

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

ARMAND GUSTAVE, LLC (Plaintiff/Petitioner),
ARMAND G. EAGAN (Plaintiff) and PETER BARON
(Plaintiff),

Index No.: 601047/2020
(Hudson, J.)

So Ordered
STIPULATION OF
SETTLEMENT

-against-

JANET EAGAN, as Administratrix of the Estate of
James Patrick Eagan, deceased (Defendant) and
CENTRAL PINE BARRENS JOINT PLANNING &
POLICY COMMISSION (Respondent),

IT IS HEREBY STIPULATED, CONSENTED TO, AND AGREED by and between
the Plaintiff/Petitioner ARMAND GUSTAVE, LLC ("**Gustave LLC**"), Plaintiff ARMAND G.
EAGAN, and Plaintiff PETER BARON, collectively referred to as the "*Plaintiffs/Petitioner*"
herein, and Defendant JANET EAGAN, as Administratrix of the Estate of James Patrick Eagan,
deceased,, and Respondent CENTRAL PINE BARRENS JOINT PLANNING & POLICY
COMMISSION ("**Pine Barrens Commission**"), collectively referred to as the
"*Defendant/Respondent*" herein, that the above-captioned action is hereby settled as follows (the
"**Stipulation**") as of the 3rd day of March, 2022 (the "**Effective Date**");

RECITALS

I. Armand Gustave LLC v. Central Pine Barrens Joint Planning and Policy
Commission, Index No. 601047/2020 ("Action 1")

A. On January 17, 2020, Gustave LLC commenced an action against the Central
Pine Barrens Joint Planning and Policy Commission ("**Pine Barrens Commission**") seeking an
order, *inter alia*, compelling the Commission to issue Pine Barrens Credits for two parcels of
land owned by Gustave LLC by filing an Order to Show Cause and a Verified Petition
("**Petition**"). See NYSCEF Doc. Nos. 1-17.

B. The Pine Barrens Commission's time to answer or otherwise respond to the Petition in Action 1 has been extended on consent via stipulation. NYSCEF Doc. Nos. 23 and 26.

II. *Armand Gustave LLC, Armand G. Eagan, and Peter Baron v. James P. Eagan, Index No. 605894/202 ("Action 2")*

C. On May 27, 2020, Plaintiffs Armand Gustave LLC, Armand G. Eagan, and Peter Baron ("**Action 2 Plaintiffs**") commenced a declaratory judgment action against defendant James P. Eagan ("**J. Eagan**") to declare that J. Eagan no longer had any ownership interest in Gustave LLC, by filing of a summons and complaint. NYSCEF Doc. No. 1.

D. J. Eagan filed an amended answer in Action 2 on July 1, 2020. NYSCEF Doc. No. 5.

E. The Action 2 Plaintiffs filed a motion for consolidation of the above-captioned actions on September 3, 2020 which was granted on December 1, 2020. NYSCEF Doc. Nos. 10-16, 51.

III. *Subsequent Procedural History and Events*

F. In November 2020, Plaintiffs/Petitioner discovered that on September 23, 2020, J. Eagan had illegally and improperly removed certain property from Gustave LLC, identified as SCTM# 0900-279.00-04.00-13.001, and deeded such property to himself.

G. On November 30, 2020, the Action 2 Plaintiffs filed an Order to Show Cause requesting J. Eagan be prohibited from transferring, selling or disposing of any real or personal property held by Gustave LLC and directed to execute a quitclaim deed, along with applicable transfer tax forms, to transfer title of the real property back to Gustave LLC. NYSCEF Doc. Nos, 50, 33-46; Index No. 605894/2020.

H. The Order to Show Cause was signed on November 30, 2020, prohibited J. Eagan from transferring, selling or disposing of any real or personal property held by Gustave LLC; however, it did not direct J. Eagan to transfer title of the real property back to Gustave LLC. NYSCEF Doc. No. 50; Index No. 605894/2020.

I. By Decision, dated May 5, 2021, the Court granted Plaintiffs/Petitioner's motion for a preliminary injunction, staying, enjoining and restraining J. Eagan from transferring, selling or disposing of real or personal property held in the name of Gustave LLC and including that certain real property that J. Eagan had transferred to himself bearing SCTM # 0900-279.00-04.00-13.001 (mis-identified therein as 0200-279.00-04.00-13.001). NYSCEF Doc. No. 58; Index No.: 601047/2020.

J. The May 5, 2021 decision did not, however, direct the real property be returned to Gustave LLC.

K. Following the demise of J. Eagan on June 21, 2021, Letters of Administration were issued to decedent's wife, Janet Eagan, on November 15, 2021.

L. Janet Eagan was thereafter substituted into the within action as the Defendant, in her capacity of Administratrix of the Estate of James Patrick Eagan, by stipulation, so-ordered by this Court on January 4, 2022. NYSCEF Doc. No. 67; Index No.: 601047/2020.

M. Gustave LLC, Armand G. Eagan, Peter D. Baron, Janet Eagan and the Pine Barrens Commission (sometimes each referred to as a "**Party**" and collectively as the "**Parties**") now wish to resolve any and all disputes among them and have agreed to compromise and settle all claims, all without making any admission of fault, wrongdoing, and/or liability or as to the merits of any claims and defenses raised or that could have been raised by the Parties to this Stipulation.

NOW, THEREFORE, in consideration of the promises set forth herein, which the Parties acknowledge and agree constitute good and adequate consideration, the Parties collectively agree as follows:

1. **RECITALS ARE INCORPORATED.**

1.1 The recitals set forth above are hereby incorporated into this Stipulation as though fully set forth herein.

2. **CONSIDERATION.**

2.1 Janet Eagan, as Administratrix of the Estate of James Patrick Eagan, deceased, hereby represents and warrants that J. Eagan sold and transferred all of his right and title to a membership interest in Gustave LLC to Armand Eagan, his son, as per that certain "Sale of LLC Interest Agreement" by and between, J. Eagan, deceased, and Armand Eagan, dated February 22, 2019 (NYSCEF Doc. No.3, Index No.: 601047/2020) and, that J. Eagan sold and transferred all of his right and title to a membership interest in Eagan Environmental Solutions, LLC ("**Eagan Environmental**") to Janet L. Eagan, his wife, and that the Estate of James Patrick Eagan, deceased, does not have any right, title or interest in the membership or management of Eagan Environmental.

2.2 Janet Eagan, as Administratrix of the Estate of James Patrick Eagan, deceased, represents, warrants and covenants that she will execute a quitclaim deed, along with applicable transfer tax forms, to transfer title of the real property identified as SCTM# 0900-279.00-04.00-13.001, back to Gustave LLC.

2.3 The Pine Barrens Commission agrees to process and otherwise proceed with consideration of the applications for Pine Barrens Credits, and related requests, made by the Plaintiffs/Petitioner, Eagan Environmental or their affiliates, as the case may be, without regard

to the prior written and oral statements made by James Eagan, deceased, regarding the Plaintiffs/Petitioner and/or Eagan Environmental, and their affiliates.

2.4 The Pine Barrens Commission is entitled to rely upon the foregoing representations, covenants and warranties of Janet Eagan, as Administratrix of the Estate of James Patrick Eagan, deceased, without a duty of investigation or inquiry, regarding applications, communications or filings made by Plaintiffs/Petitioner, Eagan Environmental or their affiliates, to or with the Pine Barrens Commission.

3. **JURISDICTION.**

3.1 The Parties hereby submit to the personal and subject matter jurisdiction of the Court and submit to the Court's continuing jurisdiction for the purpose of enforcing the terms and conditions of this Stipulation.

4. **MUTUAL RELEASES.**

4.1 The term "Claims," as used in this Stipulation, shall mean: any and all claims, causes of action, suit, litigation, demands, defenses, judgments, proceedings, obligations, actions, rights, debts, demands, agreements, promises, liabilities, damages, losses, liabilities, controversies, costs, expenses (including but not limited to attorneys', experts', and other consultants' and professionals' fees and disbursements), penalties, fines, punitive damages, treble damages, impositions, fees, levies, lien removal or bonding costs, loss of services, disbursements, and compensation of any nature whatsoever, whether based on contract, tort, statute or other legal or equitable theory of recovery, whether known or unknown, accrued or unaccrued and including any and all interest thereon.

4.2 The Plaintiffs/Petitioner for themselves, parents, subsidiaries, affiliates, members, shareholders, directors, officers, managers, employees, successors, and assigns, hereby release and forever discharge Janet Eagan, as Administratrix of the Estate of James Patrick

Eagan, deceased, the decedent's employees, agents, representatives, successors, and assigns from any and all Claims which as of the Effective Date of this Stipulation, the Plaintiffs/Petitioner had or may have against Janet Eagan, as Administratrix of the Estate of James Patrick Eagan, including, but not limited to, any and all Claims (as defined herein) that were or could have been asserted in the above-captioned actions

4.3 Janet Eagan, as Administratrix of the Estate of James Patrick Eagan, deceased, for the estate, the estate's employees, agents, representatives, successors, and assigns, hereby release and forever discharges Plaintiffs/Petitioner their affiliated entities, subsidiaries, parent companies, members, shareholders, managers, directors, officers, employees, agents, successors, and assigns from any and all Claims which as of the Effective Date of this Stipulation, that the Estate of James Patrick Eagan has or may have against them, including, but not limited to, any and all Claims that were or could have been asserted in the above-captioned actions.

4.4 The Plaintiffs/Petitioners, for themselves, their employees, agents, representatives, successors, and assigns, and Janet Eagan, as Administratrix of the Estate of James Patrick Eagan, deceased, for the estate, the estate's employees, agents, representatives, successors, and assigns, hereby release and forever discharge the Pine Barrens Commission from any and all Claims which as of the Effective Date of this Stipulation, the Plaintiffs/Petitioners and Janet Eagan, as Administratrix of the Estate of James Patrick Eagan have or may have against the Pine Barrens Commission, including, but not limited to, any and all Claims that were or could have been asserted in the above-captioned actions; provided however, that Plaintiffs/Petitioner, Eagan Environmental or their affiliates, may assert such arguments, claims or defenses and they reserve their rights and remedies regarding any decisions or orders

that the Pine Barrens Commission may make after the Effective Date of this Stipulation regarding applications, communications or filings made by Plaintiffs/Petitioner, Eagan Environmental or their affiliates, to or with the Pine Barrens Commission.

4.5 Nothing contained herein shall constitute a release, impairment, or waiver of any of the Parties' rights, obligations, and/or duties to perform under the terms of this Stipulation, which are hereby specifically reserved.

5. **RELIANCE.**

5.1 Intentionally Omitted.

6. **DEFAULT**

6.1 In the event that any Party fails to perform its obligations hereunder (the "Defaulting Party"), then the party in whose favor the act or obligation was to be rendered (the "Non-Defaulting Party") shall serve a written notice of default (the "Default Notice") upon the Defaulting Party, specifying with reasonable particularity the basis of the default. If the alleged default is not cured within five (5) business days, then the Non-Defaulting Party may request the entry of an order or judgment against the Defaulting Party for legal or equitable relief, as the case may be, for the performance of the Defaulting Party's obligations set forth in this Stipulation, with interest at the judgment rate from the date of the Default Notice.

6.2 The Non-Defaulting Party may also recover its reasonable attorneys' fees, court costs and witness costs from the Defaulting Party incurred to enforce the terms of this Stipulation.

7. **ADDITIONAL PROVISIONS.**

7.1 The Parties to this Stipulation expressly acknowledge that this Stipulation is not to be relied upon by third-parties and that it carries with it no precedential value and cannot

be relied upon by any person or entity as evidence of any obligation by any party other than the obligations contained in this Stipulation.

7.2 The Parties agree that neither the execution of this Stipulation nor the provision of any consideration pursuant hereto is intended as, or shall be construed as, an admission of any liability or responsibility of any Party at any time or for any purpose whatsoever.

7.3 The Parties to this Stipulation understand, acknowledge and agree that this Stipulation may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing executed by all of the Parties.

7.4 The Parties to this Stipulation understand, acknowledge and agree that the terms and provisions contained in this Stipulation represent the full agreement and understanding between the Parties and that there are no terms, conditions or other understandings between the Parties that are not expressly set forth in this Stipulation and the exhibits annexed hereto.

7.5 The Parties understand, represent and warrant that they fully understand and voluntarily accept the terms of this Stipulation.

7.6 The Parties to this Stipulation understand, acknowledge and agree that this Stipulation and any and all documents referenced herein and/or attached hereto shall be construed under, and interpreted in accordance with, the laws of the State of New York. The Parties further agree that the exclusive non-bankruptcy forum for filing any action relating to or arising under this Stipulation and any and all documents referenced herein and/or attached hereto shall be the Supreme Court of the State of New York, County of Suffolk, and the Parties consent to the continuing jurisdiction of the Court to enforce the provisions of this Stipulation.

7.7 The Parties to this Stipulation who sign on behalf of another hereby warrant that they have the authority to sign for themselves or on behalf of said entity.

7.8 Each Party agrees to execute all reasonable documents and to do all things reasonable and necessary to effectuate the terms of this Stipulation.

7.9 The Parties to this Stipulation expressly acknowledge, represent and warrant that they are each represented by competent counsel of their choice in connection with the negotiation and execution of this Stipulation with whom they have consulted about the terms and conditions hereof.

7.10 This Stipulation shall be deemed to be effective as of the Effective Date set forth above.

7.11 This Stipulation may be executed in counterparts with the same effect as if the signatures hereto and thereto were upon the same instrument. Each counterpart will be deemed an original, which taken together shall constitute a single instrument. This Stipulation may also be executed by facsimile or email, which emailed or faxed signatures shall be considered as originals.

7.12 Any notices required or permitted to be given hereunder must be in writing and will be deemed to be given when (a) hand delivered; (b) e-mailed together with method (d); (c) sent via facsimile together with method (d); (d) one (1) business day after pickup by United Parcel Service (Overnight) or Federal Express, or another similar reputable overnight express service with signature acknowledging delivery:

If to Plaintiffs:

Peter Baron
Law Offices of Peter D. Baron, PLLC
532 Broadhollow Road, Suite 114
Melville, NY 11747

With a copy to:

Peter D. Tamsen, PC
260 Montauk Highway
Suite 14
Bay Shore, New York 11706

and

Armand Eagan
115 Stratford Avenue
Williston Park, NY 11596

Peter D. Tamsen, PC
260 Montauk Highway
Suite 14
Bay Shore, New York 11706

If to Janet Eagan:

Janet Eagan
65 Hollow Road
Stony Brook, New York 11790

With a copy to:

John Jay LaValle, Esq.
John Jay LaValle, PC
P.O. Box 16
Mount Sinai, New York 11766

If to the Pine Barrens Commission:

Central Pine Barrens Joint Planning
& Policy Commission
624 Old Riverhead Road
Westhampton Beach, NY 11978

With a copy to:

Letitia James, Esq.
Attorney General of the State of NY
28 Liberty Street
New York, New York 10005
Attn: Abigail Katowitz, Esq.

7.13 This Stipulation, or any uncertainty or ambiguity herein, shall not be construed against any one Party or several Parties, but shall be construed as if all Parties jointly prepared this Stipulation.

7.14 The provisions of this Stipulation shall be deemed separate and severable. Should any provision or portion of the Stipulation be held invalid or unenforceable, the affected provision shall be modified to the extent necessary to make it legal, valid and enforceable. If it cannot be so modified, it shall be severed from the Stipulation, and the remainder of this Stipulation shall remain unaffected and continue in full force and effect.

7.15 Each provision in this Stipulation is a material provision. The waiver by any Party of a breach of any provision hereof shall not operate or be construed as a waiver of that breach by any other Party, or as a waiver of any subsequent breach by any Party.

7.15 Failure to insist on compliance with any term, covenant or condition contained in this Stipulation shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Stipulation at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

7.16 The Parties represent and warrant that they have not assigned or hypothecated any claims herein released in any manner, to any person or other entity, in any manner, directly or indirectly.

[Signature Pages Follow Immediately]

IN WITNESS WHEREOF, the Parties have executed this Stipulation of Settlement as

of the date first above written.

JANET EAGAN, an individual, as
Administratrix of the Estate of James Patrick Eagan, deceased,

Janet Eagan

Sworn and subscribed to before me on this 9 day of February, 2022

[Signature]
Notary Public

MARK J. HARRIGAN
Notary Public, State of New York
No. 01HA6015643
Qualified in Suffolk County
Commission Expires Nov. 2, 2022

EAGAN ENVIRONMENTAL SOLUTIONS, LLC
A New York limited liability company

By: Janet Eagan
Name: Janet Eagan
Title: Sole Owner, Single Member LLC

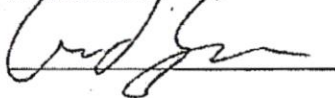
Sworn and subscribed to before me on this 9 day of February, 2022

[Signature]
Notary Public

MARK J. HARRIGAN
Notary Public, State of New York
No. 01HA6015643
Qualified in Suffolk County
Commission Expires Nov. 2, 2022

ARMAND EAGAN

An individual

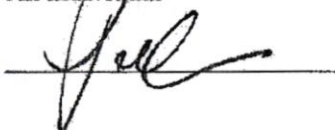
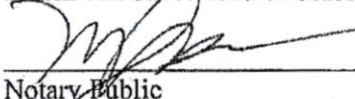
Sworn and subscribed to before me on this 16TH day of FEBRUARY, 2022

Notary Public

MARIE J. SPERO
Notary Public, State of New York
No. 01SP4943655
Qualified in Suffolk County
Commission Expires 10/31/2022

PETER BARON

An individual

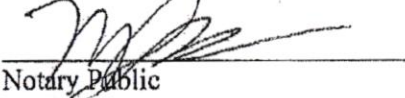
Sworn and subscribed to before me on this 16TH day of FEBRUARY, ~~2020~~ 2022

Notary Public

MARIE J. SPERO
Notary Public, State of New York
No. 01SP4943655
Qualified in Suffolk County
Commission Expires 10/31/2022

ARMAND GUSTAVE, LLC

A New York limited liability company

By: Name: Peter BaronTitle: MemberSworn and subscribed to before me on this 16TH day of FEBRUARY, 2022

Notary Public

MARIE J. SPERO
Notary Public, State of New York
No. 01SP4943655
Qualified in Suffolk County
Commission Expires 10/31/2022

CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION

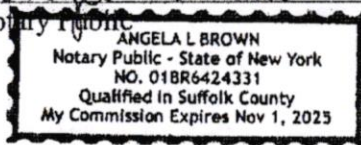
A public entity

By: Judith Jakobsen
Name: Judith Jakobsen
Title: Executive Director

Sworn and subscribed to before me on this 18 day of February, 2022

Angela L. Brown

Notary Public



SO ORDERED:

[Signature]

3/3/22

Hon. James Hudson, JSC (uds)