

Nov 15 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA)
COURT OF APPEALS)

CASE NO. 001700

Ali Adebisi)
APPELLANT(S))

MOTION TO DISMISS ORDER AND
SANCTIONS PURSUANT TO RULE 60
NOTICE OF TENDER OF PAYMENT

VS.)

LAKEVIEW LOAN SERVICING, LLC)
RESPONDENT(S))

Comes now Adebisi: Ali, (hereinafter appellant) having a paramount interest in this matter in fact for CHARLES RAY THOMAS II, and hereby files this motion to vacate Magistrate /Judge’s Final Order, Sanctions, and Lakeview Loan Servicing, LLC Motion to Dismiss, pursuant to Rules 60 (B) states:

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud, misrepresentation, or other misconduct of an adverse party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.

To the Honorable Judge of this Court:

INTRODUCTION

On March 29, 2019, CHARLES RAY THOMAS II/ Principal financed a \$79,000 “loan” with Lender (Fairway Independent Mortgage Corporation). The security instrument attached to the contract is not due for 30 years. On November 14, 2023, through USPS certified mail, EI 695 298 504 US, tendered payment of the note/ security that was sold in Florence County Common Court of Pleas case no. 2021CP2102234 by William Haigh Porter on April 4, 2023, to Lakeview Loan Servicing, LLC for \$30,000, as ordered on May 31, 2023, in the original foreclosure proceedings.

In efforts to reverse the sale of the principal’s security, appellant move the court with an action for quiet title which was dismissed by Geroge M. McFaddin on October 27, 2023. Appellant has appealed against the decision of the lower court and now brings new evidence of Tender of Payment to the court of appeals to reconsider the appellants action for quiet title on case no. 2023CP2101258 filed in Common Court of Pleas in Florence County.

STATEMENT OF FACTS

The maturity of the note/security was not due until April 2049. The principal has satisfied the obligation of the contract by tendering the security and returning the security to Fairway Independent Mortgage Corporation on November 14, 2023, by USPS mail no. EI 695 298 504 US for settlement and closure of the aforementioned contract.

Pursuant to 15 U.S.C. 1666(b), a creditor may not treat a payment on a credit card account under an open-end consumer credit plan as late for any purpose. As pursuant to 15 U.S.C. 1602(m) the term “cardholder” means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person. As mentioned above, the security on the open-end consumer credit plan was not due for 30 years. The principal never defaulted on the contract because the security on the contract was not due until April 2049.

The original credit application served as an asset, which satisfied the monthly obligation pursuant to 12 CFR § 360.6(2) as well as self-liquidating paper pursuant to 17

CFR § 260.11b-6. Pursuant to 12 U.S.C. 83, no national bank can make any loans or discount on the security of the shares of its own capital stock. Fairway Independent Mortgage did not provide a loan to the principal for that would be illegal. The contract and note were the obligation of the principal, and the obligation has been satisfied.

RELIEF

1. Appellant moves this court to grant action for quiet title and the return of all property to the appellant.
2. Appellant request from the court of appeals to grant all rights, titles, rents, proceeds, and interest due to the principal for satisfaction of the obligations.
3. The appellant requests that this court remove all sanctions against the appellant.
4. The Appellant request that the respondent return to the appellant any money or property given as earnest money, downpayment, or otherwise, and shall take any action necessary or appropriate to reflect the termination of any security interest created under the transaction.
5. The Appellant requests that all non-cash items be returned on all remittances/coupons from the inception of the accounts.

SUMMARY

Appellant submits this motion to dismiss with clean hands and good faith with prejudice.

Respectfully submitted,



Ali Adebisi
c/o 1901 W Evans St. Unit 5372
Florence, South Carolina 29502
816-681-4054
Appellant

AFFIDAVIT OF Ali Adebisi

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

I, the Affiant, who goes by a man, being of sound mind, and over the age of twenty-one, reserving all rights, being unschooled in law, and who has no BAR attorney, is without an attorney, and having never been re-presented by an attorney, and not waiving assistance of counsel, knowingly and willingly Declares and Duly affirms, in accordance with laws in and for the State of South Carolina, in good faith, and with full intent for preserving and promoting the public confidence in the integrity and impartiality of the government and the judiciary, that the following statements and facts, are true and correct of Affiant's own first-hand knowledge, understanding, and belief, do solemnly declare, and depose and say: The above mentioned case is in the interest of justice.

FURTHER AFFIANT SAITH NOT.

I declare under the penalty of bearing false witness before God and as recognized under the laws in and for The State of South Carolina, the Laws of the United States of America, acting with sincere intent and full standing in law, do herewith certify and state that the foregoing contents are true, correct, complete, certain, admissible as evidence, and not intended to mislead anyone, and that Ali Adebisi, executes this document in accordance with best knowledge and understanding without dishonor, without recourse; with All rights reserved, without prejudice.

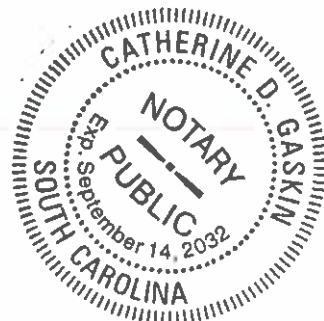
Done this 15th day of November in the year 2023, under penalty of perjury under the laws of the United States of America.

Ali Adebisi
Ali Adebisi, an American Indian

SUBSCRIBED AND SWORN to this 15th day of November 2023.

Catherine D. Gaskin
Notary Public

Seal:



STATE OF SOUTH CAROLINA)
COURT OF APPEALS)
Ali Adebisi)
APPELLANT(S))
VS.)
LAKEVIEW LOAN SERVICING, LLC)
RESPONDENT(S))

CASE NO. 001700

NOTICE OF TENDER OF PAYMENT
EXHIBITS ATTACHED

The plaintiff, Ali Adebisi, (hereinafter appellant) hereby gives notice of Tender of Payment to FAIRWAY INDEPENDENT MORTGAGE CORPORARTION, sent via U.S.P.S. Mail no. # EI 695 298 504 US (see exhibit).

This 15th, day of November 2023.

Respectfully submitted,

Ali Adebisi

Ali Adebisi
c/o 1901 W Evans St. Unit 5372
Florence, South Carolina 29502
816-681-4054
Appellant

CHARLES RAY THOMAS II
c/o 1901 W Evans St. Unit 5372
Florence, South Carolina 29502
adebisiali@outlook.com
816-681-4054

EI 695 298 504 US

FAIRWAY INDEPENDENT MORTGAGE CORPORATION
Post Office Box 117298
Carrollton, TX 75011
c/o CORPORATION SERVICE COMPANY
508 Meeting Street
West Columbia, South Carolina 29169

Re: NOTICE OF TENDER OF PAYMENT AND RIGHT OF RESCISSION AS TO CERTAIN
TRANSACTIONS

Dear Fairway Independent Mortgage Corporation,

We hope this letter finds you well. This communication is in reference to the outstanding obligation owed to FAIRWAY INDEPENDENT MORTGAGE by CHARLES RAY THOMAS II, in the amount of \$79,000, as of November 11, 2023.

Pursuant to federal laws governing banking and financial transactions, including but not limited to 12 U.S.C. 83, 12 U.S.C. 411 & 412, we hereby present this Notice of Tender of Payment, requesting immediate settlement of the aforementioned debt. It is essential to adhere to the stipulated terms and conditions outlined in our previous correspondences and agreements.

Be it known that is a Criminal liability for willful and knowing to impersonate, give false or inaccurate information. Please take notice that that this security is to be exchanged for lawful money being that the seller of property 1308 Harmony St., Florence, South Carolina 29501, SNOWDEN PROPERTIES has already received tender of payment for the goods from the original creditor CHARLES RAY THOMAS II.

In addition to the aforementioned federal laws, we would like to draw your attention to the consequences of engaging in activities that may be deemed as bank fraud, as defined by 18 U.S.C. 1344 and 18 U.S.C. 914. Bank fraud is a serious offense, and it includes any deliberate attempt to defraud a financial institution or obtain funds, assets, or other property owned or held by a financial institution through false pretenses.

To avoid any potential legal repercussions, it is imperative that FAIRWAY INDEPENDENT MORTGAGE CORPORATION promptly addresses this matter and tenders the outstanding payment within three (3) days from the date of this notice. Failure to comply with these terms may result in consequences such as legal action for bank fraud.

For failure to disclose information that could have saved valuable time, pursuant to 15 U.S.C. 1635 b, I exercise my right to rescind for breach of contract. Creditor will have (20) days as of the receipt of this notice to return to the obligor any money (ESCROW) or property given as earnest money, downpayment, or otherwise, and shall take any action necessary or appropriate to reflect the termination of any security interest created under the transaction.

We believe that an amicable resolution to this matter is in the best interest of both parties. If you have any questions or concerns regarding this notice, please do not hesitate to contact the phone number listed above and below.

Thank you for your prompt attention to this matter.

Sincerely, *Charles R. Thomas II*

CHARLES RAY THOMAS II
c/o 1901 W Evans St. Unit 5372
Florence, South Carolina 29502
Adebisiali@outlook.com
816-681-4054

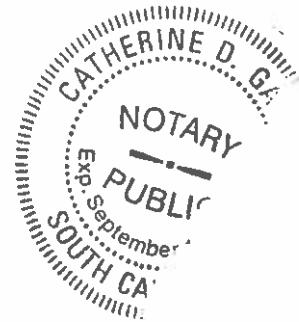
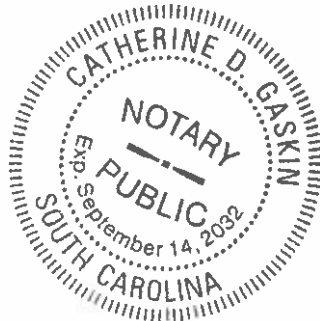
SOUTH CAROLINA
FLORENCE COUNTY

SUBSCRIBED AND SWORN to this 13th day of November, 2023.

Catherine D. Gaskin
Print Name Notary Public

Catherine D. Gaskin
Seal

My commission expires on: 9/14/2023



Note

100392411203932044

NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.

MARCH 29, 2019
(Date)

FLORENCE
(City)

SOUTH CAROLINA
(State)

1308 HARMONY STREET, FLORENCE, SOUTH CAROLINA 29501
(Property Address)

- 1. **Borrower's Promise to Pay.** In return for a loan that I have received, I promise to pay U.S. \$ 79,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is **FAIRWAY INDEPENDENT MORTGAGE CORPORATION**

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

- 2. **Interest.** Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of **4.7500 %**.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

- 3. **Payments.**

(A) **Time and Place of Payments.** I will pay principal and interest by making a payment every month.

I will make my monthly payment on the **1ST** day of each month beginning on **MAY 01, 2019**. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on **APRIL 01, 2049**, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at **POST OFFICE BOX 117298**
CARROLLTON, TX 75011

or at a different place if required by the Note Holder.

(B) **Amount of Monthly Payments.** My monthly payment will be in the amount of U.S. \$ **412.10**

- 4. **Borrower's Right to Prepay.** The Borrower shall have the right to prepay at any time, without premium or fee, the entire indebtedness or any part thereof not less than the amount of one installment, or \$100.00, whichever is less. Any Prepayment in full of the indebtedness shall be credited on the date received, and no interest may be charged thereafter. Any partial Prepayment made on other than an installment due date need not be credited until the next following installment due date or 30 days after such Prepayment, whichever is earlier.
- 5. **Loan Charges.** If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to

19-19-6-0543574

MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT-Veterans Affairs

Bankers Systems™ VMP ©
Wolters Kluwer Financial Services

FIRST LIEN

6640243747

Form 3200 1/01
Revised 4/16
VMPFO (1804).00
Page 1 of 4



make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. Borrower's Failure to Pay as Required.

- (A) **Late Charge for Overdue Payments.** If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 4.0000 % of my overdue payment. I will pay this late charge promptly but only once on each late payment.
- (B) **Default.** If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.
- (C) **Notice of Default.** If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.
- (D) **No Waiver By Note Holder.** Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.
- (E) **Payment of Note Holder's Costs and Expenses.** If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. Giving of Notices. Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

- 8. Obligations of Persons Under this Note.** If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.
- 9. Waivers.** I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.
- 10. Allonge to this Note.** If an allonge providing for payment adjustments or for any other supplemental information is executed by the Borrower together with this Note, the covenants of the allonge shall be incorporated into and shall amend and supplement the covenants of this Note as if the allonge were a part of this Note. [Check applicable box]
 Graduated Payment Allonge Other (specify) Other (specify)



11. Uniform Secured Note. This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

TRANSFER OF THE PROPERTY: This loan may be declared immediately due and payable upon transfer of the Property securing such loan to any transferee, unless the acceptability of the assumption of the loan is established pursuant to Section 3714 of Chapter 37, Title 38, United States Code.

An authorized transfer ("assumption") of the property shall also be subject to additional covenants and agreements as set forth below:

- (a) **ASSUMPTION FUNDING FEE:** A fee [as specified in the Security Instrument] shall be payable at the time of transfer to the loan holder or its authorized agent, as trustee for the Department of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the payee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 3729.
- (b) **ASSUMPTION PROCESSING CHARGE:** Upon application for approval to allow assumption of this loan, a processing fee may be charged by the loan holder or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which Section 3714 of Chapter 37, Title 38, United States Code applies.
- (c) **ASSUMPTION INDEMNITY LIABILITY:** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan. The assumer further agrees to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.

The regulations (38 C.F.R. Part 36) issued under the Department of Veterans Affairs ("VA") Guaranteed Loan Authority (38 U.S.C. Chapter 37) and in effect on the date of loan closing and thereafter shall govern the rights, duties and liabilities of the parties to this loan and any provisions of this Note which are inconsistent with such regulations are hereby amended and supplemented to conform thereto.



WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

CHARLES RAY THOMAS II (Seal)
CHARLES RAY THOMAS, II -Borrower

_____(Seal)
_____-Borrower

_____(Seal)
_____-Borrower

_____(Seal)
_____-Borrower

_____(Seal)
_____-Borrower

_____(Seal)
_____-Borrower

_____(Seal)
_____-Borrower

_____(Seal)
_____-Borrower

[Sign Original Only]

LOAN ORIGINATION ORGANIZATION: FAIRWAY INDEPENDENT MORTGAGE CORPORATION
NMLS ID: 2289
LOAN ORIGINATOR: GREG B TANNER
NMLS ID: 1046498

19-19-6-0543574 FIRST LIEN
MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT-Veterans Affairs
Bankers Systems™ VMP ©
Walters Kluwer Financial Services

6640243747
Form 3200 1/01
Amended 4/18
VMP5G (1604).00
Page 4 of 4



Pay to the order of

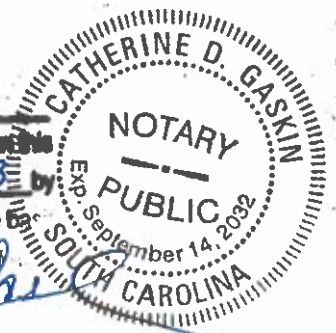
Pay to the Order of Fairway Independent Mortgage

without recourse

FAIRWAY INDEPENDENT MORTGAGE CORPORATION

Signature: Charles Ray Thomas
Printed Name: CHARLES RAY THOMAS II
Title: Principal

State of SC County of Florence
Subscribed and sworn to (or affirmed) before me on this
13 day of November, 2023 by
Charles Ray Thomas proved to me on the day
of satisfactory evidence to be (a person) who executed the
Notary Signature: Catherine D Gaskin





November 14, 2023

Dear Charles Thomas:

The following is in response to your request for proof of delivery on your item with the tracking number:
EI69 5298 504U S.

Item Details

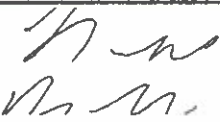
Status: Delivered, Front Desk/Reception/Mail Room
Status Date / Time: November 14, 2023, 2:44 pm
Location: WEST COLUMBIA, SC 29169
Postal Product: Priority Mail Express 1-Day®
Extra Services: PO to Addressee
Up to \$100 insurance included
Actual Recipient Name: W WARD

Note: Actual Recipient Name may vary if the intended recipient is not available at the time of delivery.

Shipment Details

Weight: 3.0oz

Recipient Signature

Signature of Recipient:	
Address of Recipient:	508 MEETING ST, WEST COLUMBIA, SC 29169

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

RECEIVED

Nov 15 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA
COURT OF APPEALS

CASE NO. 001700

Ali Adebisi

APPELLANT(S)

VS.

CERTIFICATE OF SERVICE

LAKEVIEW LOAN SERVICING, LLC

RESPONDENT(S)

This is to certify that I have this date served a copy of the foregoing **NOTICE OF TENDER OF PAYMENT AND MOTION TO DISMISS** upon Respondents listed below by depositing a copy of same in the United States Mail in an envelope with proper postage thereon as follows:

Chad Wilson Burgess,
3800 Fernandina Road, Suite 110
Columbia SC 29210
Certified Mailing no.7022 3330 0000 7005 6570

Malloy McEachin, Jr,
180 N. Irby St. MSC-XX
Florence, SC 29501
Certified mailing no.7022 3330 0000 7005 6587

Respectfully Submitted,



Ali Adebisi
c/o 1901 W Evans St. Unit 5372
Florence, South Carolina 29502
816-681-4054
Appellant