

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF QUEENS

JAY BLUBAUM and ANA ORTEGA, on behalf of
themselves and all others similarly situated,

Plaintiffs,

-v-

2680 30TH STREET LLC

Defendant.

Index. No.: 700749/2019

STIPULATION OF SETTLEMENT

This stipulation and agreement of settlement is submitted pursuant to CPLR 908 in furtherance of the settlement of the above-captioned action.¹ Subject to the approval of the Court, the Settlement is entered into by Plaintiffs Jay Blubaum and Ana Ortega (collectively “Plaintiffs”) on behalf of themselves and the Class, and Defendant 2680 30th Street LLC (“Defendant”) by and through their respective counsel.

The Settlement is intended by Plaintiffs and Defendant to fully and finally compromise, resolve, discharge and settle the Action subject to the terms and conditions set forth below and the final approval of the Court.

WHEREAS, on January 14, 2019, Plaintiffs filed a putative class action Complaint asserting the rent stabilization status of certain of the apartments at the Buildings;

WHEREAS, Defendant is the owner of the Building;

WHEREAS, the Complaint alleged that the Building received certain tax abatements and/or exemptions pursuant to the J-51 Program;

¹ Capitalized terms shall have the meanings ascribed to them below. Except as otherwise set forth herein, all defined terms used in this Stipulation shall include the singular and plural form of the term defined.

WHEREAS, the Complaint alleged that certain tenants did not receive rent-stabilized leases;

WHEREAS, the Complaint alleged that certain tenants were charged rents in excess of the legal rent in violation of the Rent Stabilization Code and Rent Stabilization Laws;

WHEREAS, to avoid the costs, distractions and uncertainties of litigation, Plaintiffs and Defendant have agreed to the resolution of the Action pursuant to the terms and conditions set forth below, which shall be presented to the Court for final approval pursuant to CPLR 908 after notice to the Class; and

WHEREAS, on the basis of information available to them, including publicly available information and documentation made available by Defendant, Lead Counsel and the Plaintiffs have determined that the Settlement described herein is fair, reasonable, adequate, and in the best interests of the Plaintiffs and the Class.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the undersigned counsel for the parties:

DEFINITIONS

- (a) “J-51 Program” means the New York City tax abatement program under the RPTL that was the subject of the Complaint.
- (b) “J-51 Rider” means the notice accompanying a lease or lease renewal pursuant to RSL § 26-504(c).
- (c) “Action” means the class action lawsuit titled *Blubaum et ano v 2680 30th Street LLC*, Index No. 700749/2019.
- (d) “Appeal” means an appeal or other judicial review seeking to modify or reverse an order or judgment relating to the Action by any person or entity with standing to do so including, without limitation, any petition or motion including petitions for rehearing or reargument, petitions for rehearing en banc, petitions for leave to appeal and/or actual appeal, and petitions for certiorari or any other form of review by a court of competent jurisdiction.
- (e) “Attorney’s Fees and Expenses Award” means the amounts awarded to Class Counsel as compensation for its fees and expenses incurred in connection with investigating, prosecuting, and settling the Action as provided for in paragraph 20. The Attorney’s Fees and Expenses Award shall be paid exclusively from the Settlement Amount, as described in paragraph 19.
- (f) “Bar Date” shall have the meaning ascribed in paragraph 24.
- (g) “Building” means, the residential building located at 2680 30th Street, Queens, New York, 11106.
- (h) “Cash Settlement Account” means an Escrow Account, established by Lead Counsel, maintained by Lead Counsel, into which the Cash Settlement shall be paid.
- (i) “Claim Form” means the document Class Members shall use to file a Past Rent Claim, a proposed draft of which appears as Exhibit A hereto.
- (j) “Class” shall mean all tenants at the Building living, or who had lived, in apartments that were deregulated during the period when J-51 tax benefits were being received by the owner of the Building, except that the class shall not include: (i) any tenants who vacated such apartment prior to January 14, 2015; or (ii) any tenants whose occupancy in such apartment commenced after such J-51 tax benefits to the Building ended.
- (k) “Class Members” are individuals who are encompassed within the class definition.
- (l) “Class Representative Incentive Award” shall have the meaning ascribed in paragraph 21.

- (m) “Complaint” means the class action complaint dated January 14, 2019, filed by the Plaintiffs in this Action.
- (n) “Court” means the New York State Supreme Court, County of Queens.
- (o) “Defendant,” and Landlord” shall mean 2680 30th Street LLC.
- (p) “Default Formula Rent” means the lowest rent derived from performing the calculations found at RSC § 2522.6(b)(3).
- (q) “DHCR” means the New York State Division of Housing and Community Renewal.
- (r) “Effective Date” means the earliest date that the Order and Final Judgment shall Become Effective. The Order and Final Judgment shall “Become Effective” on the first day following the last of the following occurrences: (a) the last date to file an Appeal or seek permission to Appeal has expired with no Appeal having been taken or sought; or (b) if any Appeal is taken or sought, the date a remittitur or order is entered by a court: (i) affirming the Order and Final Judgment or denying or dismissing any Appeal from the Order and Final Judgment, and any Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; (ii) reversing or modifying the Order and Final Judgment in any non-material respect and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally denied or dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom; and (iii) reversing or modifying the Order and Final Judgment in a material respect provided Plaintiffs and Defendant agree in writing to remain bound to the Settlement as reversed or modified and (1) the time for any further Appeal has expired without such Appeal having been taken or sought or (2) any further Appeal is finally dismissed or the Order and Final Judgment is finally affirmed with no possibility of subsequent Appeal therefrom. For purposes of this definition, a reversal or modification shall be deemed “material” if it materially affects any term of this Stipulation.
- (s) “Eligible Class Member” shall have the meaning ascribed in paragraph 7.
- (t) “Enactment” shall have the meaning ascribed in paragraph 27.
- (u) “Lead Counsel” means the law firm of Newman Ferrara LLP.
- (v) “Legal Regulated Rent” shall have the meaning ascribed in paragraph 1.
- (w) “Net Cash Settlement Amount” means the Settlement Amount, less Attorney’s Fees and Expense Award, and the Class Representative Incentive Award.
- (x) “Notice” means the notice of the terms of this Stipulation to be given to the Class following Preliminary Approval as described in paragraph 28.

- (y) “Non-Payment Deductions” shall have the meaning ascribed in paragraph 11.
- (z) “Opt-Out” shall have the meaning ascribed in paragraph 24.
- (aa) “Order and Final Judgment” means the order to be signed by the Court granting final approval of the Settlement, a proposed draft of which appears as Exhibit C hereto.
- (bb) “Order and Final Judgment Date” means the date the Order and Final Judgment is entered, via Notice of Entry, in the Queens County Clerk’s Office.
- (cc) “Past Overcharge Amount” shall have the meaning ascribed in paragraph 2.
- (dd) “Plaintiffs” means Jay Blubaum and Ana Ortega.
- (ee) “Preliminary Approval” shall have the meaning ascribed in paragraph 22.
- (ff) “Preliminary Approval Date” means the date the Preliminary Approval Stipulation is “So-Ordered” and uploaded on NYSCEF the Queens County Clerk’s office.
- (gg) “Preliminary Approval Order” means the stipulation to be “so-ordered” to be by the Court granting Preliminary Approval, a proposed draft of which appears as Exhibit B hereto.
- (hh) “Legal Regulated Rent” means the agreed upon sum set forth in the lease or otherwise paid for use of the Unit, and does not include utility charges, late fees amenity fees and other ancillary fees.
- (ii) “Rent Guidelines Board Increases” or “RGB Increases” shall have the meaning ascribed to it under the RSC and RSL.
- (jj) “Releasing Class Members” shall have the meaning ascribed in paragraph 31.
- (kk) “Released Defendant” shall have the meaning ascribed in paragraph 30.
- (ll) “RSC” means the New York City Rent Stabilization Code as amended.
- (mm) “RSL” means the New York City Rent Stabilization Law as amended.
- (nn) “Settlement” means the settlement of this Action pursuant to the terms and conditions of this Stipulation and the orders implementing same.
- (oo) “Settlement Amount” shall have the meaning ascribed in paragraph 9.
- (pp) “Settlement Distribution” shall have the meaning ascribed in paragraph 7.

- (qq) “Settlement Hearing” means the judicial hearing, on a date to be set by the Court, at which the Court will consider all arguments concerning whether the Settlement should be finally approved.
- (rr) “Settled Plaintiffs’ Claims” shall have the meaning ascribed in paragraph 32.
- (ss) “Settled Rent” shall have the meaning ascribed in paragraph 4.
- (tt) “Stipulation” means this Stipulation and Agreement of Settlement together with the Exhibits attached hereto.
- (uu) “Sub-Class Members” shall mean those Class Members who remain in occupancy in the Building.
- (vv) “Tenant” shall mean the individual(s) named in the lease for the Unit.
- (ww) “Units” and “Unit” shall mean, in the plural, all apartments in the Buildings, and in the singular any Unit in the Buildings.

SETTLEMENT CONSIDERATION

1. Following arm’s length negotiations, the Plaintiffs, through this Agreement, wish to settle the Action in exchange for payment by Defendant of the Past Overcharge Amounts to the Class Members, and the establishment of the Settled Rent as the Legal Regulated Rent, to be registered with DHCR, for each Sub-Class member’s apartment.
2. The amounts of the Past Overcharge Amounts for the Class Members shall be calculated by subtracting the Default Formula Rent from the rent paid by the class member on a monthly basis, beginning on January 14, 2015 and adding interest to that amount, at the statutory interest amount 9% per annum calculated on a month-by-month basis, until June of 2022, as set forth in the two-attorney agreement entered into by the parties on June 29, 2023.
3. The Default Formula Rent, for each unit that was or is occupied by a class member, is as set forth in Confidential Exhibit E.
4. The Settled Rent: The Settled Rent will be derived by adding together 50% of the Default Formula Rent, and 50% of the non-discounted rent listed in the Sub-Class Member’s leases

effective on January 2015 and adding to the resulting figure all Rent Guidelines Board (“RGB”) renewal increases, as if renewals were two-year renewals, renewed in January of every other year.

5. The Settled Rent, for each Sub-Class Member’s unit, is as set forth in Confidential Exhibit F.

6. The Settled Rent and Past Overcharge Amounts shall not include any amount based on any claim or calculation of treble damages, any other punitive damages, fines or interest (other than 9% simple interest referenced in paragraph 3). All claims for treble damages, punitive damages, fines and interest (other than 9% simple interest referenced in paragraph 3) under the RSL, RSC, the General Business Law § 349 (as limited by Paragraph 32, below) or any other provision of law are hereby waived and released, except as to Opt-Outs.

7. Each Class Member, who has timely and properly filed a Claim Form, and who has not elected to Opt-Out is an “Eligible Class Member.” Each Eligible Class Member who has a Past Overcharge Amount will receive a disbursement from Defendant in amount of such Eligible Class Member’s Past Overcharge Amount (“Settlement Distributions”) pursuant to paragraphs 10-12 below, and with respect to Sub-Class members, subject to paragraphs 16-17 below. Submission of a Claim Form, shall operate as waiver of all claims against Defendant, upon the Order and Final Judgment Date.

8. To receive payment for Past Overcharge Amounts, Class Members shall file claims for Settlement Distributions pursuant to the procedures set forth in the Claim Form annexed hereto as Exhibit A. For identity verification purposes, all Claim Forms shall require Class Members to provide the month and year when their lease(s) commenced and terminated (if applicable) and the apartment number of such Class Member’s leased Unit(s). Class Members who do not timely file a Claim Form pursuant to these procedures shall be deemed to have

waived and released their Past Overcharge Amount unless he, she or it becomes an Opt-Out. Determinations as to whether a Claim Form has been timely and properly filed shall be made by Plaintiffs' counsel. Prior to any such determination, Plaintiffs' counsel shall consult with Defendant's counsel. In the event counsel disagree, each party reserves the right to seek a judicial determination.

9. Defendant shall pay or cause to be paid into the Cash Settlement Account a maximum of \$1,139,720.05 pursuant to the terms of the Settlement (the "Settlement Amount"), reduced pursuant to paragraphs 16-17 with respect to the claims of the members of the Sub-Class.

10. Each Eligible Class Member who is not a Sub-Class member and has a Past Overcharge Amount will receive a disbursement from the Cash Settlement Account, in the amount of such Eligible Class Member's Past Overcharge Amount, except as provided in paragraphs 16 -17.

11. The Past Overcharge Amount shall be reduced by any non-payment of rent by the Eligible Class Member (the "Non-Payment Deductions"), as recalculated based upon the Settled Rent in effect on the date of non-payment, through the Order and Final Judgment Date. If the eligible class member failed to tender the rent charged, the Settled Rent in effect on that date shall be used to determine the Non-Payment Deduction for those months. A list of Non-Payment deductions, so-calculated, are provided in Confidential Exhibit H.

12. If the total Past Overcharge Amount for all Eligible Class Members exceeds the Net Cash Settlement Amount, then the Past Overcharge Amount will be paid based on the pro rata share that each Eligible Class Member's Past Overcharge Amount bears to the total Net Cash Settlement Amount.

13. If the total Past Overcharge Amount for all Eligible Class Members does not exceed the Net Cash Settlement Amount, any balance remaining in the Cash Settlement Account shall be paid back to Defendant.

14. Beginning in the first full month following the entry of the Preliminary Approval Order, rent shall accrue at the Settled Rent through the date of the current lease's expiration. The terms of each extant lease are provided in Confidential Exhibit G.

PAYMENTS FOLLOWING THE JUDGMENT

15. Within ten (10) days after the Order and Final Judgment Date, Defendant shall wire transfer into the Cash Settlement Account the Settlement Amount, subject to Paragraphs 16-17.

RENT CREDITS FOR SUB-CLASS MEMBERS

16. Each Sub-Class member will receive a rent credit in lieu of a disbursement from the Cash Settlement Account. As each rental payment accrues, the rent credit shall be reduced in the monthly amount of the Sub-Class member's rent, until the rent credit is exhausted. Should the Sub-Class member vacate their apartment before the rent credit is exhausted, Defendant shall tender the remaining rent credit amount within thirty (30) days following the date the Sub-Class member vacates the unit.

17. The amount of each Sub-Class member's rent credit shall be determined by taking Sub-Class member's Past Overcharge Amount, reduced by the pro-rata portion of the Attorney's Fees and Expense Award and Class Representative Incentive Award attributable to that Sub-Class member.

REGULATED STATUS AND RENT

18. Upon expiration of a sub-Class member's lease, Defendant shall provide each sub-Class member who remains in occupancy of their unit with a lease renewal, in the form complying with the rent-regulations. For tenants whose leases are expired on the date of Order and Final Judgment Date, Defendant shall provide such tenants with a lease renewal, in the form complying with the rent-regulations, within sixty (60) days of the Order and Final Judgment Date.

19. Each sub-Class member who remains in occupancy of their unit, shall be regarded as rent-stabilized, and treated as such.

ATTORNEY'S FEES

20. Lead Counsel may apply to the Court, unopposed by Defendant, for a fee award of up to 33.33% of the Settlement Amount, plus out of pocket expenses (the "Attorney's Fees and Expenses Award"), to be paid from the Settlement Amount. Under no circumstances shall the Attorney's Fees and Expense Award be added to, the Settlement Amount. The Settlement Amount shall constitute Defendant's maximum liability pursuant to this Stipulation.

21. Plaintiffs may each apply, unopposed by Defendant, to the Court for approval of an incentive award (the "Class Representative Incentive Award") in the amount of \$5,000.00. The Class Representative Incentive Award shall be deducted from the Settlement Amount.

SUBMISSION FOR APPROVAL

22. Promptly after execution of this Stipulation, Plaintiff, with Defendant's consent, shall submit this Stipulation with its exhibits to the Court for preliminary approval of this Stipulation of Settlement ("Preliminary Approval") and shall seek entry of the Preliminary Approval Order via a "So-Ordered" Stipulation. Among other matters, the Preliminary Approval

Order shall provide for:; (a) the preliminary approval of this Stipulation and the declaratory relief sought herein as being fair, just, reasonable and adequate to the Class; (b) the approval of the Notice; (c) the approval of a procedure for the filing of objections, if any; (d) the setting of a date for the Court to hold the Settlement Hearing; and (e) a stay of the proceedings in this Action in accordance with paragraphs 40-42 below. The Preliminary Approval Order shall have as an exhibit a schedule identifying all of the Units.

23. At or prior to the Settlement Hearing, Plaintiffs, with Defendant's consent, shall request that the Court enter the Order and Final Judgment. The Settlement shall be considered final on the Effective Date.

REQUESTS FOR EXCLUSION

24. Each Class Member will be bound by all provisions of the Stipulation and the Settlement, whether favorable or unfavorable, unless such person mails, by first class mail, a written request for exclusion from the Class, postmarked no later than fourteen days prior to the Settlement Hearing (the "Bar Date"), addressed to Plaintiffs' counsel at Newman Ferrara LLP, 1250 Broadway, 27th Floor, New York, New York 10001. No Class Member may exclude himself, herself or itself from the Class after the Bar Date. In order to be valid, each request for exclusion must: (a) set forth the name and address of the Class Member requesting exclusion (the "Opt-Out"); (b) provide that such Class Member "requests exclusion from the Class in *Blubbaum et ano v 2680 30th Street LLC* (Index No. 700749/2019"; (c) be signed by such Class Member; and (d) include the apartment numbers of all of such Class Member's leased Unit(s). Requests for exclusion will not be accepted if they do not include the required information or if they are not made within the time stated above, unless they are otherwise accepted by the Court.

25. Opt-Outs will not receive any Settlement Distributions, nor any final determination as to their Settled Rent. In any subsequent proceeding, Opt-Outs may make any claim or argument as to their Past Overcharge Amount and/or the amount of their Legal Regulated Rent, and Defendant may raise any defenses available to them whether at law, equity or pursuant to the Order and Final Judgment.

26. Defendant shall have the right to terminate the Settlement if either: (a) 20% or more of the Class Members opt-out of the Settlement; or (b) the aggregate dollar amount that Class Members who opt-out of the Settlement would have received under the Settled Rent (had they not opted out) exceeds 20% of the amount paid by Defendant into the Settlement Amount.

SAVINGS CLAUSE

27. No subsequent legislation enacted by New York State, New York City, or the United States Government, regardless of whether it modifies the terms or interpretation of the RSL or RSC or any other law, code or regulation, that would affect the remedies available to tenants who rented Units at the Buildings (an “Enactment”), shall modify or override the terms of the Settlement.

NOTICE

28. The Notice shall be provided to the Class by a mailing in substantially the form attached hereto as Exhibit D to all Class Members for whom an address or possible address is known. Lead Counsel shall, at least ten (10) business days before the Settlement Hearing, file with the Court an appropriate affidavit with respect to the preparation, mailing and publication of the Notice.

RELEASES

29. The Order and Final Judgment shall, among other things, provide for the full and complete dismissal of the Complaint with prejudice.

30. “Released Defendant” means: Defendant and all of its present and former lenders, investors, affiliates, subsidiaries and parent companies, including without limitation, limited liability companies, partnerships and corporations (including those that are minority-owned), and their respective officers, attorneys, members, principals, shareholders, heirs, executors, administrators, directors, managers, partners, employees, agents, consultants, advisors, or representatives, and the successors and assigns of each of the foregoing, including without limitation, any future owner of the Buildings, with respect to the Settled Plaintiffs’ Claims (collectively, the “Released Defendant”).

31. “Releasing Class Members” means each Class Member who does not timely and properly opt out of the Settlement, each Plaintiff, and the heirs, successors, trustees, executors, administrators and assigns of each of them.

32. “Settled Plaintiffs’ Claims” means all statutory, regulatory, common law or other claims, causes of action, suits, administrative proceedings, arbitrations, liabilities, obligations, expenses, costs, penalties, damages, demands, and/or any other remedies of any nature whatsoever, whether asserted or unasserted, and whether known or unknown, under federal, state, local or any other law, whether legal, equitable or otherwise (including, without limitation, claims arising from or related to alleged misrepresentation or nondisclosure, whether intentional or otherwise), arising at any time on or before the Order and Final Judgment Date, that are based upon or related to, or arise out of, in whole or in part, the facts, transactions, events, occurrences, acts, or failures to act that were or could have been alleged in the Action by any Plaintiffs or

Class Member against the Defendant, including without limitation, damages, penalties, punitive damages, overcharges, willful overcharges, fraud, fraud in the inducement, treble damages, liabilities or other remedies relating to (a) residential rents at the Building, (b) the rent-regulated status of any Unit at the Buildings, and/or (c) any other claims arising under the RSL or, RSC based on any act, event or alleged failure to act prior to the Order and Final Judgment Date, including but not limited to any claim that a tenant was entitled to any particular form of lease, notice, or that the Building had to be registered with any governmental agency. For purposes of this resolution, the Settled Plaintiffs' Claims also include any claim that could have been brought under General Business Law § 349 based upon a landlord's misrepresentation to the public that an apartment was exempt from regulation following deregulation in violation of the RSL.

33. Subject to the Court's approval of this Stipulation and entry of the Order and Final Judgment, as of the Effective Date: (a) each Releasing Class Member hereby forever waives, releases, and discharges the Settled Plaintiffs' Claims against each of the Released Defendant even if such Releasing Class Member failed to submit a Notice of Claim Form; (b) each Releasing Class Member shall thereafter be permanently enjoined from commencing, prosecuting, or continuing any of the Settled Plaintiffs' Claims against any of the Released Defendant even if such Releasing Class Member failed to submit a Notice of Claim Form.

RESERVATION OF RIGHTS

34. Except as expressly set forth herein, if the Court fails to grant preliminary or final approval of the Settlement or the Settlement is terminated or does not become effective for any reason, then all parties' positions shall return to the status quo ante as if the Settlement never existed, and each party preserves, reserves and does not waive any and all of its respective rights, claims, defenses and remedies.

CONDITIONS OF SETTLEMENT

35. Lead Plaintiffs and Lead Counsel believe that the Settlement is fair, reasonable, adequate and in the best interests of the Plaintiffs and the Class. Lead Plaintiffs and Lead Counsel also took into consideration the strengths and weaknesses of the Class' claims and defenses and determined that the terms of the proposed Settlement are fair, reasonable and adequate, and in the best interest of the Class.

36. This Settlement is conditioned upon the fulfillment of each of the following:
- a. The Court approving the Settlement and entry of the Order and Final Judgment, and such approval and Order and Final Judgment having been affirmed on Appeal and/or no longer being subject to Appeal;
 - b. The dismissal with prejudice of this Action without the award of any damages, costs, fees, or the grant of any further relief to either party except as provided in this Stipulation; and
 - c. The occurrence of the Effective Date without any material change (unless agreed to in writing by all parties) to the terms of the proposed Preliminary Approval Order, Order and Final Judgment and/or this Stipulation.

37. If any of the conditions in Paragraph 36 above does not occur for any reason, then any party may terminate this Stipulation by giving ten (10) days' notice to the other parties, in which event: (a) the Stipulation and any related orders shall be null and void and of no further force or effect; (b) certification of the Class as set forth in this Stipulation shall be null and void and automatically set aside; (c) the parties shall revert and be restored to the positions they were in immediately prior to execution of the Stipulation; (d) no statements, agreements or acknowledgements (whether written or oral) made or exchanged in connection with the

Stipulation shall be deemed an admission or concession by any party and shall not be admissible for any purpose; (e) the Stipulation shall not be introduced as evidence or referred to in any action or proceeding other than an action or proceeding to enforce the terms thereof; and (f) all Settlement Distributions, if any, will be returned to Defendant, promptly.

BEST EFFORTS

38. Plaintiffs and Defendant agree to cooperate fully with one another in seeking the Court's approval of this Stipulation and the Settlement, and to use their best efforts to effect, take, or cause to be taken all actions, and to do, or cause to be done, all things reasonably necessary, proper, or advisable under applicable laws, regulations, and agreements to consummate and make effective, as promptly as practicable, this Stipulation and the Settlement provided for hereunder (including, but not limited to, using their best efforts to resolve any objections raised to the Stipulation and/or the Settlement) and the dismissal of the Action with prejudice and without costs, fees or expenses to any party except as otherwise provided for in this Stipulation.

39. Without further order of the Court, Plaintiffs and Defendant may agree to reasonable extensions of time not expressly set forth by the Court in order to carry out any provisions of this Stipulation.

STAY OF PROCEEDINGS

40. Until the Effective Date, Plaintiffs and Defendant agree to stay this proceeding. Prior to the Effective Date, Plaintiffs and Defendant reserve all of their respective rights with regard to any pending motions. Plaintiffs on behalf of themselves and the Class Members will fully cooperate with Defendant to adjourn, mark off-calendar or take any or all other reasonable

actions requested by Defendant to preserve both parties' rights with regard to any pending motions.

41. The Preliminary Approval Order shall provide that pending final determination of whether the Settlement should be approved, Plaintiffs and all Class Members are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in this Action, either directly, representatively, derivatively, or in any other capacity, against Defendant or any of the parties released in this Stipulation.

42. Pending the entry of the Preliminary Approval Order and the Effective Date, Defendant are not stayed from taking any actions relating to the leasing or management of the Buildings or enforcement of the terms of leases for Units including, but not limited to, increasing rents for renewal leases, or new vacancy leases, in a manner not inconsistent with the terms of this Stipulation, applicable law, or the current leases in effect.

REPRESENTATIONS AND WARRANTIES

43. Defendant represents and warrants that it is the owner of the Buildings.

44. Defendant represents and warrants that it has full authority to enter into this Stipulation, and has authorized its counsel to do so.

45. Lead Plaintiffs represent and warrant that they have full authority to enter into this Stipulation, and have authorized Lead Counsel to do so.

46. All Class Members who seek reimbursement for Past Overcharge Amounts and payment from the Settlement Distributions shall in their Claim Forms represent and warrant that they are entitled to such reimbursement and have not assigned, pledged, transferred, or lost

through bankruptcy, divorce proceeding or any other operation of law the right to the full reimbursement sought.

STIPULATION NOT AN ADMISSION

47. The provisions contained in this Stipulation shall not be deemed a presumption, concession, or an admission by Defendant of any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Action, or any other action or proceeding, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Action, or in any other action or proceeding, whether civil, criminal, or administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of this Stipulation or the Settlement.

MISTAKE

48. Except as otherwise set forth herein, in entering into the Settlement, Plaintiffs, the Class, and Defendant assume the risk of any mistake of fact or law, and if any of them should later discover that any fact they relied upon in entering into the Settlement is not true, or that their understanding of the facts or law was incorrect, in such event such party shall not be entitled to seek rescission of the Settlement, or otherwise attack the validity of the Settlement, based on any such mistake. Except as otherwise set forth herein, the Settlement is intended to be final and binding upon the parties regardless of any mistake of fact or law.

RETENTION OF JURISDICTION

49. The Court shall retain jurisdiction for purpose of entering orders to: (a) effectuate the implementation of the Settlement; (b) enforce the terms of this Stipulation including, but not limited to, the releases provided herein; (c) hear all claims, defenses and counterclaims relating to the interpretation and enforcement of this Stipulation before and after the Effective Date as the

Court deems appropriate; (d) review all challenges to final administrative determinations brought by Opt-Outs; and (e) determine all other matters relevant to this Stipulation

ENTIRE AGREEMENT

50. This Stipulation and the Exhibits attached thereto, constitute the entire agreement between the parties hereto concerning the subject matter hereof, and all understandings and agreements heretofore or simultaneously had between the parties are merged in and are contained in the Stipulation and the Exhibits attached thereto. Each of the parties warrants and represents to the others that it has not relied upon any representations or warranties, express or implied, in entering into this Stipulation except those which are expressly set forth in this Stipulation and the Exhibits attached thereto.

GOVERNING LAW

51. This Stipulation and the Settlement contemplated by it shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to New York's conflict of law rules, as said laws exist on the execution of this Stipulation, subject to the limited exceptions described above.

NOTICES

52. Unless otherwise set forth in this Stipulation, any notice permitted or required to be given under this Stipulation from one party to another shall be given in writing by (a) personal delivery, or (b) a nationally recognized overnight courier (and in each case also by electronic mail), sent to the intended addressee(s) at the addresses set forth below, or to such other address(es) or to the attention of such other person(s) as the addressee(s) shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon

receipt or refusal to accept delivery. The addresses for giving notice from one party to another pursuant to this Stipulation shall be as follows:

If to Plaintiffs: Newman Ferrara LLP
1250 Broadway, 27th Floor
New York, NY 10001
Attn: Roger Sachar (rsachar@nflfp.com)

If to Defendant: Rosenberg & Estis, P.C
733 Third Avenue
New York, NY 10017
Attn: Jeffrey Turkel (jturkel@rosenbergestis.com)

HEADINGS

53. The headings in this Stipulation are used for the purpose of convenience only and are not meant to have legal effect.

SEVERABILITY

54. Unless otherwise set forth in this Stipulation, if any provision of this Stipulation is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Stipulation shall nonetheless remain in full force and effect; provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any other party hereunder.

THIRD-PARTY BENEFICIARIES

55. There are no third-party beneficiaries under this Stipulation.

EFFECT OF WAIVER OF BREACH

56. The waiver by one party of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation. Unless otherwise stated in this Stipulation, any breach of any provision of this Stipulation by any party to

this Stipulation shall not constitute grounds for rescission of this Stipulation, but shall constitute grounds only for a claim for specific performance for breach of this Stipulation.

CONFIDENTIALITY

57. Unless otherwise agreed to by Plaintiffs and Defendant, no party or their counsel shall disclose the terms of this Stipulation until it is executed and filed with the Court.

SUCCESSORS AND ASSIGNS

58. This Stipulation, and all rights and powers granted hereby, shall be binding upon and inure to the benefit of the parties and their respective agents, executors, heirs, successors, affiliates and assigns. All rights and obligations of Defendant shall be binding on and inure to the benefit of any subsequent owners of the Building.


NO TAX ADVICE

59. Each Party expressly acknowledges that the other Parties, or the other Parties' counsel, have not provided him, her or it with any tax advice with respect to this Stipulation, and that no Party or their counsel is obligated to provide any tax advice to any other Party.

COUNTERPARTS

60. This Stipulation may be executed in multiple counterparts by any of the signatories hereto, including by facsimile or by e-mail, and as so executed shall constitute one agreement, and photocopy or scanned PDF signatures shall be deemed originals for all purposes.


Dated: New York, New York
July 7, 2023

By: 

Jeffrey Turkel
Norman Flitt
ROSENBERG & ESTIS, P.C.
733 Third Avenue
New York, NY 10017

Attorneys for Defendant

Dated: New York, New York
July 7, 2023

By: 

Lucas A. Ferrara
Roger A. Sachar Jr.
NEWMAN FERRARA LLP
1250 Broadway, 27th Floor
New York, NY 10001

*Attorneys for Plaintiffs and Lead Counsel
for the Class*