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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.

Appellant's Return to Respondent's Return to
MOTION TO STAY PENDING APPEAL

Terry Lennette Grant, Appellant
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NOW COMES Appellant, Terry Lennette Grant ("Appellant" or "Grant") pursuant to Rule 240(f) of the South Carolina Appellate Court Rules, hereby submits its Return to Respondent's, 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 ("Deutsche Bank")'s Return to Motion to Stay and Memorandum in Opposition to the Motion to Stay filed on January 5, 2024 at 5:01, received via email and Appellant states as follows:

BRIEF PROCEDURAL HISTORY

This matter is an action that Respondent by and through various law firms, with the assistance Judge and Special Referee, illegally initiated and foreclosed on a fraudulent "Note" and mortgage on real property in Beaufort County, South Carolina, belonging to the Appellant. Appellant initiated her appeal on September 5, 2023¹. Since the filing of this Appeal, Respondent has sold Appellant's property at an alleged public auction allegedly held on Friday, November 3, 2023². How was this possible when on January 13, 2023 (See Additional Exh#44 dated January 13, 2023) another Satisfaction of Mortgage was filed by MERS as nominee for GreenPoint Mortgage Funding, Inc clearly supporting that Appellant's Mortgage was already Satisfied on April 21, 2004 in the amount of \$398,000? Respondent the current counsel claimed that the Respondent was the highest bidder. Special Referee filed an Order of sale claiming that

¹Respondent's counsel misstating facts and dates September 3, 2023 inaccuracies

² Public Auction are held the first Monday of each month according to Beaufort County Public website (See Exh#7 from MTS/WOS)

Respondent paid cash in the amount of \$2,500.00³ (See Exhibit Additional#45: Order Lien Satisfied by Mortgage Foreclosure dated December 27, 2023), (See Additional Exhibit #46 Foreclosure Deed dated December 27, 2023) which was filed in BeaufortCounty Recorder of Deeds.

On or about September 18, 2006⁴ (See Exh: #40 MTS/WOS⁵) Respondent alleged, Appellant was loaned the sum of \$680,000.00 by Novastar Mortgage, Inc., which was evidenced by an alleged promissory ("Note")⁶ (See Exh#20 and 20a MTS/WOS) secured by a mortgage on real property owned by Appellant commonly known as 226 Wild Horse Road, Hilton Head Island, SC 29926 ("Mortgage")⁷. Respondent alleged the Note⁸ and Mortgage were signed by Appellant on September 18, 2006 (the Note and Mortgage shall hereinafter be referred to collectively as the "Loan"). The alleged Mortgage was recorded on September 26, 2006, in the Beaufort County, South Carolina, public records in Book 2448, Page 823. Where is the Original Note with Appellant's Original Signature? The Note and Mortgage were not subsequently transferred to Deutsche Bank prior to filing a lawsuit as required by law. There was an assignment of mortgage (See Exh.# 15 from MTS/WOS) created on December 2, 2009, which was created after

³See Additional Exh#45: Order dated December 13, 2023 (LIEN SATISFIED BY SALE UNDER MORTGAGE FORECLOSURE)

⁴Respondent's counsel misstating facts and dates September 16, 2006 inaccuracies

⁵ Motion to Stay/Writ OF Supersedeas = (MTS/WOS) identifying exhibits

⁶ Promissory Note was not signed by Appellant. Respondent did not file either Note or Mortgage when cases were filed as required by law.

⁷ Respondent did not file either Note or Mortgage when cases were filed as required by law.

⁸ Respondent does not have original Appellant signature on Note. If Respondent believes it has Appellant's original signature upon the Note, why was it not submitted each time the case was filed prior to June 22, 2017 as required by law? It surfaced for the first time June 22, 2017.

Respondent paid cash in the amount of \$2,500.00³ (See Additional Exhibit #45: Order Lien Satisfied by Mortgage Foreclosure dated December 27, 2023), (See Additional Exhibit #46 Foreclosure Deed dated December 27, 2023) which was filed in BeaufortCounty Recorder of Deeds and (See Additional Exhibit#47) filed in Court on January 5, 2024.

On or about September 18, 2006⁴ (See Exh: #40 MTS/WOS⁵) Respondent alleged, Appellant was loaned the sum of \$680,000.00 by Novastar Mortgage, Inc., which was evidenced by an alleged promissory ("Note")⁶ (See Exh#20 and 20a MTS/WOS) secured by a mortgage on real property owned by Appellant commonly known as 226 Wild Horse Road, Hilton Head Island, SC 29926 ("Mortgage")⁷. Respondent alleged the Note⁸ and Mortgage were signed by Appellant on September 18, 2006 (the Note and Mortgage shall hereinafter be referred to collectively as the "Loan"). The alleged Mortgage was recorded on September 26, 2006, in the Beaufort County, South Carolina, public records in Book 2448, Page 823. Where is the Original Note with Appellant's Original Signature? The Note and Mortgage were not subsequently transferred to Deutsche Bank prior to filing a lawsuit as required by law. There was an assignment of mortgage (See Exh.# 15 from MTS/WOS) created on December 2, 2009, which was created after

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⁸ Respondent does not have original Appellant signature on Note. If Respondent believes it has Appellant's original signature upon the Note, why was it not submitted each time the case was filed prior to June 22, 2017 as required by law? It surfaced for the first time June 22, 2017.

Respondent initiated the lawsuit filed on December 1, 2009⁹ (*See Exh # 16 from MTS/WOS*) C/A No 2010-CP-07-01690 ("2009 Foreclosure"). The foreclosure was voluntarily dismissed by Respondent on February 12, 2010 (*See Exh#16a from MTS/WOS*) (Why?), without apparent service of process on Appellant.

The second foreclosure action was filed on April 12, 2010. *See Exh# 17 from MTS/WOS*) SC Civil Action Number 2010-CP-07-01690 ("2010 Foreclosure"). The case was referred to The Honorable Marvin H. Dukes, III, as Master in Equity for Beaufort County, on June 15, 2010. Grant appeared in the 2010 Foreclosure *pro se*. As a part of the 2010 Foreclosure, Respondent, Deutsche Bank sought to reform the legal description of the Mortgage and sought an easement for ingress and egress for successors in title. (Why?) The property Respondent is suing Appellant for is the property located next door. On February 7, 2014, Judge Dukes erred when he entered an Order granting Deutsche Bank's Motion for Partial Summary Judgment as to the reformation and easement causes of action ("2010 Summary Judgment Order"). (Why?) Respondent was not in possession of original Note and Mortgage when Respondent filed lawsuit as required by law. Judge Dukes erred granted judgment as to its remaining cause of action for foreclosure in an Order entered May 28, 2014 (*See Exh# 33 from MTS/WOS*) ("2010 Foreclosure Order"). (How is this partial?) In retrospect, the 2010 Foreclosure Order was vacated, and the case was dismissed without prejudice on January 14, 2016. (*See Exh# 34 from MTS/WOS*) Order Vacating Judgment, Canceling Lis Pendens and Dismissing case 2009-CP-07-05612 and Lis

⁹ Filed without "Note and Mortgage" attached to the Summons and Complaint December 1, 2009 as required by law.

Pendens 2010-LP-07-0847¹⁰. This Order of January 14, 2016 is clear that “this Judgment and Foreclosure and Sale of Mortgage and ANY SUPPLEMENTAL ORDERS” which includes the order of February 7, 2014, the partial summary judgment and any other order for that matter. The 2010 foreclosure was not set aside; it was vacated and dismissed. The 2010 summary judgment order reforming the mortgage and granting an easement for ingress and egress does not remain in full force and effect, by Order of January 14, 2016 it was vacated and dismissed with any supplemental judgment orders. The Order that the Respondent is considered final is definitely not the above mentioned order.

Respondent's current counsel asserts they were not involved in the 2010 Foreclosure, or in any capacity or matter involving the Loan, prior to the entry of a consent order to substitute counsel on November 18, 2015. (How does this fact excuse current counsel from creating and submitting fraudulent documents to secure a foreclosure judgment? How does this excuse Respondent's current counsel from ignoring fraudulent documents, submitting, relying upon and using fraudulent documents to secure a foreclosure judgment? Respondent's current counsel submitted fraudulent signatures on June 22, 2017 and August 3, 2021 (See Exh#20 and 20a from MTS/WFS) the two different alleged Appellant signatures on these alleged “Notes”. These documents also had Judge Duke's stamps that were fraudulently used on one of the Alleged Notes dated August 3, 2021. The June 22, 2017 version did not have Judge Duke's stamp dated 5/28/2014. The August 3, 2021 version of the alleged note was submitted by the Respondent's

¹⁰ Respondent “decided not to pursue the foreclosure, Thus it is no longer equitable that the judgment of foreclosure should have prospective application” The Order stated, “THEREFORE, as it is no longer equitable that the judgment should have prospective application and pursuant to SCRCP 60(b)(5) IT IS ORDERED: 1) **The judgment of foreclosure and sale pertaining to the cause of action for foreclosure of the Mortgage and any Supplemental Judgment Order(s) is/are hereby vacated;** Case is Dismissed.

current counsel, you, Chad W. Burgess, Esq. on January 13, 2023 for a judicial proceeding called "William H. Sloan's Deposition".

Respondent's current counsel, you Chad W. Burgess submitted another fraudulent document that was created for the January 13, 2023, judicial proceeding "William H. Sloan's Deposition. This fraudulent created document was called "Allonge" of the Alleged Note (See Exh#19 and 19a from MTS/WOS); However, it was not dated and it was not properly completed. Furthermore it was not attached to the Alleged Note as required by law.

Respondent's current counsel, you, Chad W. Burgess, Esq. submitted the alleged "Note" into a judicial proceeding to Special Referee Benjamin C.P. Sapp during the motion hearing held on May 4, 2023 defrauding¹¹ the court with the alleged "Note" purporting that it was examined by Judge Dukes on August 3, 2021, when the transcript of the hearing held on August 3, 2021, clearly reflected that Judge Dukes did not lay his eyes on any documents, exhibits or that evidence prior to ruling in favor of Respondent, by his own admission. "I will take counsel's word for it" (See Exh# 21 from MTS/WOS).

Respondent's current counsel, you Chad W. Burgess, Esq. and Special Referee was made aware of the fact that Judge Dukes did not lay eyes on the "Alleged Properly endorsed Note". Appellant sent copies of the transcript of August 3, 2021 were submitted as exhibits and evidence, by the Appellant to prove that Judge Dukes did not lay his eyes on those fraudulent documents at that time, when Appellant filed her 1) "Opposition to Respondent's MSJ October 6, 2022, 2)" Motion for Summary Judgment October 21, 2022", 3)"Motion to Reconsider July 7,

¹¹ 5 USC 1692j Furnishing certain deceptive forms;

2023”, and all other filings within the record. These acts of fraud, gross misconduct and fraud upon the court took place after Respondent’s current counsel initiated Respondent’s third summon and complaint on June 29, 2016.

Appellant’s previous counsels did not represent her best interest; however, it became apparent that they were working with Respondent’s past and present counsels at the detriment of the Appellant. Appellant has been defending her property pro se to the best of her ability until she thought she found adequate attorneys that would work for her benefit and not the benefit of Respondent. After paying two attorneys and neither one filed a counterclaim nor submitted the title search that proves Appellant does not and have never had a Note or Mortgage on her house, gives credence to why Appellant removed both attorneys for ineffective counsel.

Respondent’s current counsel, had another document created called “Corrective Assignment of Mortgage” dated November 9, 2018 (See Exh# 22 from MTS/WOS) and filed into the Beaufort County Recorder of Deeds on or around November 16, 2018. Appellant was under bankruptcy when this document was created and filed into the record. Why? The case stayed while Appellant was under bankruptcy protection. It would have made more sense if Respondent would have waited until the case was restored to the active docket, unless it was the Respondent’s intent to deceive the Appellant and the court. Even with this deceptive practice, filing the Corrective Assignment of Mortgage further supports Appellant defense that Respondent was not a real party of interest and did not and does not have standing to foreclose, especially on a “Note” that legally does not exist with the Appellant’s original signature.

Assignment of Mortgage created on December 2, 2009¹² after the initial summons and complaint was filed. Corrective Assignment of Mortgage created November 9, 2018, nine years later from the first created assignment and more than three years later from the filing of the third lawsuit June 29, 2016. Why?

Respondent is determined not to address the fraudulent documents that were created, submitted to the court and relied upon throughout this case over the years. Respondent is determined not to address the many federal and state statutes that were bent, broken and violated at the hands of the Respondent's many law firms that represented their alleged interest. Respondent's current counsel is attempting, once again to steer this court, to turn a blind eye to the many fraudulent documents and illegal acts engaged in during this legal case, by denying the truth that is right in front of the court's eyes, fraudulent documents that secured this illegal foreclosure. Respondent's current counsel is asking this court to ignore that the trial court erred when making their rulings, because the Appellant, as a Pro Se Litigant did not follow proper procedures. This would ignore all the Respondent acts of fraud upon the court due to an alleged procedural issue.

Upon information and belief, Judge Dukes, recused himself after reading information that pointed out how he erred throughout this legal proceeding. For example, Judge Dukes, declined to review the alleged "Mortgage" at the August 3, 2021 hearing, stating, "I will take counsel's word..." and Judge Dukes erred when granting several foreclosure judgments even though the

¹² US Supreme Court case *Carpenter v. Longan* it was ruled that where the promissory note goes, a deed of trust must follow. In other words, the deed and the note cannot be separated.

Respondent was not in possession of the alleged “Note” or “Mortgage” which was not filed with each Summons and Complaint at the time Respondent filed a foreclosure action on 1) December 1, 2009; 2) April 12, 2010 and 3) June 29, 2016. He decided that there was a conflict. The Order never stated that the conflict was because pro se filed an action in this District Court. After his Recusal on December 1, 2022 (See Exh#43 from MTS/WFS). The matter referred to Special Referee, Benjamin C.P. Sapp, by order filed on February 21, 2023 without the benefit of Appellant’s input. Even though, Appellant filed an objection to Judge Carmen T. Mullen’s Order of Reference appointing Benjamin C.P. Sapp as Special Referee, Judge Mullen erred by this appointment¹³. Appellant motion was never considered or responded to.

Respondent is attempting to steer this court to believe that the Appellant made an attempt to re-litigate the 2010 summary judgment order granting Deutsche Bank’s causes of action for reformation of mortgage and establishment of an easement for ingress and egress; however there was never a need to re-litigate this issue because it was dismissed in the Order January 14, 2016 as stated in the previous paragraph “The Foreclosure Judgment and Sale” and ANY other Supplemental Judgment Orders (See Exh# 17a from MTS/WOS) are vacated and this case was dismissed.

Appellant’s health has deteriorated over these (14) fourteen years of defending her life, liberty, property and pursuit of her happiness from being illegally stolen by the Respondent.

¹³ In case of a vacancy in the office of master-in-equity or in case of the disqualification or disability of the master-in-equity from interest or any other reason for which cause can be shown the presiding circuit court judge, **upon agreement of the parties**, may appoint a special referee in any case who as to the case has all the powers of a master-in-equity. The special referee must be compensated by the parties involved in the action. S.C. Code § 14-11-60.

Appellant found it necessary to get someone to stand in for her when she was unable to do so. She had someone appointed as her Power of Attorney, which was prepared and properly executed as required by SC Uniform Power of Attorney Act. Respondent's current counsel and Special Referee Benjamin C.P. Sapp has violated the Appellant's rights to participate in the hearing, because she granted to her Power of Attorney, under the SC Uniform Power of Attorney Act Section 62-8-212 to appear on her behalf during her period of illness that required her to have surgery. Appellant's Power Of Attorney was there to present the same filings Appellant already submitted to the court; however, the Special Referee stated, from the bench that he would read everything. The Special Referee requested proposed orders from each party; however, Special Referee could not have reviewed everything Appellant submitted and concluded by signing Respondent's proposed order. Why? There were numerous fraudulent documents in the record as well as illegal activities Respondent's current counsel introduced and invoked upon the Court. This would mean that Special Referee Benjamin C.P. Sapp turned a blind eye to the fraud and illegal activity and participated in the fraud by ruling in favor of the Respondent.

Appellant submitted on or around June 5, 2023. The Respondent's proposed order was recorded on June 28, 2023 (See Exh#2 from MTS/WOS) with the Special Referee Benjamin C. P. Sapp's alleged signature dated June 12, 2023. Appellant questioned the timeframe because the court normally submitted it via electronic means. Why would it take (15) fifteen days to make it to the court?

On July 7, 2023 Appellant filed a Motion to reconsider the June 28, 2023 Order (See Exh#3 from MTS/WOS). This Order ("2016 Foreclosure) directed the subject property to be sold

scheduled for September 7, 2023 and the Special Referee denied Appellant's Motion to Reconsider by Order dated September 1, 2023 (See Exh#4 from MTS/WOS).

The Special Referee Benjamin C.P. Sapp has sided with Respondent without a careful review of the Appellant's filings as stated in his Order dated September 1, 2023. The first page of this order provides evidence that the document is a file from the Respondent's law firm case files as noted by the file identifying reference numbers in which there are three of them 1) File reference number: 15-22471; 2) *CID541361* and 3) *DID20084* and Page 3 of this order depicts Respondent's law firm file number :15-22471¹⁴. The Special Referee has decided just to sign off any document Respondent's current counsel sets before him. Further, on the second page, the Special Referee wrote, "After a careful review of the pleadings and subsequent filings made in this action, any memoranda, arguments, and testimony presented by the parties...I make the following findings of facts and conclusion of law:" The Special Referee did not include any conclusions of law in this order. The Special Referee wrote, "Defendant specially take issue with this Court's ruling as it relates to one piece of evidence submitted in this case". This statement alone serves as proof that the Special Referee did not carefully examine these filings as he wrote in his orders. If he did, he would have made mention of the other (50) fifty plus exhibits and evidence submitted throughout this case that shows the fraudulent documents created and submitted over the years. Instead of ruling in favor of the Respondent stating that "Defendant takes issue with one piece of evidence".

¹⁴ See Exhibit Additional# 45 Order dated December 13, 2023 (LIEN SATISFIED BY SALE UNDER MORTGAGE) page 1 has Respondent's current counsel B&S Brock & Scott law firm's file #15-22471 FC affix to Order signed by Special Referee Benjamin C.P. Sapp. created by current counsel.

The September 1, 2023's order by the Special Referee under finding of facts, on unnumbered page 2 third paragraph, at line 3 stated, "Plaintiff conceded at the hearing that the copy of the Settlement Statement,...is...unsigned Settlement Statement...". The Special Referee was armed with information that Respondent was not in possession of a signed HUD-1 Settlement Statement as required by federal and state laws¹⁵. HUD-1 Settlement Closing Statement must be signed by Appellant, Lender and Closing Attorney. The unsigned HUD Settlement Statement¹⁶ (See Exh#26 from MTS/WOS) was not signed by either party. The Special Referee decided to ignore the closing requirements, turning a blind eye to the violation of federal and state laws¹⁷. This is one example of what the Respondent has been allowed to get away with over the past (14) fourteen years. On Page 3 of this order, the Special Referee states, "the Settlement Statement is not pertinent to the issues involved in this foreclosure action". What rule book did the Special Referee pull this from? He did not cite any laws, statute or cases to support his position. The settlement statement that was not signed by Borrower, Lender or Closing Attorney" is extremely pertinent in any foreclosure action. Respondent has no proof, evidence to support that the Appellant was given any funds, especially without her original signature¹⁸. The Closing Settlement Statement is supposed to serve as certified proof that the

¹⁵ 15 USC 1692e section 807 False or misleading representations;

¹⁶ 5 USC 1692j Furnishing certain deceptive forms;

¹⁷ 12 CFR Part 227 Unfair or Deceptive Acts or Practices

¹⁸ 12 CFR Part 227 Unfair or Deceptive Acts or Practices

disbursements¹⁹ were accurate and all parties agreed. For example: HUD - Settlement Statement line No: 104 shows \$387,910.25²⁰ was disbursed to GreenPoint Mortgage²¹. This allegedly took place September 18, 2006 at an alleged closing.

Again, I bring your attention to the September 19, 2006 emails (See Exh# 25 from MTS/WOS)²², the Release of Mortgage dated April 21, 2004 (See Exh# 38 from TS/WOS) and The Satisfaction of Mortgage from GreenPoint Mortgage dated January 13, 2023 (See Exh Additional#44 with this Response). The unsigned HUD Settlement Statement is claiming that the Respondent gave GreenPoint Mortgage \$387,910.25 for a Mortgage; however, GreenPoint Mortgage release of 2004 clearly shows that nothing was owed to them as of April 21, 2004. In addition, as most recent as of January 13, 2023, GreenPoint Mortgage, Inc has established exactly what it stated in 2004, that \$398,000 Mortgage was paid in full²³. The unsigned HUD Statement should have been enough for the Judge and Special Referee to stop ruling²⁴ in Respondent's favor. Because this is required by laws that Respondent, Judge and the Special Referee are ignoring and violating²⁵.

The September 1 2023's order by the Special Referee stated: "CONCLUSION OF

¹⁹ Unsigned HUD Settlement Statement that the email of September 19, 2006 reference, supports that it has not been signed, by Appellant which depicted on line No: 104 "Payoff first mortgage to GreenPoint Mortgage \$387,910.25".

²⁰ 15 USC 1692e section 807 False or misleading representations;

²¹ 15 USC 1692 section 802 (a); (c) 805; Section 806 (e) 807 false or misleading representations

²² FDCPA prohibits debt collection companies from using abusive, unfair, or deceptive practices to collect debts.

²³ 15 USC 1692 section 802 (a); (c) 805; Section 806 (e) 807 false or misleading representations

²⁴ 12 CFR Part 227 Unfair or Deceptive Acts or Practices

²⁵ 15 USC 1692 Section 802 (a) There is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors

LAW”; however, there were no laws, statutes, cases or precedents cited within this order to support his findings. The content of this order is merely statements of conjecture²⁶. The order’s Form 4 is unclear and does not have any information that supports his alleged conclusion, which appears that the Special Referee did not read this order either before he signed what the Respondent’s current counsel created and submitted. The attached Form 4 (Judgment in Civil Case) cover page does not indicate Disposition Type. The second page of this Form 4 does not indicate whether this order ends or does not end the case. The Information For the Judgment Index Judgment if Favor of area is blank, the Judgment Against area is blank, and the Judgment Amount shows N/A. This appears to be a pattern within and throughout this legal case where the Judge and Special Referee signs off on documents created by Respondent’s counsel at the time without reading the case files or documents created and set before them prior to signing it

On September 5, 2023 Appellant filed an appeal in this court. Even though Respondent's claim that the appeal does not automatically stay the foreclosure sale, Respondent stated as a cautionary measure they are canceling the foreclosure sale scheduled for September 7, 2023 and requested that it be rescheduled. The Respondent emailed a copy of the unsigned Notice of Sale that was sent to the Special Referee for his signature to Appellant. Even though it was filed on October 4, 2023, the Special Referee signature is not dated. Appellant noticed that this is a pattern in inconsistencies with documents filed by the Respondent’s representatives throughout this case.

²⁶ 12 CFR Part 227 Unfair or Deceptive Acts or Practices

The Notice of Sale was allegedly published in the Beaufort Gazette, a newspaper of general circulation in Beaufort County South Carolina, for three consecutive weeks allegedly prior to the sale. Respondent claims that this publication appeared in the paper on October 13, 2023, October 20, 2023, and October 27, 2023. The Respondent submitted and filed the actual Island Packet Publication in June 2010; however, this time Respondent did not file the publication. Instead they had another document created called, "Affidavit of Publication of Notice of Sale" and filed it into the court records on December 5, 2023. Is it a coincidence that this was filed on the same day that the clerk of the court recorded "Returned Copy of Order Denying Motion/Stay Filed 11/21/23"? The Clerk of the Court sent to Appellant physical address that has no receptacle in (violation of Judge's Order May 22, 2018). This has been a common practice throughout this case to ensure Appellant does not attend pertinent hearings and other judicial proceedings.

On November 2, 2023, Appellant filed a Motion to Stay because she has 4 or 5 more days before this alleged foreclosure sale. Respondent's current counsel sent Appellant conflicting dates of sale to ensure that Appellant does not attend. Appellant has attended a previous foreclosure sale that was attempted on her property. Why would she not attend this one? It was because Respondent's counsel sent an email stating that the sale will proceed on November 7, 2023. Respondent stated that the Notice of Sale dated October 4, 2023 was filed with November 3, 2023 as the sale date. That may be true, but why send Appellant a different sale date? The Beaufort County foreclosure procedure (See Exh# 7 and 7a from MTS/WOS) states that the sale will be held every first Monday of each Month and if that first Monday of the Month is a

Holiday, the sale will happen on Tuesday. Respondent counsel deliberately with intent to deceive Appellant changed the date to Friday, November 3, 2023 to ensure that no one else attends. It was supposed to be a public auction and because most people would refer to the public website to see when the auction is to be held. They would suspect the first Monday of each Month. Is it a coincidence that Respondent did not disclose to the public that the sale would be Friday, November 3, 2023 on the Beaufort County's Public Auction website? The first Monday of November 2023 was the 6th. Appellant upon information and belief, filed her Motion to Stay in enough time because she was deceived into believing that the sale would be on November 7, 2023. See Exh# 10 from MTS/WOS) Brock & Scott, PLLC foreclosures that were scheduled according to proper procedure and the upcoming foreclosure scheduled according to proper procedure. Why did Respondent change the auction of Appellant's property against proper procedure?

On November 9, 2023, Appellant received an email from Chad W. Burgess (See Exh#11 from MTS/WOS), Respondent's current counsel with an attached proposed order, prepared/drafted by Respondent's counsel, which was later signed by the Special Referee on November 21, 2023 (See Exh#1 from MTS/WOS).

Respondent counsel claims that the Special Referee reviewed Appellant's Motion and verbally denied Appellant's Motion for A Stay. Is this normal procedure to review motions and verbally deny them? Appellant would like to request a copy of the transcripts, list of all bidders and the amounts of each bid of this alleged public auction. Appellant upon information and belief

states that the only bidder at this sale was Respondent counsel. Especially, if Respondent purchase my house as the highest bidder for only \$2,500 Twenty-Five Hundred Dollars according to an email Appellant received on January 5, 2024 from Chad W. Burgess (See Exh Additional Report of Sale and Disbursement).

Appellant filed a Motion to Stay Pending Appeal prior to Foreclosure Sale on November 3, 2023; however, Respondent and Special Referee Benjamin C.P. Sapp decided to ignore Appellant's Motion and Beaufort County Foreclosure procedures by scheduling foreclosure sale on Friday, November 3, 2023. This ensured that the Appellant or no one else attended. This put the Appellant at a disadvantage and gave Respondent a private sale instead of a public²⁷ sale²⁸ in which Respondent became the highest bidder in the amount of \$2,500²⁹ for Appellant property that Respondent alleged Appellant owes well of \$1.2 million dollars, according to the Respondent Affidavits of funds due filed in the courts and Beaufort County records.

ARGUMENT AND CITATION OF AUTHORITY

Initially, Appellant requested for a stay to the lower court on November 2, 2023; however, the Special Referee Benjamin C.P. Sapp chose not to sign it until November 21, 2023. The foreclose took place after Appellant filed the Motion to Stay. According to the Respondent,

²⁷ An auction is a form of sale. In an auction, property is publicly put up for sale. An auction has a seller and a varying number of prospective buyers. Thus, an auction can be defined as "the public sale of a property to the highest bidder."

²⁸ See *Pitchfork Ranch Co. v. Bar* TL, 615 P.2d 541, 546-547 (Wyo. 1980)

²⁹ See Exhibit # emailed to Appellant on January 5, 2024 Report of Sale and Distribution of funds

Special Referee verbally denied Motion and proceeded with the foreclosure sale that was scheduled on a Friday, which is not proper procedure³⁰ according to Beaufort County Public foreclosure Roster/Index and Frequently Asked Questions on the Public website. According to Appellate Rules of Civil Procedure, Appellant must file Motion to Stay in the lower Court prior to submitting it to the Court of Appeals. Motion to Stay Pending Appeal and/or Writ of Supersedeas was filed on December 29, 2023. From November 21, 2023 to December 29, 2023 is approximately 38 days. It is not difficult to fathom how a stay may be put in place at this juncture because the event that allegedly took place was against proper procedure and a public sale was converted to a private. Since the Respondent were the highest bidder, it would be much easier to reverse the illegal foreclosure sale and rescind the Order of the Special Referee which was also against proper procedure when it accepted a cash sale instead of certified funds.

Due to the fact that Mortgage Electronic Registration Systems, Inc as Nominee for GreenPoint Mortgage Funding, Inc, on two separate occasions, documented by Release of Mortgage dated April 21, 2004 and Satisfaction of Mortgage dated January 13, 2023 to and for Terry Lennette Grant's mortgage of December 8, 2003, in the amount of \$398,000, Appellant is hereby requesting that this Court deem the foreclosure sale of November 3, 2023 improper, invalid, void, and/or fraudulent.

In addition, Appellant is requesting that this Court take judicial notice of the following:

1) On December 1, 2009 Respondent was not in possession of Original Note and Original

³⁰ 15 USC 1692 section 802 (a); (c) 805; Section 806 (e) 807 false or misleading representations

Mortgage when it initiated first lawsuit against Appellant's property as required by law³¹; 2) Respondent did not have standing because the assignment of mortgage was created on December 2, 2009 after Respondent initiated the lawsuit against Appellant which this violates the requirements of the law; 3) Respondent's assignment of mortgage of December 2, 2009 separated the Note from the mortgage according to law³²; 4) On April 12, 2010 Respondent was not in possession of original Note and Original Mortgage when it initiated second lawsuit against Appellant's property as required by law³³; 5) Respondent did not have standing because the Allonge of Note created June 25, 2012 was not affixed³⁴ to the original Note as required by law; 6) On January 14, 2016, Judge Dukes Order vacated this foreclose judgment and any Supplemental judgment orders³⁵ and case was dismissed; 7) After this order of January 14, 2016 was executed, the order granting the reformation of mortgage was also vacated, meaning, Respondent was suing Appellant for property that was not hers; 8) On June 29, 2016 Respondent

³¹ Fed. Home Loan Mtge. Corp. v. Schwartzwald 2012-Ohio-5017 (“[B]ecause [the plaintiff] failed to establish an interest in the note or mortgage at the time it filed suit, it had no standing to invoke the jurisdiction of the common pleas court.”)

³² U.S. Supreme Court case Carpenter v. Longan, 83 U.S. 271 (1872), which held that a “note and a mortgage are inseparable; the former as essential, the latter as an incident. An assignment of the note carries the mortgage with it, while an assignment of the latter alone is a nullity.

³³ BAC Home 9 Loan Serv. v. McFerren, 2013-Ohio-3228 (9th Dist.) (Concluding that *Schwartzwald* did not overturn long-standing property and foreclosure principles and, therefore, to bring action, a party must hold the note and the mortgage at the time it initiates an action order to have standing.)

³⁴ Section 3-204(a) of the UCC defines endorsement as follows: “Endorsement” means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of (i) negotiating the instrument For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument. Conn. Gen. Stat. § 42a-1-201(21). Conn. Gen. Stat. §§ 42a-3-201 and 42a-3-203(c).

³⁵ 15 USC 1692 section 802 (a); (c) 805; Section 806 (e) 807 false or misleading representations

was not in possession of original note and mortgage when it filed its third³⁶ lawsuit against the Appellant; 9) Respondent failed to submit Alleged Note³⁷ and Mortgage with each summons and Complaint when Respondent filed each lawsuit against Appellant's property as required by law^{38, 39}; 10) Respondent's current counsel used, created and submitted fraudulent documents⁴⁰ into the Court records to secure a foreclosure which is a violation of law⁴¹; 11) On April 21, 2004 and January 13, 2023 MERS as Nominee for the GreenPoint Mortgage Respondent is claiming they paid, \$387,910.25 for a mortgage, has given Appellant a satisfaction of mortgage twice in the amount of \$398,000. 12) HUD -1 Settlement Statement was not signed by either

³⁶ Doctrine of Res Judicata; Lanneau D. Lide, Res Judicata in South Carolina, 4 S.C.L.R. 333. (1952).

³⁷ UCC § 3-204(a) provides that the signature negotiating the note be made on the note itself or on "a paper to be affixed to the" note, the Court held that the allonges needed to be attached to the note for it to have been negotiated.

³⁸ UCC Section 9-108(b)(2) and (3); Restatement (third) of property (mortgages) section 5.4 UCC Section 9-103(g)

³⁹ RBS Citizens, N.A. v. Sabatelli, No. CV14-6016519S, 2016 WL 1099090 (Conn. Super. Ct. Feb. 19, 2016), the Superior Court similarly denied a lender's summary judgment motion in a foreclosure action for a number of reasons, including that there was no evidence that the allonge endorsing the note to the plaintiff had ever been attached to the underlying note.

⁴⁰ Fraud, whether intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party are express grounds for relief by motion under amended subdivision (b). There is no sound reason for their exclusion. The incorporation of fraud and the like within the scope of the rule also removes confusion as to the proper procedure. It has been held that relief from a judgment obtained by extrinsic fraud could be secured by motion within a "reasonable time," which might be after the time stated in the rule had run. *Fiske v. Buder* (C.C.A.8th, 1942) 125 F.(2d) 841; see also inferentially *Bucy v. Nevada Construction Co.* (C.C.A.9th, 1942) 125 F.(2d) 213. On the other hand, it has been suggested that in view of the fact that fraud was omitted from original Rule 60(b) as a ground for relief, an independent action was the only proper remedy. Commentary, *Effect of Rule 60(b) on Other Methods of Relief From Judgment* (1941) 4 Fed.Rules Serv. 942, 945. The amendment settles this problem by making fraud an express ground for relief by motion; and under the saving clause, fraud may be urged as a basis for relief by independent action insofar as established doctrine permits. See Moore and Rogers, *Federal Relief from Civil Judgments* (1946) 55 Yale L.J. 623, 653-659; 3 *Moore's Federal Practice* (1938) 3267 *et seq.* And the rule expressly does not limit the power of the court, when fraud has been perpetrated upon it, to give relief under the saving clause. As an illustration of this situation, see *Hazel-Atlas Glass Co. v. Hartford Empire Co.* (1944) 322 U.S. 238.

⁴¹ 15 USC 1692 section 802 (a); (c) 805; Section 806 (e) 807 false or misleading representations

party to the alleged loan⁴².

CONCLUSION

Appellant's motion to stay is not moot. The Special Referee stated in his Order that he did not have jurisdiction to rule on the Motion to Stay. Respondent's consistent failure to respond to Appellant's argument and not provide any legally cognizable grounds to dismiss Appellant's motion to stay, sways this court to grant Appellant's motion to stay and any other relief this Court deems just and proper.

In the alternative, grant the Writ of Supersedeas pursuant to Rule SCRCP 60(b) grounds for relief from a final judgment, order, or proceeding. On motion and just terms, the Court may relieve a party from final judgment, order, or proceeding for the following reasons:

2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)(3). Appellant found newly discovered evidence throughout this entire process, because they were being created along the way to secure an illegal foreclosure. For example: The satisfaction of mortgage from GreenPoint Mortgage Funding, Inc dated January 13, 2023 was just discovered two days ago; however, it further support Appellant's argument that the Mortgage was satisfied April 21, 2004;

3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or

⁴² Section 3-204(a) of the UCC defines endorsement as follows: "Endorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of (i) negotiating the instrument For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument. Conn. Gen. Stat. § 42a-1-201(21). Conn. Gen. Stat. §§ 42a-3-201 and 42a-3-203(c).

misconduct by opposing party: needless to say, Respondent's past counsels, as well as Respondent's current counsel has submitted, created, fabricated, used, and relied upon fraudulent documents to secure the illegal foreclosure and sold Appellant's house to themselves at a private sale and not a public auction. Appellant has submitted all acts of fraud, misconduct and misrepresentation at the hands of the opposing party that should warrant this Court to grant Writ of Supersedeas.

5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable;

a) Prior to Judge Dukes recusal, his order of January 14, 2016 vacated Judgment, canceled lis pendens and dismissed case No 2010CP0701690.

i) "THEREFORE, as it is no longer equitable that the judgment should have prospective application pursuant to SCRCF 60(b)(5)

ii) "IT IS ORDER:

1) The Judgment of Foreclosure and Sale pertaining to the cause of action for foreclosure of the Mortgage and any Supplemental Judgment Order(s) is/are hereby vacated"; case dismissed...

Upon information and belief Appellant states that this is another reason why the Special Referee erred in granting Respondent foreclosure judgment and sold Appellant's house for \$2,500 dollars. Respondent did not have the standing nor was the property or mortgage Respondent was foreclosing on belonging to the Appellant, due to the fact that the Order reforming the mortgage was vacated and dismissed by Judge Dukes Order of January 14, 2016.

Upon information and belief, Respondent paid cash for Appellant's property in violation for the foreclosure procedure. It clearly stated that CERTIFIED FUND WAS DUE...(See

Beaufort County Public Website for foreclosure sale)⁴³. This case should have been dismissed based on the Doctrine of Res Judicata⁴⁴

Appellant respectfully request that upon granting Writ of Supersedeas, deny Respondent's motion to dismiss with prejudice and reverse the illegal foreclosure sale and have the Special Referee rescind the cash received from Respondent, which should have been certified funds only and cancel the foreclosure deed prepared by Respondent's current counsel in which Special Referee just signed (notice firms internal file number on said documents 15-22471 FC02.
Respectfully Submitted

THIS AREA WAS INTENTIONALLY LEFT BLANK

SIGNATURE PAGE TO FOLLOW

⁴³ The amount of good faith deposit necessary at the time of the sale, is five (5%) percent of the successful bid at the sale, and must be made by 3:00pm. that same day. This deposit is required to be in certified funds (no cash, no personal checks), and is not refundable. Successful bidders have thirty (30) days to comply with the balance of the bid plus interest with certified funds.
<https://www.beaufortcountysc.gov/master-in-equity/faq.html>

⁴⁴ Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between these parties. Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 512 S.E.2d 106 (1999); Rogers v. Kunja Knitting Mills, U.S.A., 336 S.C. 533, 520 S.E.2d 815 (Ct. App. 1999). Res judicata prevents a litigant from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. Hilton Head Ctr. of South Carolina, Inc. v. Pub. Serv. Commn of South Carolina, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987); accord Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 512 S.E.2d 106 (1999). Res judicata is the branch of the law that defines the effect a valid judgment may have on subsequent litigation between the same parties and their privies. Res judicata ends litigation, promotes judicial economy and avoids the harassment of relitigation of the same issues. James F. Flanagan, South Carolina Civil Procedure 642 (2d ed. 1996).

APPELLANT SIGNATURE PAGE

**APPELLANT'S RETURN TO RESPONDENT'S RETURN TO MOTION FOR
STAY PENDING APPEAL**

Respectfully submitted,



Terry Lennette Grant, Defendant, Pro Se
P O Box 21936
Hilton Head Island, SC 29926
843-301-5750

Plaintiff's Attorney of Record
Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Road, Ste 110
Columbia, SC 29210
803-454-3541

January 11, 2024

EXHIBIT #44

SATISFACTION OF MORTGAGE
JANUARY 13, 2023
SENT TO APPELLANT

When Recorded Mail To:
TERRY LENNETTE GRANT
226 WILD HORSE ROAD
HILTON HEAD ISLAND, SC 29926

SOUTH CAROLINA MORTGAGE/DEED OF TRUST SATISFACTION

PURSUANT TO SECTION 29-3-330(B)(3) OF THE SOUTH CAROLINA CODE OF LAWS, 1976

The undersigned being the mortgagee of record, the trustee of a deed of trust, or the legal representative, agent or officer, or attorney-in-fact of the mortgagee of record or the trustee of the trust, under written agreement duly recorded, of either of the foregoing, certifies:

MORTGAGEE: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS MORTGAGEE, AS NOMINEE FOR GREENPOINT MORTGAGE FUNDING, INC., ITS SUCCESSORS AND ASSIGNS
MORTGAGOR: TERRY LENNETTE GRANT
MORTGAGE AMOUNT: \$398,000.00
DATED: 12/08/2003

Present Holder: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), AS MORTGAGEE, AS NOMINEE FOR GREENPOINT MORTGAGE FUNDING, INC., ITS SUCCESSORS AND ASSIGNS

The debt secured by the mortgage recorded in the office of the Clerk of Court or Register of Deeds of **BEAUFORT** County in **Book 1885 and Page 1116** is:

- paid in full and the lien or the foregoing instrument has been released; or
- the lien of the foregoing instrument has been released.

The Clerk of Court or Register of Deeds may enter this cancellation into record.

Under penalties of perjury, I declare that I have examined this declaration this 13th day of January in the year 2023 and, to the best of my knowledge and belief, it is true, correct, and complete.

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), AS MORTGAGEE, AS NOMINEE FOR GREENPOINT MORTGAGE FUNDING, INC., ITS SUCCESSORS AND ASSIGNS

By: *Alan Baker*
ALAN BAKER
VICE PRESIDENT

All persons whose signatures appear above have qualified authority to sign and have reviewed this document and supporting documentation prior to signing.

Signed and Delivered in the presence of:

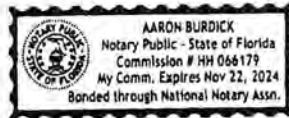
Tracy Rogers
TRACY ROGERS
WITNESS

Lauren Astle
LAUREN ASTLE
WITNESS

STATE OF FLORIDA COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me by means of [X] physical presence or [] online notarization on this 13th day of January in the year 2023, by Alan Baker as VICE PRESIDENT of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. ("MERS"), AS MORTGAGEE, AS NOMINEE FOR GREENPOINT MORTGAGE FUNDING, INC., ITS SUCCESSORS AND ASSIGNS, who, as such VICE PRESIDENT being authorized to do so, executed the foregoing instrument for the purposes therein contained. He/she/they is (are) personally known to me.

Aaron Burdick
AARON BURDICK
COMM EXPIRES: 11/22/2024



Document Prepared By: Dave LaRose/NTC, 2100 Alt. 19 North, Palm Harbor, FL 34683 (800)346-9152
CAPLR 435552345 MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS) RECORDED
MIN 100013800829240361 MERS PHONE 1-888-679-6377 MERS SYSTEMS Mailing Address: P.O. Box 2026, Flint, MI
48501-2026 DOCR T132301-09:19:30 [C-1] ERCNSCS



D0099160743

EXHIBIT #45

ORDER OF LIEN SATISFIED BY SALE UNDER MORTGAGE
FORECLOSURE

DECEMBER 27, 2023
BENJAMIN C P SAPP

SIGNED RESPONDENT CREATED

SEE FILE NO: B&S#15-22471 FC02

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

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,

vs.

Terry Lennette Grant,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO. 2016-CP-07-01466
(NON-JURY MORTGAGE FORECLOSURE)

ORDER
(Lien Satisfied By Sale Under Mortgage
Foreclosure)

Mortgage Electronic Registration Systems, Inc. as nominee for NovaStar Mortgage, Inc.
(Original Mortgagee)

Terry Lennette Grant
(Original Mortgagor)

The lien of that certain mortgage given by Terry Lennette Grant to Mortgage Electronic Registration Systems, Inc. as nominee for NovaStar Mortgage, Inc., recorded in Mortgage Book 2448 at Page 823 in the Office of the Register of Deeds. Thereafter, the Mortgage was assigned to Deutsche Bank National Trust Company, as Trustee for NovaStar Mortgage Funding Trust, Series 2006-5 by assignment recorded on December 10, 2009 in Book 2915 at Page 902. The lien is released, cancelled and satisfied by foreclosure sale on November 3, 2023.

All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being on Hilton Head Island, County of Beaufort, State of South Carolina, designated as Parcel A and containing 0.46 acres as shown on a survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139. This being the same property designated as Parcel A and containing 0.46 acres as shown on that survey entitled "3.99 AC., Wild Horse Road," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191.

ALSO:

A non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and

B&S # 15-22471 FC02

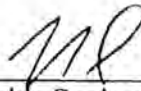


through those certain parcels owned by Terry Lennette Grant described as Parcel B and Access & Drain Field Easement on both that survey entitled "3.99 AC.," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191 and that survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139, including without limitation a non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through the "asphalt drive" as shown on the survey recorded in Plat Book 136 at Page 139.

SUBJECT to all easements, rights of way, covenants and restrictions, if any, more particularly identified in the above referenced Plat or otherwise recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, which are applicable to the above described property.

This being a portion of the same property conveyed to Terry Lennette Grant by Deed of Terry Grant Enterprises, Inc. dated August 9, 2001 and recorded August 24, 2001 in Book 1463 at Page 54 and re-recorded February 10, 2004 in Book 1908 at Page 2034 in the Office of the Register of Deeds for Beaufort County, South Carolina.

Also, the subordinate lien(s) of any lien creditor who was duly made a party to the referenced foreclosure is/are released, as to these mortgaged premises only, in accordance with S.C. Code 15-39-880.



The Honorable Benjamin C.P Sapp
Special Referee, Beaufort County

Walterport
Beaufort, South Carolina
December 13, 2023

RETURN TO:
Brock & Scott, PLLC
Post-Sales Department
3800 Fernandina Road, Suite 110
Columbia, SC 29210

EXHIBIT #46

FORECLOSURE DEED

DECEMBER 27, 2023

BENJAMIN C P SAPP

SIGNED RESPONDENT CREATED

SEE FILE NO: B&S#15-22471 FC02

Prepared By/Return To:
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, SC 29210

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

FORECLOSURE DEED

TO ALL TO WHOM THESE PRESENTS SHALL COME OR BE MADE KNOWN:

I, The Honorable Benjamin C.P Sapp, as Special Referee for Beaufort County, in the said State send Greetings:

WHEREAS, in Beaufort County Court of Common Pleas Case No. 2016-CP-07-01466, between 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 as Plaintiff and Terry Lennette Grant as Defendant(s), an Order was entered on June 28, 2023, decreeing Plaintiff should have judgment of foreclosure of its Mortgage recorded in Book 2448 at Page 823 and that the property hereinafter described should be sold by the Special Referee for Beaufort County on the terms and for the purposes mentioned in the order(s) granted in the case as reference thereto will appear. Thereafter, a Foreclosure sale was held on November 3, 2023.

NOW THEREFORE KNOW ALL MEN, that I, the undersigned as Special Referee for Beaufort County, pursuant to the foregoing and in consideration of the sum of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00) as paid by the hereinafter named grantee, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant and release unto the grantee,

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 C/O PHH Mortgage Corporation 1661 Worthington Rd Suite 100 West Palm Beach Florida 33409

the following described property:

All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being on Hilton Head Island, County of Beaufort, State of South Carolina, designated as Parcel A and containing 0.46 acres as shown on a survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road,"

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

AFFIDAVIT FOR TRANSFERS

PERSONALLY APPEARED before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and understand such information.
2. The property being transferred is located at 226 Wildhorse Road, Hilton Head Island, South Carolina 29926, bearing County Tax Map R510 007 000 018A 0000, was transferred by The Honorable Benjamin C.P Sapp to 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, on December 13, 2023
3. Check one of the following: THE DEED IS
 - (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth;
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary;
 - (c) X EXEMPT from the deed recording fee because Exception #13 - foreclosure or deed-in-lieu
4. Check one of the following if either item 3(a) or 3(b) above has been checked.
 - (a) _____ The fee computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
 - (b) _____ The fee is computed on the fair market value of the realty which is \$ _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ _____.
5. Check YES _____ or NO X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement or realty after the transfer. (This includes, pursuant to Code Section 12-59-140E(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "YES", the amount of the outstanding balance of this lien or encumbrance is \$ 0.00.
6. The DEED recording fee is computed as follows:
 - (a) \$ _____ the amount listed in item 4 above;
 - (b) \$ _____ the amount listed in item 5 above (no amount place zero);
 - (c) \$ _____ subtract Line 6(b) from Line 6(a) and place the result
7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ _____.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as : Attorney for 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
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit if guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

[Signature]
 SC Bar No. 06489
 Brock & Scott, PLLC
 3800 Fernandina Road, Suite 110
 Columbia, SC 29210
 Phone: (803) 454-3540
 Fax: (803) 454-3541
 Date: 12/18/2023



SWORN TO OR AFFIRMED, AND SUBSCRIBED BEFORE ME THIS THE 18 DAY OF December, 2023.

NOTARY PUBLIC FOR SOUTH CAROLINA
 COMMISSION EXPIRES: 9/16/24

prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139. This being the same property designated as Parcel A and containing 0.46 acres as shown on that survey entitled "3.99 AC., Wild Horse Road," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191.

ALSO:

A non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through those certain parcels owned by Terry Lennette Grant described as Parcel B and Access & Drain Field Easement on both that survey entitled "3.99 AC.," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191 and that survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139, including without limitation a non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through the "asphalt drive" as shown on the survey recorded in Plat Book 136 at Page 139.

SUBJECT to all easements, rights of way, covenants and restrictions, if any, more particularly identified in the above referenced Plat or otherwise recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, which are applicable to the above described property.

This being a portion of the same property conveyed to Terry Lennette Grant by Deed of Terry Grant Enterprises, Inc. dated August 9, 2001 and recorded August 24, 2001 in Book 1463 at Page 54 and re-recorded February 10, 2004 in Book 1908 at Page 2034 in the Office of the Register of Deeds for Beaufort County, South Carolina.

EXHIBIT #47

REPORT OF SALE AND DISBURSEMENT

JANUARY 5, 2024
BENJAMIN C P SAPP

SIGNED RESPONDENT CREATED

SEE FILE NO: B&S#15-22471 FC02
FILED IN COURT

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
CASE 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,
vs.
Terry Lennette Grant,
Defendant(s).

**REPORT OF SALE AND
DISBURSEMENT**

Pursuant to a judgment of this Court made in the above-entitled action on June 28, 2023, after due legal notice advertised and published according to law, I offered for sale on November 3, 2023 at 11:00 AM, to the highest bidder for cash, at public auction, the premises subjected to this suit. At such sale the said premises were sold to 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 for \$2,500.00, being at that price the highest bidder. Therefore, I have executed and delivered to the said purchaser or assignee of purchaser a good and sufficient deed of said premises, upon its complying with the terms of such sale. I have disbursed the funds.

RECEIPTS

County Commission (1% of bid)	\$	25.00
Order of Reference Fee	\$	350.00
TOTAL RECEIVED BY SPECIAL REFEREE	\$	375.00

DISBURSEMENTS

County Commission (1% of bid)	\$	25.00
Order of Reference Fee	\$	350.00
AMOUNT DISBURSED	\$	375.00

All of the funds having been disbursed, I hereby ORDER the file closed and the case ended.

The Honorable Benjamin C.P Sapp
Special Referee, Beaufort County

Will Hobbs
Beaufort, South Carolina
December 13, 2023

B&S # 15-22471 FC02



RECEIVED

Jan 11 2024

SC Court of Appeals

IN 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. 2016-CP-07-01466

(Appellate 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.....Respondents.

v.

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

**Appellant’s Return to Respondent’s Return to
MOTION TO STAY PENDING APPEAL
PROOF OF SERVICE**

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**Appellant's Return to Respondent's Return to
MOTION TO STAY PENDING APPEAL
PROOF OF SERVICE**

This is to certify that I, Terry Lennette Grant sent true copies of Appellant's Return to Respondent's Return to MOTION TO STAY PENDING APPEAL to the attorney of record named below. A true copy was sent via email of records and/or U.S.Postal Service, with adequate postage prepaid for the following:

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**Appellant's Return to Respondent's Return to
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January 11, 2024

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SIGNATURE PAGE TO FOLLOW

PROOF OF SERVICE

APPELLANT SIGNATURE PAGE

**APPELLANT'S RETURN TO RESPONDENT'S RETURN TO MOTION FOR
STAY PENDING APPEAL**

Respectfully submitted,



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January 11, 2024