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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**

Case No: 2016CP0701466

Benjamin C.P. Sapp, Special Referee

Appellate Case No. 2023-001394

**TERRY LENNETTE GRANT, Sui Juris Beneficiary,
Appellant, Petitioner**

v.

**BROCK & SCOTT, PLLC, Debt Collector Law Firm appearing as Attorneys 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,
Appellees, Respondents.**

**APPELLANT'S MOTION TO FILE OUT OF TIME TO COMPEL THE FULL
ACCOUNTING OF ALL TRUST TRANSACTIONS AND FOR LAWFUL SANCTIONS
FOR NONCOMPLIANCE UNDER THE PRINCIPLES OF EQUITY**

COMES NOW, Terry Lennette Grant, sui juris beneficiary of the mortgage trust assets and deposits originally used and prepared by Wolf and Mogil LLC on or about September 18, 2006, now identified as **NovaStar Mortgage Funding Trust, Series 2006-5**, with **Deutsche Bank National Trust Company as Trustee**, and hereby moves this Honorable Court to compel the **full and complete accounting** from all the debt collector law firms that have acted in concert

in attempts to collect an unsubstantiated debt appearing as attorneys 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**. These law firms include:

- **Finkel Law Firm LLC** (beginning around December 1, 2009);
- **Callison, Tighe & Robinson, LLC** (beginning around April 2012); and
- **Brock & Scott, PLLC** (beginning around October 2015).

In legal proceedings, the term "**pro se**" refers to a person who represents themselves in a legal matter **as an individual litigant** without an attorney. However, this designation is **not appropriate** when asserting rights as a trust beneficiary. Instead, the correct lawful status is "**sui juris beneficiary**", which acknowledges Appellant's **standing and capacity** as the rightful beneficiary of the trust, rather than merely an individual litigant representing themselves. Thus, this motion is **properly brought** in the name of **Terry Lennette Grant, Sui Juris Beneficiary**, to uphold legal and equitable trust principles. By asserting **sui juris beneficiary** status, Appellant clarifies the following legal distinctions:

1. **Recognition of Beneficial Ownership** – As a **sui juris beneficiary**, Appellant is not just an individual disputing foreclosure but the **lawful equitable owner** of the beneficial interest in **NovaStar Mortgage Funding Trust, Series 2006-5**. This distinction ensures that Appellant's rights under **trust law and fiduciary duty principles** are fully recognized and upheld.
2. **Avoiding Improper Jurisdictional Treatment** – If labeled as **pro se**, courts may incorrectly **apply procedural rules** as if Appellant were merely a self-represented borrower rather than a **trust beneficiary with distinct legal rights** under the **South**

Carolina Trust Code (S.C. Code Ann. § 62-7-813) and the Restatement (Third) of Trusts.

3. **Trust Law Requires Direct Beneficiary Standing** – Asserting **sui juris beneficiary** status ensures that Appellant’s claims are treated **under trust law rather than foreclosure or debtor-creditor law**. Courts of equity recognize the unique **fiduciary obligations owed to a beneficiary**, making this designation **legally and procedurally appropriate**.

4. **Demanding Full Trustee Accountability** – A trustee has a **fiduciary duty** to provide a full accounting to the beneficiary. Using **sui juris beneficiary** instead of **pro se** reinforces that this motion is not a simple debtor dispute but a **demand for full disclosure of trust transactions**, per the **equitable principles governing trusts**.

5. **Ensuring Proper Remedy Under Equity** – Appellant is seeking equitable relief under **trust law principles**, including **compelling a full accounting, preventing unjust enrichment, and ensuring fiduciary compliance**. These claims arise under **beneficiary rights**, not general litigation rules applicable to **pro se litigants**.

LEGAL BASIS FOR THIS MOTION

The request to **impose all lawful sanctions for noncompliance by Deutsche Bank National Trust Company and its legal representatives for failure to provide full disclosure of all trust transactions** is made for the strict adherence to **South Carolina trust law, federal trust regulations, and relevant financial disclosure requirements in harmony with the enforcement of principles of equity to prevent unjust enrichment, restore fairness, and ensure the beneficiary’s rights are upheld**.

1. Right to the Full Accounting Under Trust Law

As the **sui juris beneficiary** of the Terry Lennette Grant trust asset held by the **NovaStar Mortgage Funding Trust, Series 2006-5**, Petitioner has the legally protected right under **South Carolina Trust Code (S.C. Code Ann. § 62-7-813)** and **common law trust principles** to the **complete and transparent accounting** of all trust-related transactions. The failure of Deutsche Bank National Trust Company, as Trustee, and its debt collection attorneys to provide such an accounting constitutes:

- **A breach of fiduciary duty;**
- **A direct violation of fiduciary obligations;**
- **A violation of federal trust regulations; and**
- **A direct obstruction of Appellant's legal right to full disclosure.**

2. Prejudice to Appellant Due to Lack of Transparency in the Private Foreclosure Sale by the Debt Collector Attorneys

Appellant has suffered **severe and irreparable financial harm** due to the **lack of the full and proper accounting** of the mortgage trust transactions, particularly in connection with the **private foreclosure sale** that was conducted by the debt collector law firm Brock & Scott, PLLC on **November 3, 2023**.

- The subject Terry Lennette Grant property, a **multi-million dollar asset**, was **privately 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 C/O PHH Mortgage Corporation 1661 Worthington Rd Suite 100 West Palm Beach Florida 33409**

for only \$2,500, an amount that is **grossly inadequate and unconscionable** under any reasonable financial standard.

- Without the **complete financial accounting**, Appellant is unable to determine:
 - Whether proper procedures were followed in the foreclosure sale;
 - Whether Deutsche Bank, as Trustee, and Brock & Scott, PLLC acted in good faith and in accordance with trust law;
 - Whether the proceeds were properly applied to the outstanding debt; and
 - Whether improper or excessive fees were charged in the foreclosure process.

The lack of transparency has **deprived Appellant of the ability to challenge the legitimacy of the foreclosure and seek appropriate remedies**. This constitutes **substantial prejudice**, justifying this Court's intervention.

3. Constitutional Right to Redress of Grievances and the Enforcement of the Principles of Equity

Under the **First Amendment of the U.S. Constitution**, Appellant has the **mandatory right to petition the government for redress of grievances** for being continuously denied access to critical trust financial records. Prior judicial determinations have been based on **incomplete and incorrect information** due to the conduct of debt collection attorneys who have unreasonably and vexatiously multiplied proceedings through dilatory tactics and fraudulent foreclosure practices since around **December 1, 2009**. To ensure **due process in harmony with the principles of equity**, filing out of time is necessary to lawfully rectify these procedural injustices.

Equity demands that **no party be unjustly enriched at the expense of another** and that all **beneficiaries of a trust receive full disclosure of trust administration activities**. Courts of equity have inherent authority to intervene when:

- A trustee has breached its fiduciary duty by **failing to provide a full accounting** (Restatement (Third) of Trusts);
- A party **seeks to enforce an obligation without proving the underlying debt**; and
- **A foreclosure or sale price is so grossly inadequate** as to "shock the conscience" and warrant **equitable intervention** (see *Nelson v. Charleston & W.C. Ry. Co.*, 231 S.C. 351 (1957)).

Here, Deutsche Bank National Trust Company, as Trustee, has **failed to act in good faith**, and its debt collection attorneys have **engaged in inequitable conduct** by withholding critical financial records. Equity demands that this Court:

- **Compel full disclosure** to prevent further financial harm to Appellant;
- **Invalidate the foreclosure sale and all foreclosure actions tainted by non-disclosure**; and
- **Impose equitable sanctions** to restore fairness and accountability.

4. Request for Lawful Sanctions for Noncompliance

To deter further violations and ensure **full compliance**, Appellant respectfully requests this Court to impose the following **lawful sanctions** against Deutsche Bank National Trust Company and its legal representatives, including but not limited to:

- **An order of contempt** for willful failure to provide the full trust accounting and disclosures;
- **Financial penalties** for obstruction of justice and failure to adhere to disclosure laws;
- **Sanctions under Rule 11 of the Federal Rules of Civil Procedure and S.C. Rule of Civil Procedure 11** for filing misleading and incomplete legal pleadings;
- **A judicial directive** requiring that all filings from **all the debt collector attorneys appearing as attorneys for Deutsche Bank National Trust Company** conform to verifiable facts, with strict and stiff penalties for misrepresentations; and
- **Any other relief this Court deems just and necessary** to enforce compliance with legal trust accounting requirements.

RELIEF REQUESTED

Petitioner respectfully requests this Court issue an order compelling Deutsche Bank National Trust Company, as Trustee, and its legal representatives to provide:

1. **The full and detailed accounting** of all trust transactions related to the underlying mortgage instrument, including principal and interest distributions;
2. **Copies of all relevant trust documents**, including but not limited to mortgage assignment records, trust agreements, and servicer reports;
3. **The complete disclosure of debt collection activities**, including fees assessed and payments received;
4. **The sworn affidavit attesting to the accuracy and completeness** of the provided records;

5. **Full disclosure of all accounts, securities, and derivative trusts associated with the "Terry Lennette Grant" trust assets and deposits**, including ledgers, investment portfolios, custodial reports, and trust administration records;
6. **The directive that all legal pleadings submitted by all the debt collector attorneys appearing as attorneys for Deutsche Bank National Trust Company conform to verifiable facts**, including contempt orders with strict and stiff penalties imposed as sanctions for any misrepresentations under **Rule 11 of the Federal Rules of Civil Procedure** and **S.C. Rule of Civil Procedure 11**;
7. **An order granting leave to file out of time** due to the irrefutable grounds outlined above, ensuring justice is served and procedural fairness upheld.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court GRANT this Motion and enter an order compelling **all the debt collector attorneys appearing as attorneys for Deutsche Bank National Trust Company** to comply fully with all the requested financial disclosures, along with any necessary sanctions for noncompliance to uphold legal and equitable trust principles.

Respectfully submitted,

By: s/Terry Lennette Grant
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Date: **April 1, 2025**

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PROOF OF SERVICE

COMES NOW, Terry Lennette Grant, sui juris beneficiary, hereby certify that a true copy of the **APPELLANT’S MOTION TO FILE OUT OF TIME TO COMPEL THE FULL ACCOUNTING OF ALL TRUST TRANSACTIONS AND FOR LAWFUL SANCTIONS FOR NONCOMPLIANCE UNDER THE PRINCIPLES OF EQUITY** has been served on

the debt collection law firm that have acted in concert in attempts to collect an unsubstantiated debt appearing as attorneys 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, Brock & Scott, PLLC** (beginning around October 2015), by electronic media via email address listed below:

Brock and Scott, PLLC
Chad W. Burgess, Esq. Bar No.:72520
3800 Fernandina Road, Suite 110
Columbia, SC 29210
803-454-3540
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Respectfully submitted,

By: s/Terry Lennette Grant
Terry Lennette Grant, Sui Juris Beneficiary
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Date: **April 1, 2025**

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