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SC Court of Appeals

# THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Case No. 2023-001394

Deutsche Bank National Trust Company as Trustee
for NovaStar Mortgage Funding Trust,
Series 2006-5 NovaStar Home Equity Loan Asset-Backed
Certificates, Series 2006-5,

Respondent,

v.

Terry Lennette Grant,

Appellant.

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Response to Respondent's MOTION TO DISMISS APPEAL

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**NOW COMES** Terry Lennette Grant, ("Appellant") pursuant to Rule 240, 260 of the South Carolina Appellate Court Rules, hereby moves this Court for an Order denying Respondent's Motion to Dismiss Appellant's appeal Case No:2023-001394, stating as follows:

## BRIEF PROCEDURAL HISTORY

1) Respondent stated in their Motion to Dismiss to dismiss appeal that "Appellant initiated her appeal on May 23, 2023".

2) Appellant initiated her appeal by filing Notice of Appeal on September 5, 2023. Due to the complexity and ongoing litigation throughout the case and appeal, as a pro se litigant, Appellant made every effort and attempt to adhere to the South Carolina Rules of Appellate procedures to the best of her ability[1].

3) Respondent stated in their Motion to Dismiss this appeal, "Throughout this appeal, Appellant has repeatedly ignored the South Carolina Rules of Appellate procedure. Appellant was specifically directed on November 1, 2023 to file her initial brief and designation of matter along with a motion to file out of time within ten (10) days or the appeal would be dismissed. Appellant failed to submit her initial brief and designation of matter along with a motion to file out of time as set forth in this Court's November 1, 2023 letter, but rather filed a motion to file out of time on November 15, 2023, and her initial brief and designation of matter on November

[1] See also Sause v. Bauer, 138 S. Ct. 2561, 2563 (2018) (per curiam) (holding that "[i]n considering the defendants' motion to dismiss, the District Court was required to interpret the pro se complaint liberally"); Haines v. Kerner, 404 U.S. 519, 520–21 (1972) (per curiam).

16, 2023".

4) Appellant has not ignored this Court's guidance and explicit instruction. Appellant was directed on November 1, 2023 to file her initial brief and designation of matter along with a motion to file out of time within ten (10) days or appeal would be dismissed. Appellant compiled by filing her initial brief, Designation of Matter[2], Motion to File out of time and proof service on November 15 & 16, 2023. Everything was submitted consistent and in compliance with the Notice received on November 1, 2023. Therefore, this Court should not dismiss the appeal.

5) Respondent stated in their footnote of the Motion to Dismiss, "Because of Appellant's blatant disregard for the Rules of Appellate procedure, this Court was repeatedly forced to issue deficiency letters, a letter notifying Appellant that the transcript was overdue, a letter notifying Appellant that the time to file her initial brief and designation of matter has expired and a second notice that Appellant had failed to pay the required filing fee for the appeal.

6) Appellant received a notice in regards to the ordering of the transcripts; however, the Court was not aware that the transcripts were ordered prior. Appellant submitted the proper information as requested which cleared up any deficiencies brought to Appellant attention. The second notice that the Respondent is claiming Appellant "ignored or had "blatant disregard for Rules…", was in reference to paying the $250 filing fee; however, Court notice of October 3, 2023 was an residual answer to Appellant being denied Motion to Proceed Forma Pauperis and

[2] Matters to be included in Record on Appeal

informing the Appellant that the filing fee must be paid within 15 days of the date of the notice. Appellant paid the filing fee within the proper time given by the Court. Appellant sent the court a copy of the receipt of the money order, proof of mailing, and proof it was received on October 11, 2023. This does not constitute a blatant disregard for the Rules the Respondent is asserting. It is apparent that Respondent wants this Court to believe that Appellant deliberately ignored the Court's "explicit instruction", hoping not to allow the Court to review the facts and evidence that supports Appellant's appeal. Respondent decided to file a Motion to Dismiss instead of filing their reply brief as required South Carolina Appellate Rules.

7) Appellant's initial brief was structured according to Appellate Rules with the designation of matter included. All documents submitted are legitimate and are relevant to the Record on Appeal. Therefore this Court should not dismiss the appeal. In the alternative, Appellant agrees with Respondent and respectfully requests that this Court issue an Order requiring the Appellant to resubmit her brief and designation of matter to comply with the South Carolina Rules of Appellate, if the deem it necessary. In this case, Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings (*Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992).

## ARGUMENT AND CITATION OF AUTHORITY

8) Appellant has submitted all necessary documents requested by this Court's and never

ignored the guidance and explicit instruction from this Court. The Appellant's filings were made according to the Appellate Rules of Civil procedures to the best of her ability and understanding[3]. The Respondent is merely pointing out minor technicalities to circumvent replying to the facts and evidence that clearly supports Appellant' position that's on appeal. The efforts Respondent is making, is to defeat Appellant by Rules and procedures so facts and evidence are never examined or reviewed.

9) Respondent cited Forner v. Butler, 319 S.C.275, 276 n.1, 460 S.E.2d 425.426 (1995) to support their Motion to Dismiss; however, this case is totally supporting Appellant's position the Rule 209 (h) SCACR, provided, "except as provided by Rule 211 and Rule 207(b)(i)(C) and (2), the appellate court will not consider a fact which does not appear in the Record on Appeal. Appellant facts are clearly in the Record on Appeal. Rule 207(b)(4) states that the only matters which should not appear in the record are those items a party believes to be not relevant to the appeal. If parties in this case considered a fact relevant and worthy of mention in the brief, the parties should have included matter in the record to support factual assertions". The Appellant submitted everything in the record on appeal that supports her assertion.

10) Respondent mentioned Rule 260(a) Dismissal and Reinstatement, S.C. App. Ct. R 260 (Whenever it appears **that an appellant**... has failed to comply with the requirements of these

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[3] See Donald H. Zeiger and Michele G. Hermann, The Invisible Litigant:An Inside View of Pro Se Actions in the Federal Courts, 47 N.Y.U.L.Rev.157, 160 (1972)(since pro se litigants often are unable to comply with procedural rules, exceptions are carved out in practice.)

Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.") as a basis for their motion to dismiss. Appellant has not failed to comply. The court did not conclude that it appeared that the Appellant failed to comply with the requirement of these rules, otherwise they would have issued an order to dismiss Appellant's appeal[4]. Therefore, Respondent's Motion to Dismiss should be denied.

11) Respondent stated, "All litigants, whether pro se or represented by counsel, are held to the same standards and are expected to adhere to the Rules. of the Court. *See State v. Barnes*, 407 S.C. 27, 31, 753 S.E.2d 545, 547 (2014).[5] This cited case does not state this as their opinion. This capital case was in regards to whether a person with mental illness have the capacity to waive their right to have an attorney and represent themselves as a pro se litigant. This cited case does not support Respondent's statement, it is not binding or persuasive, and grossly misapplied. Therefore, Respondent's Motion to Dismiss should be denied.

12) Respondent's Motion to Dismiss accused Appellant of citing authorities in name only and the authorities are not binding or persuasive and provide no context to the body. This is exactly what Respondent did when citing State v. Barnes to support their statement. Case cited does not apply, it is not binding or persuasive to support their Motion to Dismiss. Respondent's Motion to

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[4]The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992)

[5] See also Sause v. Bauer, 138 S. Ct. 2561, 2563 (2018) (per curiam) (holding that "[i]n considering the defendants' motion to dismiss, the District Court was required to interpret the pro se complaint liberally"); Haines v. Kerner, 404 U.S. 519, 520–21 (1972) (per curiam).

Dismiss should be denied because it lacks merit.

13) Respondent stated ("Appellant [who moved to be allowed to proceed pro se] acknowledged he understood he would be held to the same standards as an attorney regarding the rules of court and of evidence."). To the Contrary, See Donald H. Zeiger and Michele G. Hermann, The Invisible Litigant: An Inside View of Pro Se Actions in the Federal Courts, 47 N.Y.U.L.Rev.157, 160 (1972)(since pro se litigants often are unable to comply with procedural rules, exceptions are carved out in practice.)[6]

14) Respondent cited *Henning* v. *Kaye,* 307, S.C. 436, 436, 415 S.E.2d 794, 794 (1992), respondent ignored the portion of this case that clearly supports Appellant. In this case the Motion to Dismiss was denied. The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992) As with this case, Therefore Respondent's Motion to Dismiss should be denied.

15) Respondent stated, that "Appellant's brief contains no statement of issues on appeal, statement of the case or standard review". This Motion to Dismiss lacks merit and the substance to stand because it is merely making statements of conjecture "a statement that is thought to be

[6] See also Sause v. Bauer, 138 S. Ct. 2561, 2563 (2018) (per curiam) (holding that "[i]n considering the defendants' motion to dismiss, the District Court was required to interpret the pro se complaint liberally"); Haines v. Kerner, 404 U.S. 519, 520–21 (1972) (per curiam).

true". However, it is not supported by substantive laws. Therefore, Motion to Dismiss should be denied.

16) Respondent states, "Appellant's initial brief and designation were so deficient as to make impossible for Respondent to brief the issues". Upon information and belief, Appellant's initial brief was not deficient. If there were any deficiencies, Appellant believes the Court would have informed Appellant. The Court has not informed Appellant of any further deficiencies.

17) Respondent, stated that "Appellant's initial brief consists of rambling incoherent statements of Appellant's dissatisfaction with Respondent's efforts to foreclose its mortgage[7] and numerous rulings that were not in Appellant's favor". Appellant's initial brief consists of statements and facts, supported by concrete evidence that Respondent's efforts to foreclose 1) on a "Note[8]" that does not exist; 2) to foreclose on this non-existing "Note" was perpetuated by submitting and introducing numerous fraudulent documents into the record that is on appeal. For example: the "Alleged Note" was submitted into the court record on June 22, 2017[9], after the Respondent was granted a favorable ruling of the foreclosure judgment on May 28, 2014 (5/28/2014) (See Exhibit#1 "Alleged Note", page 5 of 5 electronic court stamp June 22,

[7] Respondent here admits to numerous efforts to foreclose its mortgage; however, Respondent does mention the efforts to foreclose on its "Note". Further, support and admission that Respondent did not have a valid "Note" to foreclose on Appellant's property.

[8] In the state of South Carolina and federal law, the Note should be signed by the borrower and the lender. CFR 7 § 764.402 Loan closing signatures are required of the borrower, lender and closing attorney or agent.

[9] Respondent entered this Alleged Note as an exhibit (Respondent/Plaintiff's Exhibit#1) to support their motion for summary judgment and memorandum in support of MSJ filed June 22, 2017.

2017 and no foreclosure judgment stamp with 5/28/2014 affixed). Respondent introduced the "Alleged Note", page 5 o 5 on January 13, 2023 for William H. Sloan, Esq's deposition (See Exhibit # 2[Sloan Depo Ex. 2-pgs] Respondent's exhibit). This version of the "Alleged Note" did not have the electronic court stamp June 22, 2017; however, it had two blue ink foreclosure stamps depicting "Judgment entered on this Note Case No:10-1690 Date:5/28/14[10] Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina" and "Judgment entered on this Note Case No:16-1466 Date:8/3/21 Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina".

18) Appellant initial brief consists of dissatisfaction of Respondent's efforts to continue in introducing false and fraudulent documents[11] into the record, to illegally foreclosed on her property. Judge Dukes and Special Referee erred by deliberately ignoring this kind of egregious fraud upon the court, even after Appellant has supported her Defense with this kind of factual evidence. The Judge and Special Referee erred when they granted those numerous rulings not in Appellant's favor[12].

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[10] Special Referee erred when he stated "5/28 of 2016" at the May 4, 2023 hearing, as reflected in the transcripts, page 24,line no:7-9 (16).(See Exhibit#3)

[11] SC Code § 41-8-70 (2013) In addition to other penalties provided for by law, a person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

[12] The debtor has presented a convincing argument for entitlement to such relief, So with figurative hand holding the nose, the Court, for the reasons set forth, will grant Debtor's motion for summary judgment". Red'd No. 2:14-cv-8063-SDW, 2018 WL 473/924 (D.N.J. Augu. 12, 2013)

19) Respondent mentioned, "the numerous rulings not in Appellant's favor". Appellant's initial brief consists of dissatisfaction with Respondent's efforts to illegally foreclose on Appellant property, while the trial court continued granting foreclosure judgments with false and fraudulent documents as described above. The Judge[13] and Special Referee[14] erred by ignoring the facts and evidence Appellant submitted in her defense of this illegal activity. The Special Referee erred by granting Respondent Motion for Summary Judgment. The Special Referee erred by denying Appellant's Motion for Summary Judgment. The Special Referee[15] erred by relying on false and fraudulent documents submitted by Respondent to secure foreclosure judgment. After using these false and fraudulent documents to secure the foreclosure judgment, one trial judge allowed the Respondent to vacate and dismiss these judgments that were granted. Why? If a foreclosure judgment was what the Respondent wanted, why was it not executed when granted?

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[13] Judge Marvin H. Dukes, III erred when he refused to examine the "Mortgage" and by not asking Respondent William Stork, Esq. for the "Note" as required by law: (See Exhibit #4 Transcript of hearing dated 8/3/21, page no: 2: index, Exhibits, (" There were no exhibits marked during this hearing); page 4, Line Nos:6-8 Court erred by accepting "you word". when Respondent stated, "Note delivered to Ameris as Nominee for NovaStar Mortgage"). This is a false and inaccurate statement by Respondent's counsel of record William Stork, further supporting Appellant's position that Respondent lacks standing to foreclose. (See Exhibit #4 Transcript of hearing dated 8/3/21, page no:6, lines. Nos:6-13("I have the properly original endorsed note in my possession if you would like to inspect it prior to ruling".) The Court: " I will take Counsel's word that, in fact, that's what you have in your hand…"

[14] SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

[15]When a bank in this case, Deutsche Bank National Trust Company failed to prove the elements, a judge is legally required to rule in favor of the homeowner. See GMAC Mortg., LLc v Ford, 73 A.3d 742,751 (conn. App. Ct 2013) (setting out what Connecticut law requires in a prima facie case for foreclosure);

20) Respondent stated, "Appellant's brief does not comply with applicable rules of appellate procedure. Appellant's initial brief does comply with applicable rules of appellate procedure. The table of exhibits contains reference to 58 exhibits to be included in Record on appeal is consistent with Rule 209, Rule 210(c)[16], (f);

21) Respondent stated, "The table of exhibits and attaching of the exhibits to an appellate brief, is highly improper and not in compliance with any rule of appellate procedure". Respondent' Motion to Dismiss contains no cited Rules or substantive laws to show that his the statement is consistent with said rules of appellate procedure. Respondent's Motion to Dismiss lacks merit and the substance to stand, because it is merely making statements of conjecture, "a statement that is thought to be true" and is not supported by procedural or substantive law. Respondent's Motion to Dismiss should be denied.

22) Respondent stated, "There is no indication as to whether any of the Appellant's purported exhibits were introduced or considered by the Special Referee[17] and some of the purported[18] exhibits are simply filings or proposed orders submitted in this case and in prior foreclosure actions regarding the subject mortgage loan". The exhibits that were introduced into the Record

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[16] SCAR 210 (C)Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included.

[17] SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

[18]Definition Purported: https://www.dictionary.com/browse/purport:Purported-to present, especially deliberately, the appearance of being: profess or claim, often falsely: Ex: a document purporting to be official.

on appeal were submitted by the Respondent in their efforts to illegally foreclose on Appellant's property. The Respondent used the "purported exhibits to claim validity to bring this action. Why is the Respondent now indicating that these exhibits can not be relied upon, especially when Respondent created them, submitted them[19], fabricated them, resubmitted them, revised and edited them and then resubmitted them into lower court. Appellant merely used these same exhibits created and submitted by the Respondent to further substantiate that Respondent did not have standing to foreclose on Appellant's property.

23) Further, Respondent stated, "There is no indication that the purported exhibits were considered by the Special Referee…" Respondent has made a profound admission that the Special Referee did not consider Respondent's or the Appellant's exhibits prior to ruling/making his decision and granting Respondent's another illegal foreclosure judgment against the Appellant's property. How could the ruling be made? Another clear example of patterns accepted by courts to overlook and/or ignore evidence and make rulings anyway. Once this was pointed out to the prior Judge in this case, who made previous erroneous rulings, he recused himself.

24) Respondent stated, "Some of the purported exhibits are simply filings or proposed orders submitted in this case and in prior foreclosure actions regarding the subject mortgage loan". Filings, Proposed Orders submitted in this case and prior foreclosure actions are in the Record on Appeal and just not some trivial irrelevant papers. All records in regards to this case that is on

[19] Definition Submitted: https://dictionary.cambridge.org/dictionary/english/submit: Submitted-to give or offer something for a decision to be made by others:

appeal may be used according to SC Appellate Rule 208 "orders, judgments, decisions and proceedings" of the lower court; 209 to include portions of the "transcript, pleadings, orders, exhibits, or other materials" which may be properly included in the Record on Appeal [See Rule 210(c) ]. Matters contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant.

25) Appellant can not state for a certainty, whether Special Referee Benjamin C.P. Sapp "considered" the "introduced exhibits"; however, Appellant can state for a certainty that throughout these proceedings, she used all exhibits that were introduced by Respondent to support her defense. Appellant included all exhibits when 1) she filed her Opposition to Respondent's Motion for Summary Judgment; 2) during the hearing held on May 4, 2023, Special Referee Benjamin C.P. Sapp stated, "I do have Ms. Grant's opposition to the summary judgment. I do have a copy of that. I'll take issue under advisement. I will let Ms. Grant submit an order within 30 days to me supporting her opposition. I will read both of them thoroughly[20]. I will review her motion. I'll review her order. (Special Referee requested parties to submit a proposed order); 3) Appellant filed a Motion to Reconsider Special Referee Benjamin C.P. Sapp decision and attached all relevant exhibits; and 4) when Appellant submitted the requested

[20] SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

proposed order, she included all relevant exhibits.

26) If the Special Referee Benjamin C. P. Sapp considered 1) Appellant's Motion for Summary Judgment; 2) Appellant's opposition to Respondent's Motion for Summary Judgment; 3) Appellant proposed order; 4) Appellant's Motion to Reconsider Special Referee decision and order in favor of Respondent; and 5) the entire record in the lower court for this case, with all relevant exhibits that were attached, and still ruled in favor of the Respondent. Then the Special Referee Benjamin C. P. Sapp erred in granting Respondent's Motion for Summary Judgment which gave Respondent's another illegal foreclosure judgment against Appellant with fraudulent documents that he examined[21]. For example: the "Alleged Note" was submitted into the court record on June 22, 2017[22], after the Respondent was granted a favorable ruling of the foreclosure judgment on May 28, 2014 (5/28/2014) (See Exhibit #1: "Alleged Note", page 5 of 5 electronic court stamp June 22, 2017 and no foreclosure judgment stamp with 5/28/2014 affixed). Respondent introduced the "Alleged Note", page 5 o 5 on January 13, 2023 for William H. Sloan, Esq's deposition (See Exhibit # 2[Sloan Depo Ex. 2-pgs] Respondent's exhibit). This version of the "Alleged Note" did not have the electronic court stamp June 22, 2017; however, it had two blue ink foreclosure stamps depicting "Judgment entered on this Note Case No:10-1690

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[21]SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

[22] Respondent entered this Alleged Note as an exhibit (Respondent/Plaintiff's Exhibit#1) to support their motion for summary judgment and memorandum in support of MSJ filed June 22, 2017.

Date:5/28/14[23] Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina" and "Judgment entered on this Note Case No:16-1466 Date:8/3/21 Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina".

27) If the Special Referee Benjamin C.P. Sapp[24] did not "consider" all the lower court records in this case, prior to signing Respondent's Proposed Order, then Special Referee Benjamin C.P. Sapp erred in granting Respondent's foreclosure judgment. By not considering the lower court records, the Special Referee overlooked and turned a blind eye to the false and fraudulent documents that were submitted into the record by the Respondent. For Example: The HUD -1 Closing Settlement Statement[25] ( See Exhibit#5) submitted by the Respondent, was not signed by the Appellant, not signed by the lender and not signed by the closing attorney or agent as required by law.[26] In addition the Respondent attorney Chad W. Burgess openly admitted on two occasions that the HUD-1 Settlement Statement was not signed (See Exhibit#3 Transcript of hearing date May 4, 2023, page 22, lines No:19-20).

28) Respondent stated, "More problematic is that Appellant's brief contains no statement of

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[23] Special Referee erred by stating the date 5/28 of 2016 at the May 4, 2023 hearing, as reflected in the transcripts, page 24,line no:7-9 (16). The correct date is 5/28/2014 (See Exhibit # [Sloan Depo Ex. 2-pgs] Respondent's exhibit 2)

[24] SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

[25] CFR 7 Section 764.402 signature requirement (must be signed by borrower, lender and closing agent)
[26] CFR 7 Section 764.402 signature requirement (must be signed by borrower, lender and closing agent)

issues on appeal, statement of the case, or standard of review as required by Rule 208(b)(1)(B), (C), and (D), SCACR. Without these required contents, it is impossible for Respondent to frame its initial brief and designation of matter to be included in the record on appeal. The deficiencies In Appellant's brief also make it impossible for this Court to decipher what error(s) Appellant asserts were made by the trial court. The role of the appellate court is not to retry issues decided against a party in the lower court, but to examine the record and determine if the lower court committed error in its ruling(s). Appellant's brief wholly prevents the appellate court from carrying out this purpose".

29) Appellant's brief contains many statements of issues on appeal, statement of facts of the case, and standard review as required by Rule 208(b)(1)b,c, and; however, as a pro se litigant it may not be as perfect as a licensed attorney, but it is possible for the Respondent to frame their initial brief and their designation of matter to be included on appeal. There were no deficiencies brought to the Appellant's attention at this time. The Court will decipher what error(s) was made by the trial court by examining the facts and evidence submitted in the Record on Appeal. Appellant realize that the role of the Appellate court is not to try the case; however, by examining the Record on Appeal and designation of matter, the Court could decipher and determine if the lower committed errors in its ruling. This is allowing the appellate court to carry out their purpose. In the alternative, Appellant respectfully requests this Court to issue an Order[27]

[27] The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss

granting Appellant the necessary time to make the needed corrections, if necessary. Therefore, Respondent Motion to Dismiss should be denied.

30) Respondent stated, "Appellant's designation of matter to be included in the record on appeal also fails to comply with Rule 209(b) and (c), SCACR. Appellant's designation of matter includes items that are not clearly identified such as item 4 which lists "Answers" with no further clarification and item 7 which lists "Allonges one dated June 25, 2012 and the other surface January 13, 2023". Further, item 10 attempts to incorporate the highly inappropriate exhibits Appellant purported to attach to her brief".

31) Appellant's designation of matter to be included in the record on appeal does comply with Rule 209(b) and ( C), SCACR. It identifies the matter to be included which is in the record on appeal. Item 4 "Answers" was a typo and should have been deleted. Appellant apologizes for that mistake. Item 7 Allonges identified the two allonges and when they were created and/or entered into the record on appeal; however, they are two different allonges that are listed there and were submitted into the record on appeal. One was created on June 25, 2012 and affixed to the note as required by law. The second allonge was created for the January 13, 2023 deposition, which the Respondent entered into the record as an exhibit; however, it was also never affixed to the note as required by law. In addition, these documents were supposed to be the same.

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as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992)

These are the two different allonges that were never attached to the "'Note" as required by laws.[28] Meaning that these two allonges are relevant to record on appeal. Item 10 identifies all the relevant documents, exhibits, orders, and other relevant material that is included in the record on appeal and designated to the matters on appeal. The appellate rules instructed to include that information in the designation of matter. Further, the table of exhibits was include to identify each designation of matter and indicated exactly where in the initial brief those document were mention with identifying page numbers. As a pro se litigant, it may not be perfect; however, it was designed according to the appellate rules[29].

32) According to South Carolina Frivolous Civil Proceedings Sanction Act Section 15-36-10 specifically 3(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that: (a) the person has read the document; and 4(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document; iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or (iv) a reasonable attorney presented with the same circumstances would believe

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[28]The allonge must be permanently affixed to the related note;Under South Carolina's version of Uniform Commercial Code (UCC), stapling of allonges to promissory note underlying mortgage was sufficient to "affix" allonges to note, as required for signatures on allonges to be indorsements on note. In re McFadden (Bkrtcy.D.S.C. 2012) 471 B.R. 136. Bills And Notes 183;

[29] See Donald H. Zeiger and Michele G. Hermann, The Invisible Litigant: An Inside View of Pro Se Actions in the Federal Courts, 47 N.Y.U.L.Rev.157, 160 (1972)(since pro se litigants often are unable to comply with procedural rules, exceptions are carved out in practice.

the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based; (b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or (c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

33) Appellant's initial brief consists of facts, events, and evidence that supports why she is appealing the Special Referee's decision. Her arguments and evidence show patterns of rulings with fraudulent documents.

34) Why Respondent dismissed 1st foreclosure action case which was filed on December 1, 2009, but dismissed on February 12, 2010?

35) Why Respondent vacated and dismissed the 2nd foreclosure case filed April 12, 2010 which a foreclosure judgment was granted May 28, 2014, but dismissed on January 14, 2016?

36) Why Respondent consented to vacating and setting aside another foreclosure judgment which the case was filed June 29, 2016, foreclosure judgment granted August 3, 2021 and then vacated and set aside on May 6, 2022 by consent?

37) The fraudulent and illegal foreclosure and numerous rulings against Appellant were in

violation of federal and state[30] laws. If Appellant really had a Note due to the Respondent, Why is is it taking three (3) lawsuits, (2) dismissal three (3) appeals and fourteen (14) years to foreclose?

38) If Appellant really had a valid Note and a valid Mortgage due to the Respondent, Why is the Respondent not reporting this alleged debt to the three (3) major credit reporting agencies in this country?

39) Why are there multiple versions of the alleged Adjustable Rate Note signature Page?

40) Why are there multiple versions of the alleged Allonge of Note?

41) Why did the Respondent not file the alleged Note and Mortgage when they filed their lawsuits on December 1, 2009?

42) Why did the Respondent not file the alleged Note and Mortgage when they filed their lawsuits on April 12, 2010

43) Why did the Respondent not file the alleged Note and Mortgage when they filed their lawsuit on June 29, 2016?

44) Why did Respondent fail to file the Assignment of Mortgage on December 1, 2009?

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[30] SC Code § 41-8-70 (2022) In addition to other penalties provided for by law, a person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

45) Why didn't the Respondent file the Assignment of Mortgage[31] dated December 2, 2009 when they filed the lawsuit on April 12, 2010?

46) Why was the allonge not affixed to the note as required by law?

47) Why Respondent have the allonge to Note created June 25, 2012?

48) Why did the Respondent have the Corrective Assignment of Mortgage created November 9, 2018, during which time the Appellant is under bankruptcy protection,?

49) Why did Respondent filed a Corrective Assignment of Mortgage on November 16, 2018 into the Beaufort County Recorder of Deed department, while Appellant was under bankruptcy protection?

50) Why did the Respondent use that Corrective Assignment of Mortgage[32] after the Appellant came from under the bankruptcy?

51) Why did Respondent not provide bankruptcy with the Original Note and Mortgage?

52) Why Respondent submitted to the court a signature page of the alleged Note on June 22, 2017, but it does not reflect the judgment stamp dated 5/28/2014?

53) Why Respondent submitted another signature page of the alleged Note for the January 13, 2023 deposition and it reflects two judgment stamps, one of which is 5/28/2014 and the other 8/3/2021, but when the document was filed in 2017, there was no 2014 stamp?

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[31] **obel v. Mutual Development, Inc., 313 So. 2d 77 (Fla. App. 1st Dist. 1975)** A mortgage is a mere incident of, and ancillary to, the note or other obligation secured thereby, and an assignment of the pledge of the mortgage without an assignment of the pledge of the note or obligation secured thereby creates no right in the assignee or pledgee.

[32] See Merritt v Bartholick, 36 N.Y.44,45 (1867)("a transfer of the mortgage without the debt is a nullity, and no interest acquired by it"); See Chase Home Fin. LLC v Higgins, 2009 ME 136¶11, 985 A.2d 508, 510-11(setting out what Maine law requires in a prima facie case for foreclosure).

54) Where is the assignment of mortgage from GreenPoint Mortgage Inc to Respondent?

55) Where is the assignment of mortgage from SCBT to Respondent?

56) Where is the written evidence to support that Respondent disbursed any money on Appellant behalf?

57) Appellant and this Court has many questions that need to be answered by Respondent; However, all the answers are embedded in the record of appeal. Absent this appeal, the Appellant stand to be robbed legally, by illegal activities. This Court can stop this from happening by examining the record on appeal in its entirety.

58) Based upon the factual information contained herein, this Court should not dismiss this Appeal. Respondent has merely muddled this proceeding with false accusations, fraudulent documents and attempting to have this case dismissed on mere technicalities, to prevent this Court from examining the record on appeal in its entirety. The Respondent has violated many federal and state laws and are now trying to cover it by a mere motion to dismiss.

## CONCLUSION

For reasons stated herein, Appellant is respectfully requesting that this Court issue an Order denying Respondent's Motion to Dismiss Appeal with prejudice. In addition, issue an Order granting Appellant the time to make any needed changes to conform its initial brief if it is necessary[33]. Finally, Appellant is respectfully requesting this Court to consider sanctioning

[33] The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992)

Respondent for making frivolous arguments which are not supported by facts, filing frivolous motion, documents and for the continuation of this civil suit merely to harass and/or injury Appellant and also to prolong these proceedings knowing that there have been multiple acts of fraud and fraud upon the Courts by the multiple law firms that represented the Respondent. h

Granting other relief this Court deems just and proper.

Respectfully submitted,

Terry Lennette Grant, Pro Se
P O Box 21936
Hilton Head Island, SC 29925
843-301-5750
Terrygrantseries@gmail.com

Dated: December 18, 2023

Cc: Chad W. Burgess, S.C Bar No:72520
3800 Fernandina Road Ste. 110
Columbia, SC 29210
803-454-3540
chad.burgess@brockandscott.com
Attorney for Respondent, Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5 NovaStar Home Equity Loan Asset-Backed Certificates, Series 2006-5

ELECTRONICALLY FILED - 2017 Jun 22 11:13 AM - BEAUFORT - COMMON PLEAS - CASE#2016CP0701466

MIN: [redacted] Loan Number: [redacted]

# ADJUSTABLE RATE NOTE

## (LIBOR Six-Month Index (As Published In *The Wall Street Journal*)-Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

SEPTEMBER 18, 2006 [Date] RICHFIELD [City] OHIO [State]

226 WILDHORSE ROAD, HILTON HEAD ISLAND, SOUTH CAROLINA 29926 [Property Address]

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. $ 680,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION

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

I understand that Lender may transfer this Note. 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 7.750 %. The interest rate I will pay may change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(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 payments on the 1st day of each month beginning on NOVEMBER 1, 2006. 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 OCTOBER 1, 2036, 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 P.O. BOX 808911, KANSAS CITY, MISSOURI 64184--8911

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

**(B) Amount of My Initial Monthly Payments**

Each of my initial monthly payments will be in the amount of U.S. $ 4,871.60. This amount may change.

**(C) Monthly Payment Changes**

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.



EXHIBIT

## 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

**(A) Change Dates**

The interest rate I will pay may change on the 1st day of OCTOBER, 2008, and on that day every 6th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding FOUR AND 950/1000 percentage points ( 4.950 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than 10.750 % or less than 7.750 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage point(s) ( 1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 14.750 %. My interest rate will never be less than 7.750 %.

**(E) Effective Date of Changes**

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

**(F) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

## 5. BORROWER'S RIGHT TO PREPAY ** See attached Prepayment Note Addendum.

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.



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## 6. 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 that exceeded permitted limits will be refunded to me. The Note Holder may choose to 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.

## 7. BORROWER'S FAILURE TO PAY AS REQUIRED

**(A) Late Charges 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 5.000 % of my overdue payment of principal and interest. 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 that 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.

## 8. 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.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given 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.

## 9. 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.

## 10. 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.

## 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 that might result if I do not keep the promises that 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 read as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

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. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, 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.



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

TERRY LENNETTE GRANT (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

_____ (Seal) -Borrower

Pay to the order of:
Deutsche Bank National Trust Company, as Trustee

WITHOUT RECOURSE
NovaStar Mortgage, Inc.
A Virginia Corporation

David A. Pazgan, Sr. Vice President

Larry E. Barega, Vice President

Deutsche Bank National Trust Company,
as Trustee for the NovaStar Home Equity
Loan Asset-Backed Certificates, Series 2006-5

*[Sign Original Only]*

Sloan Deposition Exhibit 2

MIN: 100080190058808478 Loan Number: 06-A19021

# ADJUSTABLE RATE NOTE

## (LIBOR Six-Month Index (As Published In *The Wall Street Journal*)-Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

SEPTEMBER 18, 2006 [Date] RICHFIELD [City] OHIO [State]

226 WILDHORSE ROAD, HILTON HEAD ISLAND, SOUTH CAROLINA 29926 [Property Address]

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. $ 680,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION

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

I understand that Lender may transfer this Note. 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 7.750 %. The interest rate I will pay may change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(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 payments on the 1st day of each month beginning on NOVEMBER 1, 2006. 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 OCTOBER 1, 2036, 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 P.O. BOX 808911, KANSAS CITY, MISSOURI 64184--8911

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

**(B) Amount of My Initial Monthly Payments**

Each of my initial monthly payments will be in the amount of U.S. $ 4,871.60. This amount may change.

**(C) Monthly Payment Changes**

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.



Sloan Depo Ex 2 - Pg1

## 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

**(A) Change Dates**

The interest rate I will pay may change on the 1st day of OCTOBER, 2008 , and on that day every 6th month thereafter. Each date on which my interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding FOUR AND 950/1000 percentage points ( 4.950 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than 10.750 % or less than 7.750 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage point(s) ( 1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 14.750 %. My interest rate will never be less than 7.750 %.

**(E) Effective Date of Changes**

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

**(F) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

## 5. BORROWER'S RIGHT TO PREPAY ** See attached Prepayment Note Addendum.

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.



Sloan Depo Ex 2 - Pg2

## 6. 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 that exceeded permitted limits will be refunded to me. The Note Holder may choose to 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.

## 7. BORROWER'S FAILURE TO PAY AS REQUIRED

**(A) Late Charges 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 5.000 % of my overdue payment of principal and interest. 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 that 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.

## 8. 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.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given 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.

## 9. 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.

## 10. 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.

Sloan Depo Ex 2 - Pg3

## 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 that might result if I do not keep the promises that 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 read as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

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. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, 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.

Sloan Depo Ex 2 - Pg4

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

JUDGMENT
Entered on this Note
Case No.: 10-1670
Date: 5/25/14
Hon. Marvin H. Dukes, III
Master-In-Equity
Beaufort County, South Carolina

TERRY LENNETTE GRANT (Seal) -Borrower

(Seal) -Borrower

JUDGMENT
Entered on this Note
Case No.: 16-1464
Date: 8/3/21
Hon. Marvin H. Dukes, III
Master-In-Equity
Beaufort County, South Carolina

(Seal) -Borrower

(Seal) -Borrower

(Seal) -Borrower

(Seal) -Borrower

Pay to the order of:
Deutsche Bank National Trust Company, as Trustee

WITHOUT RECOURSE
NovaStar Mortgage,Inc.
A Virginia Corporation

David A. Pazgan, Sr. Vice President

Larry E. Baraga, Vice President

Deutsche Bank National Trust Company,
as Trustee for the NovaStar Home Equity
Loan Asset-Backed Certificates, Series 2006-5

*[Sign Original Only]*



Sloan Depo Ex 2 - Pg5

# PREPAYMENT ADDENDUM TO NOTE

Loan Number: 06-A19021

Date: SEPTEMBER 18, 2006

Borrower(s): TERRY LENNETTE GRANT

THIS PREPAYMENT ADDENDUM TO NOTE (the "Addendum") is made this 18th day of SEPTEMBER, 2006, and is incorporated into and shall be deemed to amend and supplement that certain promissory note (the "Note") made by the undersigned ("Borrower") in favor of NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION

("Lender") and dated the same date as this Addendum. Repayment of the Note is secured by a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") given by Borrower in favor of Lender and dated the same date as this Addendum. To the extent that the provisions of this Addendum are inconsistent with the provisions of the Note, the provisions of this Addendum shall supersede the inconsistent provisions of the Note.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Note, Borrower and Lender further covenant and agree as follows:

Section 5 of the Note is amended to read in its entirety as follows:

**5 . BORROWER'S RIGHT TO PREPAY; PREPAYMENT CHARGE**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under the Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes.

If the Note provides for changes in the interest rate, my partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

If within TWENTY-FOUR ( 24 ) months from the date the Security Instrument is executed I make a full Prepayment or one or more partial Prepayments, I will pay a Prepayment charge in an amount equal to TWO percent ( 2.000 %) of the amount prepaid.

Sloan Depo Ex 2 - Pg6

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this Addendum.

| | | | |
|---|---|---|---|
| Borrower TERRY LENNETTE GRANT | Date 9-18-06 | Borrower | Date |
| Borrower | Date | Borrower | Date |
| Borrower | Date | Borrower | Date |

Sloan Depo Ex 2 - Pg7

Loan# 71971014

# ALLONGE TO NOTE

**This endorsement is a permanent part of the Note in the amount of $680,000.00**

**NOTE DATE: September 18, 2006**

**BORROWER NAME: TERRY LENNETTE GRANT**

**PROPERTY: 226 Wildhorse Road, Hilton Head Island, SC 29926**

**PAY TO THE ORDER OF:**

**WITHOUT RECOURSE**

**DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR NOVASTAR MORTGAGE FUNDING TRUST, SERIES 2006-5 NOVASTAR HOME EQUITY LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-5, BY ITS ATTORNEY IN FACT, OCWEN LOAN SERVICING, LLC**

**Signer: Ernie A. Stephens**
**Title:** *Authorized Signer*

Sloan Depo Ex 2 - Pg8

APPEARANCES of COUNSEL:

FOR THE PLAINTIFF:

CHAD W. BURGESS, ESQUIRE
Brock & Scott, PLLC
3800 Fernandina Road
Suite 110
Columbia, South Carolina 29210
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chad.burgess@brockandscott.com
lauren.browder@brockandscott.com

FOR THE DEFENDANT, PRO SE- LIMITED POWER OF ATTORNEY ON BEHALF OF TERRY LENNETTE GRANT:

VIVIAN MICHELLE WOODS
11 Southwood Park Drive
Apartment 108
Hilton Head, South Carolina 29926

- - -





I N D E X

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CERTIFICATE ---------- 29

(NO EXHIBITS MARKED.)





THE COURT: We'll call the case.

This is State of South Carolina, County of Beaufort. This is Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust Series 2006-5, NovaStar Home Equity Loan Asset-Backed Certificate Series 2006-5, as the plaintiff, versus Terry Lennette Grant and others, Catherine Alls as well. It's case number 2016-CP-07-01466.

Present in the courtroom today are Chad Burgess with Brock & Scott for the plaintiff. Also present today is Vivian Michelle Woods of 11 Southwood Park Drive, Apartment 108, Hilton Head Island, South Carolina, who has a special limited power of attorney to be here on behalf of Terry Lennette Grant.

The special limited power of attorney authorizes her to initiate, prosecute, discontinue, or defend actions or other legal proceedings touching my property, real or personal or any part thereof, or touching any





matter which I or my property, real or personal, may be in any way concerned, period. To defend, settle, adjust, make allowances, compound, submit to arbitration, and compromise all accounts reckoning claims and defend whatsoever that now or hereafter shall be pending between me and any person, firm or corporation or other legal entity in such manner and respects as my agent shall deem proper.

Furthermore, it does -- the agent does not have the authority to make any decisions that would cause me harm financially as it relates to any legal actions pending or in the future during the execution of my agent's fiduciary duties.

Mr. Burgess, this is your motion. I'm happy to hear from you, sir.

MR. BURGESS: Good morning, Your Honor. May it please the Court.

Your Honor, Chad Burgess here on behalf of the plaintiff in this action. Your Honor, just a brief couple of





housekeeping issues. There are two pending motions for summary judgment. The plaintiff has a motion that was filed back on -- let me get the exact date.

It was filed on September 7, 2022. The defendant also has a pending motion for summary judgment that's subsequently filed. And she's also filed in opposition to plaintiff's motion for summary judgment.

Related to Ms. Wood's appearance here at the hearing, I do understand she has a power of attorney. I have reviewed that document. Your Honor, our argument is that Ms. Woods, notwithstanding the power of attorney, still does not have the authority under South Carolina law to represent Ms. Grant in this action. So she can't appear and make arguments related to the matter and represent her in that capacity as doing so would be unauthorized practice of law.

We have a plethora of case law on





that specific point. So I would ask that Ms. Woods not be allowed to make any arguments at this hearing.

THE COURT: Okay.

Ms. Woods, are you -- you're not a licensed attorney, are you, ma'am?

MS. WOODS: No, I'm not. And I'm not practicing law. The information that I'm presenting is the same information that she has submitted herself. I'm just repeating what she has already submitted so --

THE COURT: You're just here on her behalf --

MS. WOODS: Yes.

THE COURT: -- just say that you're submitting that information that's already been submitted to the Court; correct?

MS. WOODS: It's already submitted to the Court, yes. And anything that --

THE COURT: But you're not going to try to make any legal arguments today, you're just here to make sure





that I am here to read the arguments that have been submitted to the Court by her?

MS. WOODS: Any legal arguments that she has already -- I will reading from what she already submitted.

THE COURT: Ma'am, it's in the court record. You don't have to read it today.

MS. WOODS: Okay.

THE COURT: It's already been submitted. And I would -- it would probably behoove you not to read it today, ma'am, to be quite honest with you because it's already in the court record. Okay? I'll read it.

MS. WOODS: Okay.

THE COURT: Okay? All right.

MR. BURGESS: Your Honor, I will stipulate to the filings for the record, Your Honor. Everything that Ms. Grant has filed, her motions, returns --

THE COURT: That's fine.

MR. BURGESS: -- affidavits and





evidentiary --

THE COURT: Of course. He'll stipulate to the fact that it is in the record and I will review it, ma'am. Okay?

MS. WOODS: Okay.

THE COURT: Okay.

Go ahead, Mr. Burgess.

MR. BURGESS: Thank you, Your Honor.

Your Honor, this is a foreclosure action that relates to a note mortgage that was entered into by Ms. Grant back on September 18th, 2006. The original amount of the loan was $680,000. Your Honor, subsequently, the note and mortgage was recorded September 26th, 2006 in Book 2448 at Page 823.

Those documents were subsequently transferred to the plaintiff. The plaintiff is in possession of the original note. Copies of the note as well as the assignments of mortgage, the mortgage itself have all been submitted to the Court on numerous





occasions with the plaintiff's motion for summary judgment.

We've also submitted an affidavit in support of judgment. In fact, there are affidavits regarding the amount of indebtedness or summary judgment filed in this action January -- July 17, 2017, July 27, 2018, April 2, 2021, August 25, 2022, and April 3, 2023.

Those document are all in the record in terms of affidavits related to the amount of the plaintiff's debt and the interest into and existence of this particular loan.

Your Honor, of note, this is not the first foreclosure action related to this. It is actually foreclosure action number three. There was an original action entered into in 2009 -- I guess I should start with the 2009 action.

And these are matters that Your Honor to take judicial notice of. That action was filed December 1, 2009 was 2009-CP-07-5612, and that action was





not -- it was not involving our law firm. And that action was dismissed before it was served. It was voluntarily dismissed.

Subsequently, there was an action brought April 12, 2010, and that's 2010-CP-07-1690. And that case proceeded, was referred to by Judge Dukes. And the defendant in this case appeared in that action and there was litigation regarding the subject note and mortgage.

As a part of that action, Judge Dukes entered into an order dated -- and it's a very long order dated February 7, 2014. Now, the gravamen of that order, as a part of the 2010 action, the plaintiff was seeking to reform the subject mortgage and to create an easement for ingress and egress over some other property owned by Ms. Grant that had been subdivided away from this property. And, Your Honor, I'll let that order speak for itself.





Again, that was an order that Ms. Grant disputed and contested. But nonetheless, it was an entry of an order by Judge Dukes which reformed the mortgage and granted partial summary judgment. It established standing to enforce the note and mortgage. It established the right to reformation as well as the easement.

Now, the remaining foreclosure portion of the action remained pending in the 2010 case and came before a final hearing in which Judge Dukes did enter an order of foreclosure in that action. Subsequently, the foreclosure portion of the case was vacated pursuant to Rule 60, and the foreclosure portion of the case was dismissed.

The judge's order reforming the note and mortgage was never challenged. It was never vacated. It remains the only order from any of the previous foreclosure actions that is of record currently and it is still in full force





and effect.

So essentially, the property description over which the plaintiff is seeking to have this particular mortgage foreclosure occur was established back in the 2010 foreclosure action back on February 7th, 2014 as well as the plaintiff's right to easement. Those causes of action are not present in the current case because all this is is a foreclosure of the property described in that previous case.

So with that being said, Your Honor, the Court is constraining by Judge Dukes prior order related to property description standing and easement. The foreclosure portion was dismissed and that's the portion of the case that we're currently pursuing.

This case was instituted, and subsequently, the defendant had an attorney who appeared for her in this case. She's filed a number of answers. She admits to the note and mortgage in





her answers, each filed in the record in this case, I believe those are -- and I'll go through them very quickly, Your Honor.

Her first answer was on October 28, 2016. And that answer was filed on her behalf by attorney Williams Sloan. The gravamen of that answer was that she admits entering into the note and mortgage. However, she is denying the request for relief sought by the plaintiff. There were no counterclaims or any other issues of note related to that answer. That answer speaks for itself. It is of record in this particular case. Again, on October 28, 2016.

Your Honor, the second answer that Ms. Grant filed was an amended answer dated July 21, 2017. That, again, is of record here in this particular action. And again, Ms. Grant admits entering into the subject note and mortgage. And again, that answer is signed by Attorney William Sloan on





behalf of Ms. Grant.

And in terms of the admissions of entering into the subject of the mortgage, we believe this establishes as a matter of law based on her admissions.

She filed yet another answer, an amended answer, on -- or actually, the summons and complaint were amended in this action subsequent to her answers. The summons and complaint were amended November 9, 2017 and Ms. Grant responded to the that amended complaint. Again, Williams Sloan responding on her behalf on December 7, 2017, again, with the same admissions related to the interest and to the note and mortgage.

Just a moment to explain why that's important, Your Honor. Part of the defendant's motion for summary judgment and her opposition to the plaintiff's motion for summary judgment is this idea that she did not enter into the subject loan back in 2006,





that she walked away from the closing table. And for first time in three foreclosure actions, she's bringing about this idea that she somehow was not involved in the underlying closing.

And obviously, based on Judge Dukes's prior order and her very own admissions in this action, her now new story that she somehow didn't enter into the loan cannot hold water as a matter of law. She's bound by both Judge Dukes's order and the admissions that she made through her attorney in this particular case.

And, Your Honor, in addition to that, in response to the request for admissions that the defendant was served with in this action, William Sloan, again, in response to the request for admissions, admits that Ms. Grant entered into the subject note. He admits the subject mortgage, which is of public record, but he denies the legal description, which that was an issue covered in 2010





action which was covered by Judge Dukes's order.

But in terms of entering into the subject note and mortgage, those facts are established as a matter of law. And, Your Honor, to back that up, as part of that 2010 action, as part of this action, Ms. Grant had provided in the records with her documents, a copy of an unsigned HUD-1, which we stipulated that is a copy of the HUD that shows where the funds from the closing of this loan were directed.

And as part of that, Your Honor, the HUD shows that there was a payoff of Green Point prior mortgage from 2004 and it shows there was a payoff of a SCB&T second mortgage, and also a payoff of federal taxes as well as payoff of South Carolina Department of Revenue tax lien.

And, Your Honor, as part of this matter, we have included the prior mortgage, the Green Point mortgage that was foreclosed upon or was paid off as

part of this closing transaction, a copy of the satisfaction of that Green Point mortgage, a copy of the South Carolina Bank and Trust mortgage, a copy of that satisfaction of that lien with the South Carolina Bank and Trust mortgage, a copy of South Carolina Department of Revenue tax lien, as well as the satisfaction of the Department of Revenue tax lien.

Your Honor, in sum, all of those liens were of record except for the federal tax lien for federal taxes that she owed over $100,000. All of those mortgages and liens were satisfied contemporaneously shortly after this mortgage was taken out, which was shows on its face that there was money that changed hands.

Given all due deference to the documents that Ms. Grant has put in the record, none of those documents raise a scintilla of evidence to refute that that money changed hands with the public records that are related to each





of those liens took place, again, just compounding on Judge Dukes's original order from 2014 regarding the legal description standing and the reformation of the mortgage as well as the easement issue.

Your Honor, that issue was established as a matter of law. In fact, Ms. Grant did enter into this loan. As a result of this loan, she received the benefit of a payoff of over $100,000 of federal tax liens, $20,000 in state taxes, a SCB&T second mortgage as well as the Green Point first mortgage.

Just to kind of address one the arguments that Ms. Grant makes in her motion for summary judgment, she puts forth a release of the -- a partial release of the Green Point mortgage that was recorded prior to the subject mortgage.

And, Your Honor, if you look at that document, which was recorded here in Beaufort County on April 23rd, 2004





some two years before this mortgage was taken out, you'll see that that release of mortgage was just a partial release to release a portion of the property from that prior lien, which is not the lien that's being foreclosed today, it was the lien that was paid off by our mortgage.

Ms. Grant's argument is simply that that partial release of lien from 2004 means that Green Point was paid off in 2004, which I would submit, Your Honor, as a matter of law, that's not what that document says. And that as a result of that partial release, that the Green Point mortgage got paid off twice. So, in other words, she couldn't have been in this loan because Green Point wasn't owed anything in 2006 when she took out the subject loan.

Your Honor, as you can see, that is not correct as a matter of public record. The document itself that she submitted indicates clearly it's just a





partial release of the Green Point mortgage. Again, this took place long before this particular loan was taken out, and our client had nothing to do with that partial release.

But if you fast forward to when this loan was taken out, you will see -- and again, this is something that's been filed in our present action as a part of our supplemental memorandum in support of our summary judgment. You'll see the Green Point mortgage, and again, this is public record here in Beaufort County, was recorded October 10, 2006.

And that is a complete satisfaction of the mortgage. The document's titled satisfaction of lost mortgage, which indicates that it looks like that at the time it was satisfied, Green Point didn't have the original in their possession so they filed a satisfaction of lost mortgage.

Your Honor, again, this October 10, 2006 date is contemporaneous with





Ms. Grant taking out the subject loan, which was taken out in September of 2006. So it's a clear timeline of this loan being taken out, Green Point mortgage being satisfied. The same can be said with SCB&T satisfaction, the satisfaction of the South Carolina tax lien and the fact that no federal tax lien was ever filed on Ms. Grant as a result of over $100,000 being paid out of this loan to pay off her pending federal taxes.

And the HUD document that is at issue was submitted by Ms. Grant herself and we certainly stipulate that that is a copy of the HUD. This is a document she's relying on that was used in her deposition in the prior case.

I do stipulate that is an unsigned copy of the HUD, but that represents the funds that were actually changed hands. And, Your Honor, that does match with the public records that we see here in Beaufort County.

THE COURT: Okay. Is that





everything, Mr. Burgess?

MR. BURGESS: Well, and fast forwarding, Your Honor, one of the areas of contention is the plaintiff's standing to bring the foreclosure. Ms. Grant challenges the plaintiff's standing to bring the foreclosure. She challenges the plaintiff's holding the subject note and mortgage.

Your Honor, I do have the original with me today. We have presented it to the Court numerous times. May I approach, Your Honor?

THE COURT: Yes. This is an adjustable rate note dated September 18, 2006. Borrower comes to pay $680,000 at 7.75 percent interest.

MR. BURGESS: Your Honor, regarding that document, you'll notice on the back of it, here in Beaufort County, Judge Dukes requires to review the original, if it's available, or an affidavit of lost note.

In prior hearings, and you'll see his stamps where he reviewed that note





at prior hearings back in 2014 as well as 2021, I believe. We had prior a summary judgment granting which was vacated in this case. This is case is a long sort --

THE COURT: You've already told me that. So, yeah, I see where judgment was entered in on this note dated 5/28 of '16 by the Honorable Marvin H. Dukes, III, Master in Equity for Beaufort County. And also, a judgment entered in on this note of case number -- the date is 8/13/21 by the Honorable Marvin H. Dukes, Master in Equity. This mortgage was signed by Ms. Terry Lennette Grant.

MR. BURGESS: Yes, sir. And I do have the original mortgage if you would like to see that as well.

THE COURT: It's dated 9/18 of '06.

MR. BURGESS: Yes, sir. And you will see there is also a (indiscernible) attached to it where the note has been transferred.





THE COURT: Let me see the original mortgage.

MR. BURGESS: Yes, sir. May I approach?

THE COURT: Yes, sir, also I have here the original mortgage, again dated September 18th of '06. The borrower is Terry Lennette Grant. The lender is NovaStar Mortgage. The principal sum is $680,000 plus interest. The maturity date of the mortgage is October 1, 2036, a 30-year note.

And it is also signed by Ms. Grant and is witnessed by Carol A. Russell and a Danielle Beak, I think, who is to a notary public and her commission expires 3/10/2010. It's Daniel YC Bears is the notary public for the State of South Carolina. Okay. I'm going hand these back to you. Obviously these have been filed numerous time with the Court.

MR. BURGESS: And, Your Honor, there are copies of those attached to the summary judgment motion as well as





prior affidavits of the plaintiff.

THE COURT: I've reviewed the file and I have seen where they were attached to the summons and complaint as well. So everything is in the file, will obviously take judicial notice to that.

Okay. Is that all you have?

MR. BURGESS: Well, Your Honor, the plaintiff is waiving the right to seek a deficiency judgment.

THE COURT: Okay.

MR. BURGESS: Your Honor, the total debt as reflected on the latest affidavit of amount due, which was filed April 3, 2023. I do have originals of all our affidavits. The copies were e-filed because that's the way e-file works now. But the total debt is $1,727,300.09.

Again, plaintiff is waiving their right to seek a deficiency judgment and pursue seeking foreclosure at the next available sale date.

THE COURT: Okay. All right.





Thank you, Mr. Burgess.

Ms. Woods, I do have -- I do have Ms. Grant's opposition to the summary judgement. I've got a copy of that. I'll review that thoroughly. What I normally do in this situation is I'll take the issue under advisement. I'll let Ms. Woods -- I mean, Ms. Grant, excuse me -- submit an order within 30 days to me supporting her opposition.

MS. WOODS: Okay.

THE COURT: Okay? I will read both of them thoroughly. I will review their motion. I'll review her motion. I'll review her order. Okay? She needs to submit that order to me. Let me give you to my e-mail, it needs to be to my e-mail within 30 days. Let me give you that. And she has every right to issue all of her concerns in that order. Okay?

MS. WOODS: Okay.

THE COURT: And she can submit that to my e-mail.

MS. WOODS: Hang on a moment.





THE COURT: Yes, ma'am.

MS. WOODS: Okay.

THE COURT: BSAPP@LowCountry.com.

MS. WOODS: Okay.

THE COURT: Okay? And then I'll take this issue under advisement, then I'll issue -- Mr. Burgess will issue me an order. Ms. Grant will issue me an order. I'll review them thoroughly. Give me about seven days to review it. Okay? And then I'll sign one of the orders or I'll say, okay, we need to do this or that. But generally, I'll sign one of the two orders and then we'll go from there.

MS. WOODS: Okay.

THE COURT: Okay, ma'am?

MS. WOODS: All right. Thank you.

THE COURT: Yes, ma'am.

Thank you, Mr. Burgess.

(Hearing concluded at 10:33 a.m.)





C E R T I F I C A T E

STATE OF SOUTH CAROLINA:
BEAUFORT COUNTY:

I, Naomi McCracken, Court Reporter and Notary Public in and for the above county and state, do hereby certify that the foregoing testimony was taken before me at the time and place herein-before set forth; that the witness was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth, that thereupon the foregoing testimony was later reduced by computer transcription; and I certify that this is a true and correct transcript of my stenographic notes so taken.

I further certify that I am not of counsel to either party, nor interested in the event of this cause.

*Naomi McCracken*

Naomi McCracken
Court Reporter
Notary Public
Beaufort, South Carolina





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Exhibit #7

Transcript of hearing dated August 3, 2021

| | | |
|---|---|---|
| STATE OF SOUTH CAROLINA | ) | COURT OF COMMON PLEAS |
| | ) | |
| COUNTY OF BEAUFORT | ) | C/A No. 2016-CP-07-01466 |

Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5, NovaStar Home Equity Loan, Asset-Backed Certificates, Series 2006-5,

Plaintiff,

v.

Terry Lennette Grant; Catherine Alls,

Defendants.

# HEARING

********

**Tuesday, August 3, 2021**
10:30 a.m. - 10:35 a.m.

The hearing before The Honorable Marvin H. Dukes, III, Master-In-Equity for Beaufort County, was taken at 102 Ribaut Road, Courtroom 3, Beaufort, South Carolina on the 3rd day of August, 2021, before Barbara J. Howell, Court Reporter and Notary Public in and for the State of South Carolina.

*CREEL COURT REPORTING, INC.*
*1230 Richland Street / Columbia, SC 29201*
*(803) 252-3445 / (800) 822-0896*

## APPEARANCES

**William P. Stork, Esquire**
Brock & Scott, PLLC
Westpark Center
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
Attorney for the Plaintiff

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## EXHIBITS

(There were no exhibits marked during this hearing.)

**CALL TO ORDER:**

**THE COURT:** Good morning, then. We're here in 2016-CP-07-01466, this is Deutsche Bank versus Grant and Alls. This is a Motion for Summary Judgment that was previously filed and served. It is 10:30 a.m. on the third day of August, 2021.

The names of the Defendants have been called three times in the hallway without result. Additionally, the deputy station downstairs reports that no one has come in and, for this hearing, and had to take their telephone back to the car or anything like that. So, it's a fair assumption, at this point, that no one from the defense side is going to appear.

So I'm happy to hear from you, sir.

**MR. STORK:** Thank you very much, Your Honor.

**MOTION FOR SUMMARY JUDGMENT**

**PLAINTIFF'S ARGUMENT FOR THE MOTION - MR. STORK:**

**MR. STORK:** May it please the Court. Will Stork with Brock and Scott representing the Plaintiff.

This is an action for foreclosure of a note and mortgage. The note being entered into

by the Defendant, Terry Grant, on September 18, 2006, and payable to the order of NovaStar Mortgage, Inc., the sum of 680,000 dollars with interest, and an adjustable rate initially of 7.75 percent.

This note was secured by a mortgage delivered to Ameris, as nominee for NovaStar Mortgage, encumbering the subject real property; which mortgage was recorded with the Beaufort County registry on September 26, 2006, in book 2448 at page 823. Thereafter, the mortgage was assigned to Deutsche -- to the Plaintiff by assignment recorded December 10th, 2009, in book 2915 at page 902.

It is of record that the legal description and the mortgage was previously reformed by Order granting Plaintiff's Motion for Partial Summary Judgment recorded February 7th, 2014, in Civil Action Number 2010-CP-07-01690.

The last payment was credited to this account on December 1st, 2007. No demand has been made. The arrearage has not been cured. Total debt at this time is 1,624,441 dollars and 87 cents.

Plaintiff filed, in addition to

Plaintiff's Motion for Summary Judgment, Plaintiff filed an Affidavit in Support of Judgment testifying as to the existence of the debt, the breach of the debt, the damages, which under U.S. Bank v. Hills is the prima facie case for foreclosure. That Affidavit also included a detailed breakdown of the outstanding debt figures.

Additionally, Plaintiff filed a Affidavit of Attorney's Fees and Costs. No affidavits in opposition have been received; there's really been no communication from either Defendant Grant or Defendant Alls for the past quite some time.

So, at this time, Judge, it's Plaintiff's position there is no genuine issue of material fact and that summary judgment would be proper. We are requesting a September 7th, 2021, sales date, and deficiency is waived in this matter, Judge.

**THE COURT:** Thank you very much. And let's see. I understand the Plaintiff asserts that there are no COVID holds or anything like that on this loan at this time, is that accurate?

**MR. STORK:** That's correct, Your Honor. A

Certificate of Compliance with the Cares Act order was filed, I believe, a little later on last week along with an Amended Affidavit of Default.

**THE COURT:** Okay. Thank you very much.

**MR. STORK:** And, Your Honor, I do have the properly-endorsed original note in my possession if you would like to inspect prior to ruling.

**THE COURT:** Thank you. I will take Counsel's word that, in fact, that's what you have in your hand, but will ask you to go down the hall at the conclusion of this and get Jackie to stamp it and give it back to you.

**MR. STORK:** Certainly, Judge. I will do that, so.

**THE COURT:** All right.

**RULING BY THE COURT:**

**THE COURT:** I've had an opportunity to review the file, which actually, after thumbing through it, I'm familiar with from the past and note, of course, the absence of the Defendant and the fact that no affidavits have been filed on her behalf.

I find it appropriate to grant the relief requested, and I will do so. And also the September sales date, I will grant. Ask that

the original Note be stamped and returned to the Plaintiff and I've also asked the Plaintiff to just copy the bankruptcy attorney from the former bank- -- the previous bankruptcy and that would be Mr. Matthews, it appears from the documents I see in the file, but double-check on that.

**MR. STORK:** Certainly, Judge.

**THE COURT:** Just, please, send him a copy of the Notice of Sale and Order. All right. Anything else for this record, then?

**MR. STORK:** Nothing further from the Plaintiff, Your Honor.

**CLOSING REMARKS - THE COURT:**

**THE COURT:** All right. Then that will conclude the record on 1466. Thank you very much.

**(There being nothing further, the hearing concluded at 10:35 a.m.)**

# Exhibit #3

# HUD 1 Closing Statement

OMB NO. 2502-0265

A.

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT

## SETTLEMENT STATEMENT

B. TYPE OF LOAN:
1. ☐ FHA 2. ☐ FmHA 3. ☒ CONV. UNINS. 4. ☐ VA 5. ☐ CONV INS.

6. FILE NUMBER: 60385C-06
7. LOAN NUMBER: 06-A19021
8. MORTGAGE INS CASE NUMBER:

C. NOTE: *This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.*

1.0 3/98 (GRANT.7225 PFDX6035C-06/11)

| D. NAME AND ADDRESS OF BORROWER: | E. NAME AND ADDRESS OF SELLER: | F. NAME AND ADDRESS OF LENDER: |
|---|---|---|
| Terry Lennette Grant<br>226 Wild Horse Road<br>Hilton Head Island, SC 29926 | | Novastar Mortgage, Inc<br>4059 Kinrose Lakes Parkway #200<br>Richfield, OH 44286 |

| G. PROPERTY LOCATION: | H. SETTLEMENT AGENT: 20-4567849 | I. SETTLEMENT DATE: |
|---|---|---|
| 226 Wild Horse Road<br>Hilton Head Island, SC 29926<br>Beaufort County, South Carolina | Wolf & Mogil, LLC<br>PLACE OF SETTLEMENT<br>94 Main Street, Suite C-102<br>Hilton Head Island, SC 29926 | September 18, 2006<br>Disburse:09/22/06 |

| J. SUMMARY OF BORROWER'S TRANSACTION | | | K. SUMMARY OF SELLER'S TRANSACTION | | |
|---|---|---|---|---|---|
| 100. GROSS AMOUNT DUE FROM BORROWER: | | | 400. GROSS AMOUNT DUE TO SELLER: | | |
| 101. Contract Sales Price | | | 401. Contract Sales Price | | |
| 102. Personal Property | | | 402. Personal Property | | |
| 103. Settlement Charges to Borrower (Line 1400) | | 156,029.96 | 403. | | |
| 104. Payoff first mortgage to Green Point Mortgage | | 387,910.25 | 404. | | |
| 105. Payoff second mortgage to South Carolina Bank and | | 101,768.42 | 405. | | |
| *Adjustments For Items Paid By Seller in advance* | | | *Adjustments For Items Paid By Seller in advance* | | |
| 106. PR Taxes | to | | 406. PR Taxes | to | |
| 107. County Taxes | to | | 407. County Taxes | to | |
| 108. Assessments | to | | 408. Assessments | to | |
| 109. | | | 409. | | |
| 110. | | | 410. | | |
| 111. | | | 411. | | |
| 112. | | | 412. | | |
| 120. GROSS AMOUNT DUE FROM BORROWER | | 645,708.63 | 420. GROSS AMOUNT DUE TO SELLER | | |
| 200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER: | | | 500. REDUCTIONS IN AMOUNT DUE TO SELLER: | | |
| 201. Deposit or earnest money | | | 501. Excess Deposit (See Instructions) | | |
| 202. Principal Amount of New Loan(s) | | 680,000.00 | 502. Settlement Charges to Seller (Line 1400) | | |
| 203. Existing loan(s) taken subject to | | | 503. Existing loan(s) taken subject to | | |
| 204. | | | 504. Payoff of first Mortgage | | |
| 205. | | | 505. Payoff of second Mortgage | | |
| 206. | | | 506. | | |
| 207. | | | 507. | | |
| 208. | | | 508. | | |
| 209. | | | 509. | | |
| *Adjustments For Items Unpaid By Seller* | | | *Adjustments For Items Unpaid By Seller* | | |
| 210. PR Taxes | to | | 510. PR Taxes | to | |
| 211. County Taxes | to | | 511. County Taxes | to | |
| 212. Assessments | to | | 512. Assessments | to | |
| 213. | | | 513. | | |
| 214. | | | 514. I HEREBY CERTIFY THIS TO BE A | | |
| 215. | | | 515. TRUE & CORRECT COPY OF THE ORIGINAL | | |
| 216. | | | 516. | | |
| 217. | | | 517. BY: | | |
| 218. | | | 518. | | |
| 219. | | | 519. | | |
| 220. TOTAL PAID BY/FOR BORROWER | | 680,000.00 | 520. TOTAL REDUCTION AMOUNT DUE SELLER | | |
| 300. CASH AT SETTLEMENT FROM/TO BORROWER: | | | 600. CASH AT SETTLEMENT TO/FROM SELLER: | | |
| 301. Gross Amount Due From Borrower (Line 120) | | 645,708.63 | 601. Gross Amount Due To Seller (Line 420) | | |
| 302. Less Amount Paid By/For Borrower (Line 220) | | ( 680,000.00) | 602. Less Reductions Due Seller (Line 520) | | ( ) |
| 303. CASH ( FROM ) ( X TO ) BORROWER | | 34,291.37 | 603. CASH ( TO ) ( FROM) SELLER | | 0.00 |

*By signing page 2 of this statement, the signatories acknowledge receipt of a completed copy of page 1 of this two page statement*

PLAINTIFF'S EXHIBIT 1 Wolf 11/6/13 KPB

PENGAD 800-631-6989

## L. SETTLEMENT CHARGES

| | | PAID FROM BORROWER'S FUNDS AT SETTLEMENT | PAID FROM SELLER'S FUNDS AT SETTLEMENT |
|---|---|---|---|
| 700. TOTAL COMMISSION Based on Price $ @ % | | | |
| Division of Commission (line 700) as Follows: | | | |
| 701. $ to | | | |
| 702. $ to | | | |
| 703. Commission Paid at Settlement | | | |
| 704. to | | | |
| **800. ITEMS PAYABLE IN CONNECTION WITH LOAN** | | | |
| 801. Loan Origination Fee 2.9500 % | to EMB Financial Services | 20,060.00 | |
| 802. Loan Discount % | to | | |
| 803. Appraisal Fee | to High Tide Appraisals | 400.00 | |
| 804. Credit Report | to | | |
| 805. Underwriting Fee | to Novastar Mortgage, Inc | 995.00 | |
| 806. Processing Fee | to EMB Financial Services | 500.00 | |
| 807. Assumption Fee | to | | |
| 808. Tax Service Fee | to First American | 60.00 | |
| 809. Flood Certification Fee | to FIS | 7.00 | |
| 810. MERS Fee | to MERS | 3.95 | |
| 811. | | | |
| **900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE** | | | |
| 901. Interest From 09/22/06 to 10/01/06 @ $ 144.380000/day ( 9 days %) | | 1,299.42 | |
| 902. Mortgage Insurance Premium for months to Coastal Plains | | 882.98 | |
| 903. Hazard Insurance Premium for 1.0 years to | | | |
| 904. Flood Insurance Premium 1.0 years | | | |
| 905. | | | |
| **1000. RESERVES DEPOSITED WITH LENDER** | | | |
| 1001. Hazard Insurance | months @ $ per month | | |
| 1002. Mortgage Insurance | months @ $ per month | | |
| 1003. PR Taxes | months @ $ per month | | |
| 1004. County Taxes | months @ $ per month | | |
| 1005. Assessments | months @ $ per month | | |
| 1006. Flood Insurance Premium | months @ $ per month | | |
| 1007. | months @ $ per month | | |
| 1008. | months @ $ per month | | |
| **1100. TITLE CHARGES** | | | |
| 1101. Settlement or Closing Fee | to | | |
| 1102. Abstract or Title Search | to Carolina Abstract | 125.00 | |
| 1103. Title Examination | to | | |
| 1104. Title Insurance Binder | to Confidential Escrow and Title | 75.00 | |
| 1105. Document Preparation\POA | to | | |
| 1106. SC Gain Filing Fee | to | | |
| 1107. Attorney's Fees | to Wolf & Mogil, LLC | 450.00 | |
| (includes above item numbers: | ) | | |
| 1108. Title Insurance | to Chicago Title Insurance Company | 1,245.00 | |
| $498.00 to Chicago Title Insurance Company, $747.00 to Confidential Escrow & Tit | | | |
| (includes above item numbers: | ) | | |
| 1109. Lender's Coverage $ 880,000.00 | 1,245.00 | | |
| 1110. Owner's Coverage $ | | | |
| 1111. Seller Attorney Fees | | | |
| 1112. Misc. Costs | | | |
| 1113. Title Update | Wolf & Mogil, LLC | | |
| 1114. Courier\Copies\Tolls | to Wolf & Mogil, LLC | | |
| 1115. Electric Deposit | Palmetto Electric | 65.00 | |
| 1116. Release Processing Fee | to Wolf & Mogil Expense Account | 15.00 | |
| 1117. E-Mail Loan Package Expense | to Wolf & Mogil, LLC | 25.00 | |
| 1118. Overnight\Express Mail | to Wolf & Mogil, LLC | 45.00 | |
| **1200. GOVERNMENT RECORDING AND TRANSFER CHARGES** | | | |
| 1201. Recording Fees: Deed $ | ; Mortgage $ 26.00; Releases $ | 28.00 | |
| 1202. City/County Tax/Stamps: Deed | ; Mortgage | | |
| 1203. State Tax/Stamps: Revenue Stamps | ; Mortgage | | |
| 1204. Power of Attorney\Assignment | to Beaufort County Register of Deeds | 7.00 | |
| 1205. Recording Waiver | Wolf & Mogil Expense Account | | |
| **1300. ADDITIONAL SETTLEMENT CHARGES** | | | |
| 1301. Survey | to | | |
| 1302. Pest Inspection | to | | |
| 1303. | | | |
| 1304. Regime Fee | | | |
| 1305. See addt'l disb. exhibit | to | | |
| 1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K) | | 129,743.61 | |
| | | 158,029.96 | |

Certified to be a true copy.

# CERTIFICATION ADDENDUM TO HUD-1 SETTLEMENT STATEMENT

Loan Number: 06-A19021

Property Address: 226 WILDHORSE ROAD, HILTON HEAD ISLAND, SOUTH CAROLINA 29926

I have carefully reviewed the HUD-1 settlement statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

## ADDITIONAL DISBURSEMENTS EXHIBIT

**Borrower:** Terry Lennette Grant
**Lender:** Novastar Mortgage, Inc
**Settlement Agent:** Wolf & Mogil, LLC
(843)842-2202
**Place of Settlement:** 94 Main Street, Suite C-102
Hilton Head Island, SC 29926
**Settlement Date:** September 18, 2006
**Disbursement Date:** September 22, 2006
**Property Location:** 226 Wild Horse Road
Hilton Head Island, SC 29926
*Beaufort County, South Carolina*

| PAYEE/DESCRIPTION | NOTE/REF NO | BORROWER | SELLER |
|---|---|---|---|
| South Carolina Department of Revenue<br>SC Tax | | 22,837.33 | |
| IRS<br>Federal Tax | | 106,906.28 | |
| **Total Additional Disbursements shown on Line 1305** | | $ 129,743.61 | $ 0.00 |

RECEIVED
Dec 18 2023
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin C/P. Sapp, Special Referee

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Case No. 2016-CP-07-01466

(Appellate Case No. 2023-001394)

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Deutsche Bank National Trust Company as Trustee for NovaStar Mortgage Funding Trust Series, 2006-5, NovaStar Home Equity Loan Asset-Backed Certificates, Series 2006-5.....Respondents.

v.

Terry Lennette Grant, Pro Se.....Appellant,

**RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL**
**PROOF OF SERVICE**

Terry Lennette Grant, Pro Se
P O Box 21936
Hilton Head Island, SC 29925
843-301-5157
terrygrantseries@gmail.com

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com

*Counsel for Respondents*

**RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL**
**PROOF OF SERVICE**

This is to certify that I, Terry Lennette Grant sent true copies of **RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL** to the attorney of record named below. A true copy was sent via email of records and/or U.S.Postal Service, on this day or soon thereafter with adequate postage prepaid for the following:

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com

*Counsel for Respondents*

**RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL**

December 18, 2023

Terry Lennette Grant, Pro Se, Appellant
P O Box 21936
Hilton Head Island, SC 29925
843-301-5750
terrygrantseries@gmail.com