

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3
4 DEPARTMENT WE--F

HON. DAVID J. COWAN, COMMISSIONER

5
6 MIRI AVRAHAM,)

7 PETITIONER,)

8 VS.)

NO. SD027039

9 NATAN AVRAHAM,)

10 RESPONDENT.)

11 -----)
12
13
14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 MAY 20, 2013

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17
18 APPEARANCES:

19 FOR PETITIONER:

BRETT A. BERMAN, ESQ.

20
21 FOR RESPONDENT:

IN PRO PER

22
23
24
25
26 COPY

2 A.M. SESSION

3 (APPEARANCES AS HERETOFORE NOTED.)

4
5 THE COURT: NUMBER EIGHT, AVRAHAM, SD027039.
6 PLEASE COME FORWARD. I'LL ASK THE CLERK TO SWEAR IN THE
7 PARTIES.

8
9 MIRI AVRAHAM, NATAN AVRAHAM,
10 CALLED AS A WITNESS BY ON THEIR OWN BEHALF, WERE
11 EXAMINED AND TESTIFIED AS FOLLOWS:

12
13 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

14 YOU DO SOLEMNLY STATE THE TESTIMONY YOU ARE
15 ABOUT TO GIVE IN THE CAUSE NOW PENDING BEFORE THIS COURT
16 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE
17 TRUTH, SO HELP YOU GOD?

18 MS. AVRAHAM: YES.

19 MR. AVRAHAM: YES.

20 THE CLERK: PLEASE STATE YOUR NAME FOR THE RECORD.

21 MS. AVRAHAM: MIRI AVRAHAM.

22 MR. AVRAHAM: NATAN AVRAHAM.

23 THE COURT: COUNSEL, IF YOU'LL STATE YOUR
24 APPEARANCE.

25 MR. BERMAN: BRETT BERMAN ON BEHALF OF THE
26 PETITIONER.

27 THE COURT: GOOD MORNING TO ALL OF YOU. THIS IS
28 HERE ON RESPONDENT'S REQUEST TO MODIFY THE JUDGMENT TO

1 AWARD THE SHENANDOAH PROPERTY TO RESPONDENT AS HIS SOLE
2 AND SEPARATE PROPERTY.

3 THE COURT HAS REVIEWED THE REQUEST AND THE
4 RESPONSE. IN THIS CASE THE COURT ALREADY ENTERED A
5 JUDGMENT SOME TIME AGO. THE JUDGMENT AWARDED, AS I
6 UNDERSTAND IT, THE SHENANDOAH PROPERTY TO PETITIONER
7 WHERE SHE LIVES WITH THE CHILDREN. THE PROPERTY WAS TO
8 BE SOLD, BUT I UNDERSTAND THAT IT'S UNDER WATER OR
9 OTHERWISE NOT -- THE SALE HAS NOT BEEN ACCOMPLISHED.

10 RESPONDENT COMPLAINS THAT SHE'S NOT BEEN
11 PAYING THE MORTGAGE AND THIS IS HURTING HIS CREDIT.
12 PETITIONER WANTS TO CONTINUE TO HAVE EXCLUSIVE
13 POSSESSION AND COMPLAINS ABOUT RESPONDENT GOING TO THE
14 GARAGE WHERE THE COURT JUDGMENT HAD ALLOWED HIM TO GO
15 FOR LIMITED PURPOSES.

16 MR. BERMAN, WHAT'S GOING ON -- IS THERE A
17 SHORT SALE OR WHAT'S HAPPENING HERE?

18 MR. BERMAN: THERE IS NO -- MY UNDERSTANDING THERE
19 IS NO SALE AT THE MOMENT. I DON'T BELIEVE THE PROPERTY
20 IS ON THE MARKET AT THIS TIME.

21 THE COURT: IT WAS ON THE MARKET?

22 MR. BERMAN: IT WAS ON THE MARKET.

23 THE COURT: WHEN WAS THAT?

24 MR. BERMAN: ONE YEAR AGO, YOUR HONOR.

25 THE COURT: WHAT HAPPENED WITH THAT?

26 MS. AVRAHAM: WE DIDN'T HAVE ANY --

27 MR. BERMAN: IT WASN'T SELLING.

28 THE COURT: WHAT DID YOU HAVE IT ON THE MARKET

1 FOR? WHAT PRICE -- WHAT WAS IT LISTED FOR?

2 MS. AVRAHAM: IT STARTED WITH 850 AND WE WENT DOWN
3 TO 750.

4 THE COURT: WHAT'S THE DEBT AGAINST IT?

5 MS. AVRAHAM: 723.

6 THE COURT: AND WHY IS IT -- THE JUDGMENT IS FOR
7 IT TO BE SOLD; CORRECT?

8 MR. BERMAN: CORRECT.

9 THE COURT: SO WHY ISN'T IT BEING SOLD?

10 MR. BERMAN: WELL, BOTH PARTIES HAVE SORT OF LET
11 THAT GO AT THE MOMENT. WE HAVE NO PROBLEM WITH IT BEING
12 PUT BACK ON THE MARKET. THAT'S NOT AN ISSUE AT THIS
13 TIME. SO IF THE COURT -- OUR POSITION IS THE PARTIES
14 SHOULD ACT PURSUANT TO THE JUDGMENT, PUT IT BACK ON THE
15 MARKET AND PETITIONER WOULD CONTINUE TO LIVE IN THE
16 HOUSE UNTIL IT'S SOLD AND WE WOULD MOVE ON.

17 THE COURT: WHAT ABOUT THAT, MR. AVRAHAM?

18 MR. AVRAHAM: YOUR HONOR, I SERVE PROPERTY MANY
19 TIMES FROM MR. BERMAN, FROM THE CLIENT AND FROM THE
20 COURT.

21 THE COURT: YOU DID WHAT?

22 MR. AVRAHAM: FROM THE COURT.

23 THE COURT: YOU DID WHAT? I DIDN'T HEAR --

24 MR. AVRAHAM: I SERVED THE PROPERTY.

25 THE COURT: SET THE PROPT --

26 MR. AVRAHAM: SERVED. THE PROPERTY HAVE TO GO
27 FORECLOSURE MANY TIMES. I SPEND A LOT OF MONEY. SHE
28 REFUSE TO COOPERATE. SHE WENT TO COURT MANY TIME TO

1 LOWER THE PRICE. THE COURT DIDN'T AGREE WITH THIS, TO
2 RENT THE HOUSE, TO HAVE BOTH FORECLOSURE. THE COURT
3 DIDN'T AGREE. MR. BERMAN CLIENT DIDN'T AGREE. I SPEND
4 ALMOST TWO -- THREE YEARS I SPEND FOR THIS HOUSE A LOT
5 OF MONEY. THIS IS THE ONLY OPPORTUNITY --

6 THE COURT: WELL, WHAT DO YOU WANT TO --

7 MR. AVRAHAM: SHE DESTROY MY RELATIONSHIP WITH MY
8 KID.

9 THE COURT: WE'RE NOT GOING TO ADDRESS THAT TODAY.

10 WHAT DO YOU THINK IT SHOULD SELL FOR?

11 MR. AVRAHAM: THIS CANNOT BE SOLD. TO SELL IT, WE
12 HAVE A LOT OF PROBLEM. WE HAVE TO PUT MONEY FROM
13 POCKET. WE HAVE TO HAVE -- I HAVE TO PAY A CAPITAL GAIN
14 ON THIS PROPERTY AND WE HAVE TO PAY --

15 THE COURT: MY QUESTION IS --

16 MR. AVRAHAM: -- BROKER FEE. WE HAVE TO SPEND A
17 LOT OF MONEY. I OFFER \$50,000 TO THE KID AND AWARD THE
18 PROPERTY. SHE DON'T WANT. SHE CLAIM SHE CARE ABOUT THE
19 KID. SHE DON'T WANT MONEY FOR THE KID. I DON'T
20 UNDERSTAND. I OFFER \$50,000 TO GIVE FOR THE KID JUST
21 WHY THE HOUSE HAVE TO GO FORECLOSURE. WHY I HAVE TO
22 SHORT SALE? WHY DO WE HAVE TO PUT MONEY FROM THE
23 MARKET? NO, I DON'T UNDERSTAND WHY THESE PEOPLE IN
24 COURT. I DON'T UNDERSTAND. I OFFER MONEY TO THESE
25 PEOPLE. NEVER CAME FOR COURT. I DON'T UNDERSTAND.
26 EXPLAIN TO COURT WHY YOU HERE. I GIVE --

27 THE COURT: SHE'S ONLY HERE, SIR, BECAUSE YOU
28 FILED A REQUEST. SHE WOULDN'T BE HERE IF YOU HADN'T

1 BROUGHT THE MATTER TO COURT.

2 MR. AVRAHAM: NO, SHE DIDN'T ACCEPT MY OFFER. SHE
3 COME TO THE COURT. SHE DON'T WANT MONEY.

4 THE COURT: SHE DOESN'T HAVE TO ACCEPT YOUR OFFER.

5 MR. AVRAHAM: NO, SHE DON'T WANT. WHAT SHE WANT?
6 SHE WANT THE HOUSE FOR SHORT SALE? SHE WANT ME TO PAY
7 MONEY? I SPEND A LOT OF MONEY. WHO IS GOING TO COVER
8 ALL THIS MONEY? I SPENT THREE YEARS ALMOST. SHE'S
9 LIVING IN THE HOUSE 23 MONTHS. SHE DOESN'T PAY THE
10 MORTGAGE.

11 MR. BERMAN: THAT'S NOT TRUE

12 THE COURT: WHAT IS THE SITUATION, MR. BERMAN.

13 MR. AVRAHAM: SHE DOESN'T PAY THE MONEY --

14 THE COURT: MR. AVRAHAM, SLOW DOWN.

15 MR. BERMAN, WHY HASN'T THE MORTGAGE BEEN
16 PAID?

17 MR. BERMAN: THE REASON -- AT TIMES IT HAS BEEN
18 PAID, BUT WHAT HAPPENED WAS, BECAUSE THE HOUSE IS IN
19 MR. ABRAHAM'S NAME SOLELY, MS. AVRAHAM DOESN'T HAVE ANY
20 ACCESS TO THE MORTGAGE STATEMENTS OR ANYTHING LIKE THAT,
21 AND WHAT'S HAPPENING WAS WE WERE HERE TWO YEARS AGO ON
22 THIS. THERE WAS NO PROOF THAT THE PAYMENTS WERE GOING
23 TOWARD THE MORTGAGE AND SO THE COURT ORDERED TWO YEARS
24 AGO, APPROXIMATELY, THAT MY CLIENT WOULD PAY HALF THE
25 COST OF THE MORTGAGE DIRECTLY TO RESPONDENT AND ON THE
26 10TH OF EACH MONTH HE WOULD PROVIDE HER WITH A RECEIPT
27 THAT THE MORTGAGE WAS BEING PAID. THAT WASN'T GETTING
28 DONE. IT ISN'T HAPPENING. WE HAVE NO IDEA WHERE THE

1 MONEY IS GOING. SOMETIMES IT GETS PAID. SOMETIMES IT
2 DOESN'T GET PAID.

3 THE COURT: WHAT ABOUT WE CHANGE THE ORDER SO THAT
4 IT SAYS SHE GIVES HIM A CHECK FOR HALF THE PAYMENT BUT
5 NOT PAYABLE TO HIM, BUT PAYABLE TO THE BANK?

6 MR. BERMAN: THAT WOULD BE ACCEPTABLE.

7 THE COURT: WHAT'S WRONG WITH THAT?

8 MR. AVRAHAM: THIS IS NOT ABOUT -- THE HOUSE WAS
9 SUPPOSE TO BE SOLD. I AM NOT RESPONSIBLE TO PAY MORE
10 THE MONEY ANYMORE. I ALREADY PAID MORE AND I HAVE TO
11 FIND HOW I CAN HAVE THE CREDIT. THIS HAS TO BE SOLD. I
12 DIDN'T SIGN JUDGMENT TO -- I DIDN'T SIGN THE JUDGMENT --
13 THIS JUDGEMENT ENFORCED BY THE COURT ON ME. I NOT
14 SUPPOSE -- THIS HOUSE SUPPOSE TO BE SOLD IMMEDIATELY ON
15 THE HOUSE. MR. BERMAN TWIST BETWEEN THE BUILDING AND
16 THE HOUSE. THE BUILDING SOLD IN 30 MONTHS. HE GOT 17
17 AND A HALF THOUSAND DOLLAR FEE ON THE BUILDING WHEN IT
18 HAVE INCOME, AND HE DIDN'T SOLD THE HOUSE WHEN HE HAVE
19 4,400 NEGATIVE. NOW, I DON'T HAVE TO KEEP PAYING FOR
20 THIS HOUSE. THE HOUSE HAVE TO GO. I MANAGE THE HOUSE.
21 SHE DON'T WANT THE HOUSE. I MANAGE THE HOUSE. I BE
22 RESPONSIBLE FOR ENTIRE MORTGAGE.

23 THE COURT: SIR, THE WAY I SEE THIS, WHAT NEEDS TO
24 HAPPEN HERE IS FOR IT TO BE LISTED FOR SALE AGAIN.

25 MR. AVRAHAM: I SPENT A LOT OF MONEY. THE
26 GOVERNMENT HELP ME --

27 THE COURT: MR. AVRAHAM, DO YOU WANT TO LIST THE
28 PROPERTY FOR SALE, YES OR NO?

1 MR. AVRAHAM: NO, I DON'T WANT TO LIST IT FOR
2 SALE. I WANT TO TAKE MANAGEMENT CONTROL. I BE LIABLE
3 FOR ENTIRE MORTGAGE. I DON'T HAVE TO BE -- AND I HAVE
4 TO FIX A LOT IN THE HOUSE. I RESPONSIBLE TO FIX IT.
5 THEN WE PUT IT ON THE MARKET VALUE, RENT MARKET VALUE
6 AND I PAY THE MARKET VALUE AND THAT'S IT --

7 THE COURT: WHAT ABOUT THAT HE PAYS THE MARKET
8 VALUE FOR THE PROPERTY?

9 MR. BERMAN: THAT WOULD NOT BE ACCEPTABLE, YOUR
10 HONOR.

11 THE COURT: WHY NOT?

12 MR. BERMAN: BECAUSE THIS IS -- BECAUSE WE COULD
13 GO THE OTHER WAY WITH THAT. THE HOUSE WAS ORDERED TO BE
14 SOLD. WHAT'S GOING TO HAPPEN HERE IS THIS HOUSE IS
15 GIVEN TO MR. AVRAHAM, HE'S GOING TO SIT IN THE HOUSE.
16 IT'S NOT GOING TO SELL --

17 THE COURT: I'M NOT SAYING HE GETS TO HAVE
18 POSSESSION, I'M SAYING THAT THE ORDER IS FOR THE HOUSE
19 TO BE SOLD. SHE COULD BUY IT. HE COULD BUY IT. THIRD
20 PERSON COULD BUY IT. SO SOMEBODY NEEDS TO BUY IT. I
21 DON'T CARE HOW IT HAPPENS. HE COULD BUY IT IF HE PAYS
22 FAIR MARKET VALUE FOR IT. SHE CAN BUY IT IF SHE WANTS
23 TO PAY FAIR MARKET VALUE FOR IT, OR YOU CAN LIST IT
24 AGAIN AND A THIRD PERSON CAN PAY FAIR MARKET VALUE.
25 SOMETHING HAS TO GIVE HERE, BECAUSE I THINK THE
26 RESPONDENT DOES HAVE A POINT THAT EVEN IF HE'S NOT
27 PAYING THE MORTGAGE HE'S LIABLE FOR PAYING THE MORTGAGE
28 AND THE COURT ORDER IS THAT IT BE SOLD. AND IF IT'S NOT

1 GOING TO BE SOLD HE'S SAYING "WELL, I WANT TO MOVE BACK
2 IN, THEN." THAT'S NOT REALLY AN OPTION EITHER. IT
3 NEEDS TO BE SOLD. SO YOU ALL NEED TO FIGURE OUT HOW
4 THIS PROPERTY IS GOING TO BE SOLD SOONER RATHER THAN
5 LATER SO THAT THE COURT DOESN'T HAVE TO TAKE SOME OTHER
6 ACTION.

7 MR. BERMAN: WE WOULD BE HAPPY TO DISCUSS HOW TO
8 GET THE PROPERTY SOLD. I ANTICIPATE THERE IS GOING TO
9 BE A PROBLEM WITH WHAT THE FAIR MARKET VALUE IS BASED ON
10 THE HISTORY OF THIS CASE, BUT I GUESS WE'LL CROSS THAT
11 BRIDGE WHEN WE GET TO IT.

12 THE COURT: WHAT I'M GOING TO DO IS SCHEDULE THIS
13 FOR HEARING IN 30 DAYS. I'M GOING TO CONTINUE THIS
14 HEARING FOR 30 DAYS TO ALLOW BOTH SIDES TO BRING IN
15 EVIDENCE AS TO THE FAIR MARKET VALUE, CURRENT FAIR
16 MARKET VALUE OF THIS PROPERTY. BOTH SIDES CAN PUT IN
17 PROPOSALS TO BUY IT FROM THE OTHER SIDE. MR. AVRAHAM
18 CAN SAY, "I'M GOING TO PAY 750 FOR THIS," AND THEN HE'S
19 GOING TO NEED TO SAY HOW HE'S GOING TO PAY FOR IT,
20 WHATEVER THE DIFFERENCE IS, OVER THE MORTGAGE.
21 LIKEWISE, PETITIONER CAN COME IN AND SAY, "I WANT TO BUY
22 IT," FOR WHATEVER PRICE, AND IF SHE'S WILLING TO PAY
23 MORE THAN HE IS OR IF HE'S WILLING TO PAY MORE THAN SHE
24 IS THEN WHOEVER OFFERS THE HIGHEST PRICE IS TO GET THE
25 PROPERTY AS LONG AS THEY CAN FILL THE TERMS. AND IF
26 THAT DOESN'T -- I'LL GIVE THE PARTIES THE OPTION TO BUY
27 IT FIRST, IF NEITHER PARTY CAN DO THAT THEN IT NEEDS TO
28 BE LISTED AGAIN, AND I'LL DECIDE WHAT THE LISTING PRICE

1 SHOULD BE BASED ON EVIDENCE THAT YOU PRESENT.

2 IS THAT FAIR?

3 MR. AVRAHAM: YES.

4 THE COURT: PETITIONER?

5 MR. BERMAN: MS. AVRAHAM IS LEAVING TOWN OUT OF
6 THE COUNTRY, SO THE RETURN DATE MAY BE A BIT --

7 THE COURT: FIND OUT WHEN IS A GOOD RETURN DATE.

8 MR. BERMAN: SHE'S BACK ON --

9 MS. AVRAHAM: JULY 30TH.

10 THE COURT: WHEN IS PETITIONER LEAVING?

11 MS. AVRAHAM: I'M LEAVING IN A MONTH.

12 THE COURT: LET'S DO IT BEFORE YOU LEAVE. WHEN
13 ARE YOU LEAVING?

14 MS. AVRAHAM: I'M LEAVING JUNE 21ST.

15 THE COURT: ALL RIGHT. SO LET'S DO IT ON JUNE
16 19TH.

17 MR. BERMAN: I'M NOT AVAILABLE THAT DAY.

18 THE COURT: WHAT ABOUT THE 18TH OR THE 17TH? THE
19 17TH IS BETTER FOR THE COURT.

20 MR. BERMAN: I'M OUT OF TOWN THE 17TH. THE 18TH
21 WOULD WORK, IF THE COURT CAN ACCOMMODATE US.

22 THE COURT: HOW ABOUT 10:30 ON JUNE 18TH?

23 THIS MATTER IS CONTINUED TO 10:30 ON JUNE
24 18TH. BOTH PARTIES ARE ORDERED TO FILE AND SERVE BY
25 JUNE 11TH THEIR CONTENTIONS AS FAR AS THE FAIR MARKET
26 VALUE OF THE PROPERTY, AND IF THEY WISH TO BUY IT, HOW
27 THEY'RE GOING TO BUY IT AND WHETHER IT'S CASH,
28 FINANCING. SO EITHER SIDE CANNOT JUST COME IN HERE AND

1 SAY, "I'LL PAY \$100 FOR IT." THAT WON'T BE A VALID OFFER
2 IF IT DOESN'T SHOW HOW OR WHAT MONEY THEY'RE GOING TO
3 USE OR WHAT MONEY IS AVAILABLE TO USE IT. SO I
4 APPRECIATE THAT BOTH PARTIES' CREDIT MAY NOT BE VERY
5 GOOD, BASED ON THE COURT'S KNOWLEDGE OF THIS CASE, SO TO
6 COME IN AND SAY, "I'M GOING TO GET FINANCING," YOU NEED
7 TO COME IN WITH PROOF OF QUALIFICATION. IN OTHER WORDS,
8 I WANT A LENDER -- IF YOU INTEND TO BUY IT FOR WHATEVER
9 PRICE AND YOU WANT TO FINANCE IT, I WANT A LETTER FROM A
10 LENDER SAYING THAT THEY'RE WILLING TO LOAN YOU THAT
11 MONEY. THAT GOES FOR BOTH SIDES.

12 SO STIPULATED? MR. ABRAHAM?

13 MR. AVRAHAM: YES.

14 MR. BERMAN: THAT'S SO STIPULATED.

15 I CAN REPRESENT TO THE COURT THAT
16 MS. AVRAHAM IS NOT GOING TO BUY THE HOUSE, SO IT WOULD
17 EITHER BE MR. AVRAHAM OR A THIRD PARTY.

18 THE COURT: ALL RIGHT. I STILL NEED FROM THE
19 PETITIONER HER VIEW OF THE CURRENT FAIR MARKET VALUE.
20 AND ALSO IF SHE DOESN'T WANT TO BUY IT AND THE OTHER
21 SIDE'S OFFER IS NOT ACCEPTED BY HER, THEN I WANT YOUR
22 PROPOSAL AS TO A LISTING BROKER. BOTH SIDES TO SUBMIT
23 NAMES OF LISTING BROKERS WHO ARE FAMILIAR WITH THE
24 NEIGHBORHOOD WHERE THE HOUSE IS SITUATED. I NEED THAT
25 BY JUNE 11TH AS WELL.

26 I'M GOING TO ASK COUNSEL FOR PETITIONER TO
27 GIVE -- PREPARE AN ORDER SO IT'S CLEAR WHAT THE COURT
28 HAS DONE.

1 MR. BERMAN: IF I COULD ALSO GET A VALID ADDRESS
2 FOR MR. AVRAHAM. I'VE BEEN HAVING TROUBLE ---

3 MR. AVRAHAM: YOU HAVE IT. I GAVE IT TO YOU.

4 THE COURT: HIS MOTION SHOWS THIS P.O. BOX.

5 MR. AVRAHAM: YES. ON SEPTEMBER 29TH YOU ASKED
6 1125 AND A QUARTER SOUTH DOHENY, LOS ANGELES, CALIFORNIA
7 90035.

8 THE COURT: SIR, YOU'VE USED THIS P.O. BOX AS YOUR
9 LEGAL ADDRESS.

10 IS THAT STILL VALID?

11 MR. AVRAHAM: YES.

12 THE COURT: THEN JUST SERVE IT AT THE P.O. BOX.

13 MR. BERMAN: I DON'T HAVE A STREET LOCATION.

14 MR. AVRAHAM: DOHENY. THE P.O. BOX. PHYSICAL
15 ADDRESS: 1125 AND A QUARTER SOUTH DOHENY, LOS ANGELES,
16 CALIFORNIA 90035.

17 THE COURT: MR. AVRAHAM, YOU NEED TO FILE WITH THE
18 COURT A CORRECT STATEMENT.

19 MR. AVRAHAM: IT'S FILED FROM SEPTEMBER 29.
20 SEPTEMBER 29, 2010 YOU ASK ME WHETHER I HAVE ADDRESS,
21 PHYSICAL ADDRESS, AND IT'S SUPPOSE TO BE IN COURT.

22 THE COURT: LET'S JUST DO IT ONE LAST TIME.

23 WHAT'S YOUR ADDRESS?

24 MR. AVRAHAM: 1125 AND A QUARTER SOUTH DOHENY, LOS
25 ANGELES, CALIFORNIA 90035.

26 THE COURT: DO YOU HAVE THAT?

27 MR. BERMAN: I DO. THANK YOU, YOUR HONOR.

28 THE COURT: THANK YOU.