

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT, an
agency of the State of Florida,

Petitioner,

v.

CASE NO.: 06-CA-004896
TRACT NO.: 005-028

LEONARD K. CAIN and
CLARA CAIN,

Respondents.

**STIPULATION FOR FINAL JUDGMENT FOR TRACT NO. 005-028
AND ATTACHED STIPULATED FINAL JUDGMENT**

The Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, (hereinafter "SFWMD" or "District"), by and through its undersigned attorney, and the Respondents, LEONARD K. CAIN and CLARA CAIN, (hereinafter "Respondents"), by and through their undersigned attorney, hereby stipulate and agree as follows, subject to the approval of the Governing Board of the District at its meeting scheduled to take place on or about March 12, 2009, or as soon thereafter as the Governing Board can consider the matter, wherein the undersigned will recommend approval by the Governing Board:

1. On or about March 28, 2008, an Order of Taking was entered in the above referenced case pertaining to Tract No. 005-028, which provided for an October 30, 2006 date of value.

2. On or about July 28, 2008, the District filed its Notice of Deposit and deposited on said date the sum of ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$120,000.00) for Tract No. 005-028, whereby fee simple title to

Respondents' properties vested in the District. Respondents have already withdrawn from the Court Registry said ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$120,000.00) sum; less TWO HUNDRED SIX AND 81/100 DOLLARS (\$206.81) paid to the Tax Collector.

3. The District and Respondents hereby stipulate and agree that a valuation trial with respect to Respondents' tract is no longer necessary. Respondents waive any and all rights to a valuation trial by way of the parties' full, complete and final settlement of this matter, and this agreement by Respondents for the Court to enter the Stipulated Final Judgment set forth below. The parties further agree that the total compensation paid by the District is full, just, and reasonable for all parties concerned. The parties agree that this Stipulation may be executed in counterparts.

4. The District agrees to a total settlement amount of TWO HUNDRED SEVENTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS (\$273,783.00) for all of the Respondents' land, structures, improvements, prejudgment or other interest claims, property of any kind, property or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, any other damages and/or claims involving Tract No. 005-028, and includes as full and final payment of all of Respondents' attorneys' fees and experts' fees and costs in this matter. Accordingly, the District shall pay the Respondent the additional sum of ONE HUNDRED FIFTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS (\$153,783.00), which is the amount of total settlement, after deducting the ONE HUNDRED TWENTY

THOUSAND AND NO/100 DOLLARS (\$120,000.00) previously paid into the Court Registry after the entry of the Order of Taking.

5. The District shall deposit the balance due in the total sum of ONE HUNDRED FIFTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS (\$153,783.00) which is inclusive of all claims for land, improvements, structures, property of any kind, damages, prejudgment or other interest claims; property of any kind, property or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract No. 005-028, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims, pursuant to paragraph four (4) above, with the Court Registry within twenty (20) days of the entry of the attached Stipulated Final Judgment as and for full and final payment as set forth above.

6. The Respondents stipulate and represent that they have not assigned any rights concerning the property and/or compensation for their property interest. The Respondents, and their undersigned counsel, waive any and all claims against the District as to Tract No. 005-028, (including the State of Florida, the U.S. Department of Interior, the U.S. Army Corps of Engineers, and any of their and the District's employees, agents, legal representatives, attorneys, Governing Board Members, and their successor and assigns), including but not limited to claims for land, improvements, structures, property of any kind, damages, prejudgment or other interest claims, property of any kind, property or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or

any other damages and/or claims involving Tract No. 005-028, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims and fully release the District and the above-referenced included parties from any and all such claims. The parties agree to submit the attached Stipulated Final Judgment for entry by the Court after approval by the District's Governing Board.

Agreed to this 24th day of February, 2009.

Edward Artau, Esquire
Florida Bar No.: 764353
SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
Office of Counsel
3301 Gun Club Road, MSC 1410
West Palm Beach, FL 33406
(561) 882-6431 / Fax (561) 682-6276

S. W. Moore, Esquire
Florida Bar No.: 157268
BRIGHAM MOORE, LLP
3277 Fruitville Road, Unit E
Sarasota, Florida 34237
(941) 365-3800 / Fax (941) 952-1414
Attorney for Respondents

Signature lines for Landowners:

Leonard K. Cain
Landowner (Leonard K. Cain)

Clara Cain
Landowner (Clara Cain)

any other damages and/or claims involving Tract No. 005-028, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims and fully release the District and the above-referenced included parties from any and all such claims. The parties agree to submit the attached Stipulated Final Judgment for entry by the Court after approval by the District's Governing Board.

Agreed to this 25th day of February, 2009.

Edward L. Artau

Edward Artau, Esquire
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SOUTH FLORIDA WATER
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S. W. Moore 25 Feb 09

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(941) 365-3800 / Fax (941) 952-1414
Attorney for Respondents

Signature lines for Landowners:

Landowner (Leonard K. Cain)

Landowner (Clara Cain)

STIPULATED FINAL JUDGMENT

This matter having come before the Court upon the foregoing Stipulation for Final Judgment entered between the Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, (hereinafter "SFWMD" or "District"), and the Respondents, LEONARD K. CAIN and CLARA CAIN (hereinafter "Respondents"), for Tract No. 005-028, and this Court otherwise being fully advised of the premises therein, and finding that the compensation to be paid by Petitioner is full, just and reasonable for all parties concerned, it is hereby:

1. CONSIDERED, ORDERED and ADJUDGED, that the Stipulation for Final Judgment for Tract No. 005-028 has been entered into freely and voluntarily by all necessary parties and is adopted and approved by this Court in its entirety and the parties shall comply with the terms therein.

2. The Respondent, shall recover from Petitioner the total sum of TWO HUNDRED SEVENTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS (\$273,783.00), of which ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$120,000.00) has been previously paid into the Court Registry by the District and withdrawn from the Court Registry by the Respondent, less TWO HUNDRED SIX AND 81/100 DOLLARS (\$206.81) paid to the tax collector, leaving a balance due of ONE HUNDRED FIFTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS (\$153,783.00) in full and final compensation for Tract No.: 005-028 (see Exhibit "A" for legal description); for damages resulting to the remainder, if any, if less than the entire property taken; for all damages and claims

of any nature including, but not limited to, prejudgment or other interest claims, attorneys' fees, and expert fees and costs.

3. ORDERED that Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, as set forth above, shall pay to the Respondents, by depositing into the Registry of the Court, for payment to Respondent made payable in the name of BRIGHAM MOORE, LLP, TRUST ACCOUNT, attorneys for Respondents, for proper disbursement, within twenty (20) days from entry of the Stipulated Final Judgment, ONE HUNDRED FIFTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS (\$153,783.00), in full payment of the balance after deducting the ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$120,000.00) previously paid into the Court Registry by the District for all land, improvements, structures, property of any kind, damages, prejudgment or other interest claims, property of any kind, property or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract No. 005-028, as well as for any claims for attorneys' fees, experts' fees and costs, or any other claims in this matter, without which let execution issue.

4. The Clerk of the Circuit Court/Registry is hereby directed to provide a check by mail to the Respondents payable to Brigham Moore, LLP, c/o, S.W. Moore, Esq., 3277 Fruitville Road, Unit E, Sarasota, Florida 34237-6453, for the total sum ordered pursuant to paragraphs 3 above, in the amount of ONE HUNDRED FIFTY-THREE THOUSAND SEVEN HUNDRED EIGHTY-THREE AND NO/100 DOLLARS

(\$153,783.00), less previously existing liens or taxes owed the tax collector, if any, without further motion or order of the Court.

It is further ORDERED and ADJUDGED that the District's fee simple title, including but not limited to all previous right, title and interest of the Respondents to the property (Tract No. 005-028) specified in the Amended Petition in Eminent Domain and described in the attached and incorporated Exhibit "A", which vested in the Petitioner pursuant to the Stipulated Order of Taking and deposit of money heretofore made, is approved, ratified and confirmed.

Done and Ordered in Chambers in Lee County, Fort Myers, Florida, this

_____ day of _____, 2009.

Circuit Court Judge

Copies furnished to:

Edward Artau, Esquire
SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
3301 Gun Club Road - MSC 1410
West Palm Beach, FL 33406

S. W. Moore, Esquire
BRIGHAM MOORE, LLP
3277 Fruitville Road, Unit E
Sarasota, Florida 34237

Cathy Curtis, Tax Collector
Lee County
2480 Thompson Street
Fort Myers, FL 33901