVER SHEET CONTENT

Exhibit E

Instrument Date: 7/15/2015
Instrument Type: DTM
Number of Parcels: 2 Number of Pages: 6
☒ City ☐ County

150019542

2015 SEP -3 PM 4: 54

NORFOLK

TAX EXEMPT? VIRGINIA/FEDERAL LAW

☒ Grantor: 58.1-803(D)

☐ Grantee: _____

Consideration: \$0.00

Existing Debt: \$225,000.00

Actual Value/Assumed: \$0.00

PRIOR INSTRUMENT UNDER § 58.1-803(D):

Original Principal: \$225,000.00

Fair Market Value Increase: \$0.00

(Area Above Reserved For Deed Stamp Only)

Original Book Number: _____ Original Page Number: _____ Original Instrument Number: 120022957

Prior Recording At: ☒ City ☐ County

NORFOLK

Percentage In This Jurisdiction: 100.000000%

BUSINESS / NAME

1 ☐ Grantor: PRUITT, THOMAS W.

2 ☐ Grantor: PRUITT, PATRICIA L.

1 ☐ Grantee: HOWLETT, BOBBY L. JR.

☐ Grantee: _____

GRANTEE ADDRESS

Name: BOBBY L. HOWLETT JR.

Address: 327 DUKE STREET

City: NORFOLK State: VA Zip Code: 23510

Book Number: _____ Page Number: _____ Instrument Number: _____

Parcel Identification Number (PIN): 0143-9620 Tax Map Number: 0143-9620

Short Property Description: 32 BLK 269

LAMBERTS PT INV CO

Current Property Address: 812 W 41ST STREET

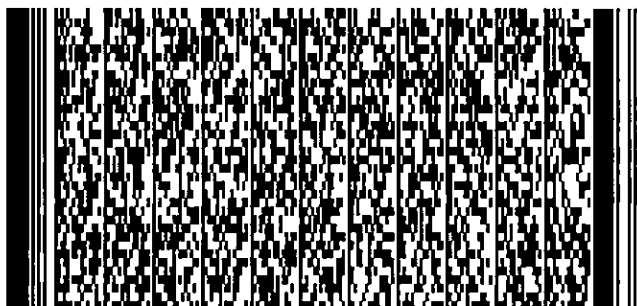
City: NORFOLK State: VA Zip Code: 23505

Instrument Prepared By: F SULLIVAN CALLAHAN Recording Paid By: PRUITT

Recording Returned To: F. SULLIVAN CALLAHAN

Address: 327 DUKE STREET

City: NORFOLK State: VA Zip Code: 23510



VIRGINIA LAND RECORD COVER SHEET

FORM C – ADDITIONAL PARCELS

Instrument Date: 7/15/2015
Instrument Type: DTM
Number of Parcels: 2 Number of Pages: 6
☒ City ☐ County
NORFOLK

PARCELS IDENTIFICATION OR TAX MAP

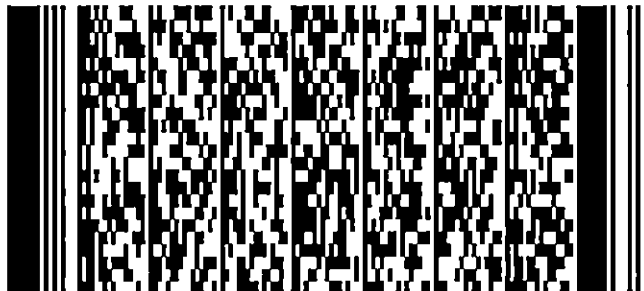
Prior Recording At: ☒ City ☐ County
NORFOLK
Percentage In This Jurisdiction: 100.00000%
Book Number: _____ Page Number: _____
Instrument Number: _____
Parcel Identification Number (PIN): 2592-9800
Tax Map Number: 2592-9800

(Area Above Reserved For Deed Stamp Only)

Short Property Description: 33 THRU 37 BLK 269
LAMBERTS PT INV CO
Current Property Address: 4101 COLLEY AVENUE
City: NORFOLK State: VA Zip Code: 23508

Prior Recording At: ☐ City ☐ County

Percentage In This Jurisdiction: _____
Book Number: _____ Page Number: _____
Instrument Number: _____
Parcel Identification Number (PIN): _____
Tax Map Number: _____
Short Property Description: _____
Current Property Address: _____
City: _____ State: _____ Zip Code: _____



Virginia this is to certify the amount of the
original debt was \$225,000.00

RETURN TO:
F. Sullivan Callahan, PLC
327 Duke Street
Norfolk, VA 23510

DEED OF TRUST MODIFICATION AGREEMENT

THIS DEED OF TRUST MODIFICATION AGREEMENT, dated this 15th day of July, 2015, by and between Thomas W. Pruitt and Patricia L. Pruitt, Grantors, (hereinafter referred to as the "Borrower"), and Bobby L. Howlett, Jr., Trustee, Grantee, whose current address is 327 Duke Street, Norfolk, VA 23510, (hereinafter referred to as the "Trustee"), and Colley Associates, LLP, a Virginia limited liability partnership (hereinafter referred to as "Noteholder").

WITNESSETH:

WHEREAS, the Noteholder is the holder of a certain note in the original principal amount of \$225,000.00, made by Borrower, dated September 25, 2012 (hereinafter referred to as the "Note"); and

WHEREAS, the Note is secured by a Deed of Trust from the Borrower to the Trustee, with respect to certain real property more particularly described in Exhibit A attached hereto and made a part hereof, recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia as instrument number 120022957 (hereinafter referred to as the Deed of Trust); and

WHEREAS, it is the desire of Grantor with the agreement of Noteholder, to modify the Deed of Trust; and

WHEREAS, said modification is pursuant to a Loan Modification Agreement executed by the parties effective as of July 15, 2015, changing the monthly payment

required of Borrower to be interest only as well as to provide for payments for the curtailment of the principal amount owed; and

WHEREAS, it is the desire of the parties to amend the Deed of Trust accordingly; therefore,

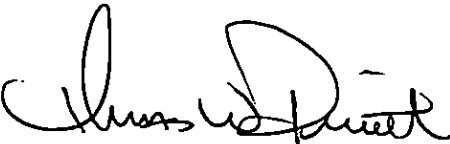
IT IS AGREED AS FOLLOWS:

1. The principal amount of the Indebtedness secured by the Deed of Trust is acknowledged to be the sum of \$179,771.40 as of July 15, 2015.
2. That pursuant to the Loan Modification Agreement, the parties agree that the Borrower shall pay interest only payments of \$1,198.48 commencing August 15, 2015 and continuing on the 15th day of each month thereafter until the maturity date of the Note which is October 15, 2017.
3. That the option to renew the Note heretofore granted by Noteholder is hereby extinguished.
4. That the parties agree that the Noteholder has not waived of its right under the Note and/or Deed of Trust by his forbearance and his execution of this Loan Modification Agreement.

INTENTIONALLY LEFT BLANK

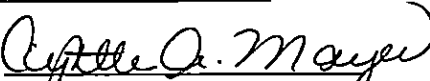
SIGNATURE PAGE FOLLOWS

Witness the following signatures and seals


Thomas W. Pruitt, Noteholder

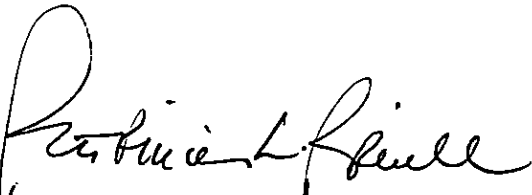
STATE OF VIRGINIA
CITY OF Norfolk, to-wit:

The foregoing Deed of Trust Modification Agreement was acknowledged before
me this 7th day of August, 2015 by Thomas W. Pruitt, Noteholder.


Notary Public

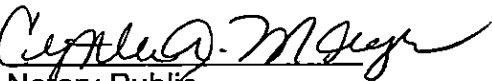
My Commission Expires: 2/28/18



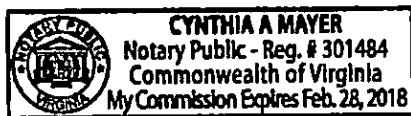

Patricia L. Pruitt, Noteholder

STATE OF VIRGINIA
CITY OF Norfolk, to-wit:

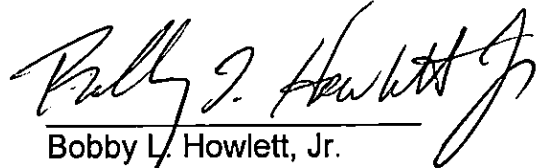
The foregoing Deed of Trust Modification Agreement was acknowledged before
me this 7th day of August, 2015 by Patricia L. Pruitt, Noteholder.


Notary Public

My Commission Expires:



Witness the following signatures and seals

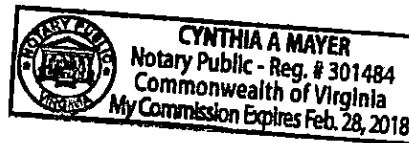

Bobby L. Howlett, Jr.
Trustee

STATE OF VIRGINIA
CITY OF Norfolk, to-wit:

The foregoing Deed of Trust Modification Agreement was acknowledged before
me this 7th day of August, 2015 by Bobby L. Howlett, Jr., Noteholder.


Notary Public

My Commission Expires: 2/28/18



Witness the following signatures and seals



Colley Associates, LLP, a Virginia
Limited Liability partnership, by

Member Premier

State of Virginia

City of Norfolk, to-wit:

The foregoing Deed of Trust Modification Agreement was acknowledged before
me this 18 day of August, 2015 by Fredrick T. Standish
~~Member~~ of Colley Associates, LLP, a Virginia limited liability partnership.

Partner



Notary Public

My Commission Expires: 6/30/18

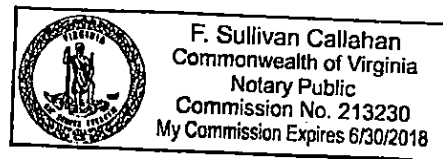


EXHIBIT A

Parcel One: All that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia, near the northwestern corner of Colley Avenue and 41st Street, and designated and shown as Lot Thirty-two (32), in Block 269, on the plat of "Lambert's Point Investment Company," which is recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 5, at pages 30 and 31.

Parcel Two: All those certain lots, pieces and parcels of land, lying and being in the City of Norfolk, Virginia, known and designated as Lots 33, 34, 35 36, and 37, in Block 269, on the plat of "Lambert Point Investment Company," which is recorded in the Clerk's Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 5, at pages 30 and 31.

INSTRUMENT #150019542
RECORDED IN THE CLERK'S OFFICE OF
NORFOLK ON
SEPTEMBER 3, 2015 AT 04:54PM

GEORGE E. SCHAEFER, CLERK
RECORDED BY: JJK

Exhibit F

Agreement

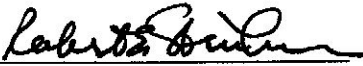
This is an agreement dated January 16 2018, between Patricia L. and Thomas W. Pruitt, Sr., on one side and Colley Associates, LLP on the other side.

Background:

The Pruitts owe Colley Associates, LLP \$240,443, per notes dated 09/25/2012 and 07/15/2015. Those notes were each due in full on 10/15/17 and have not been paid. The notes are secured by real property GPIN # 01439620, with a City of Norfolk assessment of \$27,000, and GPIN # 25929800, with a City of Norfolk assessment of \$233,900. Colley Associates, LLP and the Pruitts have agreed to exchange the cancellation of said notes for said real property to satisfy the obligation in full. The Pruitts and Colley Associates, LLP have agreed that this represents a fair and equitable resolution and that the fair market value of the real property to be transferred is substantially equal to the outstanding balance of the notes.

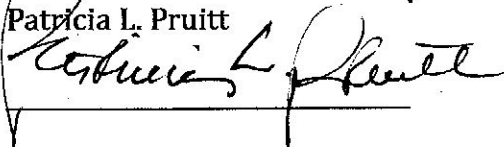
Therefore, the Pruitts jointly and severally agree to convey the property described above to Colley Associates, LLP by the usual warranty deed, as soon as practical, in exchange for the cancellation of the notes described above and accrued interest, if any, as of closing date. Both parties understand that this agreement is subject to approval by the bankruptcy court.

Colley Associates, LLP

By: 

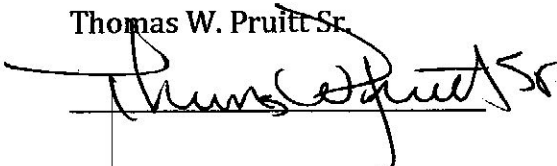
Date: 1/16/2018

Patricia L. Pruitt



Date: 1/23/18

Thomas W. Pruitt Sr.



Date: 1-23-18

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

In re:

PATRICIA L. PRUITT,

Debtor-in-Possession.

**Case No. 17-72266-SCS
Chapter 11**

**ORDER GRANTING MOTION TO APPROVE AGREEMENT AND
TRANSFER REAL ESTATE IN SATISFACTION OF SECURED CLAIMS**

THIS MATTER comes before the Court upon the Motion to Approve Settlement (the “**Settlement Motion**”) filed by Patricia L. Pruitt (the “**Debtor**”), by counsel, which settlement is with Colley Associates, LLP (“**Colley**”), a secured creditor of the Debtor. Based on a review of the record and the representations set forth in the Settlement Motion, the Court makes the following findings of fact and conclusions of law:

1. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157.
2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b) and 1334(b).
3. Venue is proper by virtue of 28 U.S.C. § 1409(a).
4. On June 21, 2017 (the “**Petition Date**”), the Debtor filed for bankruptcy relief under chapter 7 of title 11 of the United States Code (the “**Bankruptcy Code**”).
5. The Debtor remains in possession of her assets and properties as a debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

6. The Debtor has, since the Petition Date, continued to operate as a debtor-in-possession pursuant to § 1104 of the Bankruptcy Code.

7. The Debtor and her non-filing spouse, Thomas W. Pruitt (**“Mr. Pruitt”**), own the real estate and improvements located at 812 W. 41st St., Norfolk, Virginia and 4101 Colley Avenue, Norfolk, Virginia (collectively, the **“Property”**), the legal description of which is:

Parcel One: All that certain lot, piece or parcel of land, with the buildings and improvements thereon, situate, lying and being in the City of Norfolk, Virginia, near the northwestern corner of Colley Avenue and 41st Street, and designated and shown as Lot Thirty-two (32), in Block 269, on the plat of “Lambert’s Point Investment Company,” which is recorded in the Clerk’s Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 5, at pages 30 and 31.

Parcel Two: All those certain lots, pieces and parcels of land, lying and being in the City of Norfolk, Virginia, known and designated as Lots 33, 34, 35 36, and 37, in Block 269, on the plat of “Lambert Point Investment Company,” which is recorded in the Clerk’s Office of the Circuit Court of the City of Chesapeake, Virginia, in Map Book 5, at pages 30 and 31.

8. The Property has a total tax assessed value, as provided by the City of Norfolk, of \$260,900.00 (the **“Value”**).

9. On September 25, 2012,, the Debtor, Mr. Pruitt, and Colley Associates, LLP (**“Colley”** and with the Debtor and Mr. Pruitt, the **“Parties”**) entered into a note (the **“2012 Note”**) whereby the Debtor and Mr. Pruitt borrowed \$225,000 from Colley, which obligation was secured by a deed of trust taken against the Property, and the Parties into an Option Agreement, whereby the Parties agreed that Colley would have the option to purchase the Property at its fair market value on the date that the option was exercised and the option would be effective on the date that Mr. Pruitt’s lease with

Colley for another parcel of property terminated, which option remained in effect until May 31, 2037.

10. The Debtor and Mr. Pruitt defaulted in payments due under the 2012 Note, and Mr. Pruitt's company, The Wave, Inc. (the "**Wave**"), which was party to a lease with Colley that Mr. Pruitt had guaranteed, also defaulted on rent due and as a result of the defaults, the parties entered into a modification agreement of the 2012 Note (the "**Loan Modification Agreement**"), with an effective date of July 15, 2015, whereby:

- a. 2012 Note and the rent defaults would be addressed, resulting in a modification of the 2012 Note's interest rate to eight percent *8%), with an unpaid principal balance of \$179,771.40, with monthly payments to be paid by the fifteenth day (15th) day of each month, beginning August 15, 2015 through the maturity date of October 15, 2017, with the entire balance then due;
- b. The Parties agreed there was a default under the terms of the 2012 Note, of both principal and interest, as well as certain rent, totaling \$60,671.97, and that the Parties would enter into a new promissory note, dated July 15, 2015, for this amount, plus interest and late fees, and bearing interest at a rate of eight percent (8%), payable interest only beginning August 15, 2015 and due every 15th day of each month until the maturity date of October 15, 2017, with this note being secured by a second deed of trust on the Property.

11. On July 15, 2015, the Parties entered into a Negotiable Promissory Note (the "**Note**"), which provided that the Debtor and Mr. Pruitt promised to pay Colley \$60,671.97, with interest at a rate of eight percent 8%), in monthly payments of \$404.48 between August 15, 2015 through October 15, 2017, with the balance of the Note due on October 15, 2017.

12. The Parties entered into a deed of trust (the “**July DoT NO. 1**”), securing the Note.

13. Also on July 15, 2015, the Parties entered into a Deed of Trust Modification Agreement (the “**July Agreement**”), whereby the parties agreed that the 2012 Note would be modified and that the sum owed would be \$179,771.40 as of July 15, 2015 and that the monthly payment amounts beginning August 15, 2015 through October 15, 2017, when the entire balance would be due would be \$1,198.48.

14. As of the date of the Motion, the balance owed to Colley is \$240,443 and the obligations came due, in full, on October 15, 2017, which balance does not include any late fees, attorney’s fees or costs.

15. The Parties have agreed, subject to Court approval, for the transfer of the Property in satisfaction, in full, of all obligations owed to Colley.

16. The transfer of the Property in exchange for a full release of any and all obligations owed by the Debtor and Mr. Pruitt to Coley is a fair exchange, especially if considering that it avoid the costs of sale they may experience if they were to try and sell the Property and considering that Colley could exercise its rights to foreclose at this time pursuant to the applicable deeds of trust in place.

17. The Debtor also seeks a finding that the transaction contemplated herein has been negotiated and proposed in good faith.

18. A prompt transfer of the Property will enable the Debtor to realize the maximum value and cancel out certain debts owed by her, such that the recovery available to her other creditors may actually be maximized by eliminating Colley as a creditor, maintaining the expenses associated with the Property and any costs to be incurred if she attempted to sell the Property through an agent.

19. The Debtor believes the terms and conditions set forth in this Motion are fair and equitable to both the Debtor and the Buyer, and thus reflects a transaction that will result in a successful sale of the property.

20. Notice of the Settlement Motion, and of the hearing on the Settlement Motion, was served on all parties in interest as required by the Federal Rules of Bankruptcy Procedure.

Based on the foregoing, the following is hereby ORDERED:

- A. The Settlement Motion is approved;
- B. The Debtor may transfer her interest in the Property to Colley in exchange for a full release of all liabilities owed to Colley;
- C. The Debtor may execute all documents necessary to effectuate the transfer of her interest in the Property to Colley;
- D. Colley shall have no remaining claims of any kind against the Debtor and waives any claims it may have against the estate and the Debtor;
- E. All matters between the Debtor and Colley are to be compromised and settled in full hereby;
- F. Upon entry of an order granting this Motion, and after such order is considered final and non-appealable, the Settlement shall be binding on Colley and the Debtor; and
- G. Upon entry of this Order, the Clerk shall mail copies of it to those parties named on the attached Copy List;

Entered at Newport News, Virginia, on _____, 2018.

United States Bankruptcy Judge, Chief

Entered on Docket: _____

I ASK FOR THIS:

/s/ _____

Kelly M. Barnhart, VSB No. 65246
Counsel for Patricia L. Pruitt

SEEN AND NO OBJECTION:

/s/ _____

Cecelia A. Weschler, Counsel for U.S. Trustee
(*Permission to affix electronic signature provided
via electronic mail on _____, 2018*)

CERTIFICATE

I hereby certify that all interested parties have endorsed this instant Order,
pursuant to Local Rule 9022-1(C)(1), or have been served the same.

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