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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Robert E. Watson, Master in Equity Judge

Case No.: 2012-CP-08-2346

CitiMortgage, Inc.,

Respondent,

v.

Cheryl Whipper Hamilton a/k/a Cheryl W. Hamilton a/k/a
Cheryl Hamilton, and James R. Hamilton, The South Carolina Department
of Revenue, The United States of America, by and through its agency,
the Internal Revenue Service, Crowfield Plantation Community
Services Association, Inc., and Park at Rivers Edge Horizontal
Property Regime A, Inc., Defendants.

of whom Cheryl Whipper Hamilton is the

Appellant.

RESPONDENT'S MOTION TO DISMISS

RILEY POPE & LANEY, LLC

Roy F. Laney, Esquire
T. Lowndes Pope, Esquire
Damon C. Wlodarczyk, Esquire
Riley, Pope & Laney, LLC
2838 Devine Street
Post Office Box 11412 (29211)
Columbia, South Carolina 29205
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Attorneys for Respondent

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SC COURT OF APPEALS

Respondent hereby submits its Motion to Dismiss pursuant to Rule 240 of the South Carolina Appellate Court Rules and shows this Honorable Court the following:

This case involves a cause of action for the foreclosure of a mortgage involving a residential property located in Berkeley County, South Carolina. Pursuant to an Order filed by the Berkeley County Master in Equity on May 1, 2013, Respondent was granted an Order for Foreclosure and Sale and the sale of the subject property was scheduled for June 5, 2013. On or about June 3, 2013, Respondent's counsel received a letter from Appellant dated June 3, 2013, which included a Notice of Appeal and Certificate of Service stating that the Notice of Appeal was mailed to counsel for Respondent on June 3, 2013.

“A party intending to appeal must serve and file a notice of appeal and otherwise comply with these rules.” Rule 203(a), SCACR. “The notice of appeal *shall* be filed with the clerk of the lower court *and* the clerk of the appellate court within ten (10) days after the notice of appeal is served.” Rule 203(d)(1)(B), SCACR (emphasis added). “The failure to comply with the procedural requirements for an appeal divests a court of appellate jurisdiction.” State v. Brown, 358 S.C. 382, 387, 596 S.E.2d 39, 41 (2004).

In the present case, Appellant has failed to provide any information tending to show that the Notice of Appeal was filed with the clerk of the lower court. The letter received by Respondent's counsel does not indicate any copies were sent to the Clerk for Court for Berkeley County. The Berkeley County Clerk of Court's records do not reflect any such filing. [Exhibit A]. The Certificate of Service relating to the Notice of Appeal does not state that a copy of the Notice of Appeal was filed or sent to be

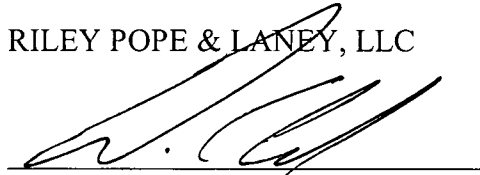
filed with the Clerk of Court for Berkeley County. (Notice of Appeal and Proof of Service dated June 3, 2013).

In addition to failing to properly comply with the filing requirements, Appellant has failed to order a transcript of record (Rule 207, SCACR), failed to provide the court with the record or order to be appealed, failed to post the statutorily required bond pending an appeal of an order granting foreclosure and has failed to prosecute this appeal. See S.C. Code § 18-9-170.

Based on the foregoing facts, the Appellant has failed to perfect and prosecute this appeal. Accordingly, the appeal should be dismissed.

Respectfully Submitted,

RILEY POPE & LANEY, LLC



Damon C. Wlodarczyk, Esquire
Riley, Pope & Laney, LLC
2838 Devine Street
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Attorneys for Respondent

Columbia, South Carolina

August 14, 2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Robert E. Watson, Master in Equity Judge

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CitiMortgage, Inc.,

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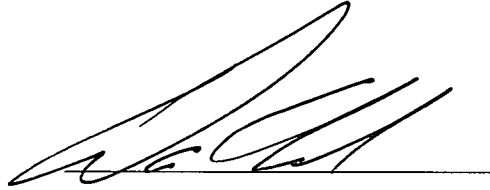
CERTIFICATE OF SERVICE

I do hereby certify that I served the Respondent's Motion to Dismiss upon the
defendants herein by depositing a copy of same, this date, in the U.S. Mails, first class
postage prepaid, and addressed as follows:

Cheryl Whipper Hamilton a/ka/ Cheryl W. Hamilton a/k/a Cheryl Hamilton
108 Brighton Ct.
Goose Creek, SC, 29445

The South Carolina Department of Revenue
Milton G. Kimpson
300A Outlet Pointe Boulevard
Post Office Box 12265 (29211)
Columbia, SC 29201

The United States of America, by and through its agency, the Internal Revenue
Service
Matthew J. Modica
151 Meeting Street, Suite 200
Charleston, SC 29402

A handwritten signature in black ink, appearing to read 'Matthew J. Modica', is written over a horizontal line.

Columbia, SC
August 16, 2013

RILEY POPE & LANEY, LLC
ATTORNEYS AND COUNSELORS AT LAW

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August 16, 2013

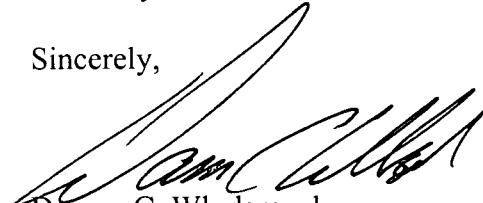
Ms. Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: CitiMortgage, Inc. vs. Cheryl Whipper Hamilton a/ka/ Cheryl W. Hamilton a/k/a Cheryl Hamilton, James R. Hamilton, The South Carolina Department of Revenue, The United States of America, by and through its agency, the Internal Revenue Service, Crowfield Plantation Community Services Association, Inc. and Park at Rivers Edge Horizontal Property Regime A, Inc.
Appellate Case No.: 2013-001283
Our File No. 4008.29412

Dear Ms. Kitchings:

Enclosed please find an original and seven (7) copies of the Respondent's Motion to Dismiss and proof of service along with my firm's check in the amount of \$25.00 to cover the filing fee. Please file the enclosed documents and return the clocked copy to me in the self-addressed, postage paid envelope I have included for your convenience.

Sincerely,



Damon C. Wlodarczyk

DCW:pash
Enclosures

RECEIVED
AUG 16 2013
CLERK OF COURT
COURT OF APPEALS
COLUMBIA, SOUTH CAROLINA