

CAUSE NO. 2022-83588

SANDEEP SUNIL SHAH AKA SANDEEP SHAH	§	IN THE DISTRICT COURT
Plaintiff	§	
	§	
VS.	§	OF HARRIS COUNTY, TEXAS
	§	
CAPITAL BANK	§	
Defendant	§	129 <sup>TH</sup> JUDICIAL DISTRICT

This Rule 11 Stipulation is by and between Sandeep Sunil Shah aka Sandeep Shah (“Shah”), Milton Richard Cutler (“Cutler”) and Capital Bank (“Capital”).

WHEREAS on or about February 22, 2018, Shah executed that certain Real Estate Lien Note in the original principal amount of \$1,250,000.00 dated February 22, 2018 payable to Capital Bank (“the Note”);

WHEREAS the Note was secured by a first lien in certain real property located in Harris County, Texas described as

TRACT 23 B OF TOWN OF BELLAIRE, AMENDING PLAT NO. 1, AN ADDITON IN HARRIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF RECORDED UNDER FILM CODE NO. 614271 OF THE MAP AND/OR PLAT RECORDS OF HARRIS COUNTY, TEXAS (the “Property”)

as evidenced by that certain Deed of Trust dated February 22, 2018 filed of record under Clerk’s file No. RP-2018-77094 in the Official Real Property Records of Harris County, Texas (the “Deed of Trust”).

WHEREAS the Note was further secured by an Assignment of Rents dated February 22, 2018 executed by Shah and filed of record under Clerk’s File No. RP-2018-77095.

WHEREAS Shah transferred the Property securing the Note to the Cutler Law Group, P.C who then transferred the Property to Milton Richard Cutler (“Cutler”);

WHEREAS the transfer of the Property was done without the consent of Capital and without its consent;

WHEREAS the transfer of the Property violated Paragraph 21 of the Deed of Trust (the “Due on Sale Clause”);

WHEREAS on or about November 30, 2022 Capital accelerated the Note and notice of acceleration was sent to Shah;

WHEREAS the Property was posted for foreclosure for January 3, 2023 (the “Foreclosure Sale”);

WHEREAS Cutler has represented that he and/or Shah is refinancing and/or selling the Property which will close on or about December 30, 2022 and will fund by January 6, 2023;

WHEREAS Shah filed Cause No. 202283588; styled Sandeep Sunil Shah aka Sandeep S. Shah vs Capital Bank in the 129<sup>th</sup> Judicial District Court of Harris County, Texas (the “Lawsuit”) seeking a TRO to prevent the foreclosure sale;

WHEREAS Cutler, Shah and Capital have reached an agreement with regard to the Foreclosure Sale and the TRO;

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

1. Capital Bank will agree to pass the foreclosure sale set for January 2, 2023.
2. Cutler and/or Shah will close the pending sale (or refinance) of the Property on or about December 30, 2022 and such sale shall fund and pay the full payoff to Capital Bank on or before January 6, 2023.

3. As further consideration for passing the foreclosure sale, Shah and/or Cutler will dismiss the Lawsuit immediately after this Rule 11 agreement is filed with the Court,

4. Cutler and Shah agree that if the sale and funding are not finalized by January 6, 2023, Capital can repost the Property for a February 2023 foreclosure sale and Cutler and Shah will not seek another temporary restraining order.

5. Shah shall pass the hearing on the temporary restraining order set for 4:30 p.m. on December 29, 2022.

6. This Agreement is the entire agreement between the parties. There are no other oral agreements.

Respectfully submitted,

LAW OFFICE OF MYNDE S. EISEN, P.C.

*Mynde S. Eisen*

By: /s/ Mynde S. Eisen

Mynde S. Eisen  
State Bar No. 06503950  
6546 Greatwood Parkway, Suite C  
Sugar Land, Texas 77479  
(281) 545-8600  
Email: [myndeeisen@eisenlawoffice.com](mailto:myndeeisen@eisenlawoffice.com)

ATTORNEYS FOR DEFENDANT  
CAPITAL BANK

THE MINERVE LAW FIRM

By: /s/James Minerve

James Minerve  
State Bar No. 240099692  
13276 Highway 183, Ste 209  
Austin, Texas 78750  
(888) 819-1440 (office)  
(210) 336-5867 (mobile)  
[Jgm@minervelaw.com](mailto:Jgm@minervelaw.com)

ATTORNEYS FOR PLAINTIFF  
SANDEEP SUNIL SHAH AKA SANDEEP S. SHAH

CUTLER LAW GROUP, P.C

By: /s/ Milton Richard Cutler

Milton Richard Cutler

State Bar No. 151978

6575 West Loop South, Suite 500

Bellaire, Texas 77401

(713) 888-0040

Rcutler @cutlerlaw.com

ATTORNEYS FOR MILTON RICHARD CUTLER