

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
C/A NO.: 2012-CP-45-686

First United Security Bank,
Plaintiff,

ORDER APPOINTING RECEIVER

v.

Interfaith Apts. Co., a S.C.L.P, a South
Carolina limited partnership and South
Carolina State Housing Finance and
Development Authority,
Defendants.

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SC Court of Appeals

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Plaintiff, First United Security Bank ("FUSB"), has applied for the appointment of a receiver pursuant S.C. Code Ann. 15-65-10 eq. seq., and the contractual agreement between the parties as expressed in the loan documents. Defendant Interfaith Apts. Co. ("Borrower") opposes the motion.

From the record before me it appears to my satisfaction that FUSB is the owner and holder of a mortgage in the original principal amount of \$1,170,000.00 respectively on the real property which is the subject of this proceeding given to FUSB by Interfaith Apts. Co. and the note thereby secured. Foreclosure proceedings have been instituted against this property, which consists of property containing 3.35 acres of land, TMS # 11-037-212 known as Interfaith Apartments located in Manning, South Carolina (the "Mortgaged Property"). It further appears that FUSB, by reason of an assignment of rents contained in the Mortgage recorded in the Williamsburg County Register of Deeds in Book A422 at Page 50, is entitled to receive the rents from the Mortgaged Property pending the foreclosure, and is entitled to the appointment of a

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receiver by reason of a provision for the appointment of a receiver in the Mortgage as follows:

Section 5.3 (b) Possession and Operation of Property. If an Event of Default exists, in addition to all other rights herein conferred on the Lender, the Lender (or any person designated by the Lender) may, but will not be obligated to, (1) enter upon the Real Property and take possession of any or all the Property without being guilty of trespass or conversion, exclude the Grantor therefrom, and hold, use, administer, manage and operate the same to the extent that the Grantor could do so, without any liability of the Grantor resulting therefrom; (2) collect, receive and receipt for all proceeds accruing from the operation and management of the Property; (3) make repairs and purchase needed additional property; (4) insure or reinsure the Property; (5) maintain and restore the Property; (6) prepare the Property for resale, lease or other disposition; (7) have furnished to the Property utilities and other materials and services used on or in connection with the Property; and (8) exercise every power, right and privilege of the Grantor with respect to the Property. For the purpose of carrying out the provisions of this Section 5.3(b), the Grantor hereby irrevocably constitutes and appoints Lender (or any designee of Lender) the true and lawful attorney-in-fact of the Grantor to do and perform, from time to time, any and all actions necessary and incidental to such purpose and does, by these presents, ratify and confirm any and all actions of said attorney-in-fact.

Section 5.3 (c) Judicial Proceedings; Right to Receiver. If an Event of Default exists, the Lender, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its Lien on the Property, to sue the Grantor for damages on account of said default, for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Lender shall be entitled, as a matter of right (upon bill filed or other proper legal proceedings being commenced for the foreclosure of the Agreement, to the extent required by law), to the appointment by any competent court or tribunal, without notice to the Grantor or any other party, of a receiver of the rents, issues, profits and revenues of the Property, with power to lease and control the Property and with such other powers as may be deemed necessary.

ORDERED:

1. Granting of Motion. The Motion establishes sufficient grounds for the relief sought therein. The Motion is, therefore, GRANTED. All terms not otherwise defined therein shall have the meaning given to them in the Motion. Nothing herein shall constitute an admission of law or fact by the Defendants.

2. Appointment of Receiver. Pursuant to S.C. Code Ann. § 15-65-10, Southern Development Management Company ("the Receiver"), is hereby appointed as Receiver of the Mortgaged Property, and to serve without bond effective immediately.

3. Receiver Fee. Receiver shall be paid a fee of One Thousand Five Hundred (\$1,500.00) Dollars per month for performing its obligations under this Order (the "Receiver Fee"). In addition, Receiver shall be reimbursed for expenses incurred in fulfilling the obligations of the Mortgaged Property. All fees and expenses due to Receiver hereunder shall be paid from the Rents generated from the Mortgaged Property, after bills and other obligations are paid on the Mortgaged Property. Bank is under no obligation to fund operations of the Mortgaged Property or the Receiver's fees and expenses described herein absent subsequent written agreement by FUSB evidencing such agreement. All rental income shall be applied first for operating expenses and capital expenses necessary to keep the Mortgaged Property operating, safe and habitable.

4. Payment of Receiver Fee, Expenses, and Independent Contractors. Commencing immediately, at the end of each month the Receiver shall receive payment of the Receiver Fee for the immediately preceding month, prorated for any partial months. On the last day of each month Receiver shall submit a Receiver Report, as defined herein, to the parties hereto, which shall itemize Receiver's Fee and Expenses for the immediately preceding month.

5. Powers of Receiver. The Receiver, personally or through its

employees, agents, and independent contractors, is authorized to take the following actions:

- A. enter upon and take possession and control of any and all of the Mortgaged Property and perform all acts necessary and appropriate for the operation and maintenance thereof;
- B. take and maintain possession of all documents, books, records, papers and accounts relating to the Mortgaged Property;
- C. allow Plaintiff, its counsel, appraisers, and other independent third-party consultants engaged by Plaintiff access to the Mortgaged Property at all reasonable times to inspect the homes and all books and records, and to cooperate with Plaintiff to evaluate its Collateral;
- D. manage and operate the Mortgaged Property under any existing trade name (or new name) if the Receiver deems appropriate to do so, subject to the consent of the Plaintiff.
- E. preserve and maintain the Mortgaged Property in a safe and habitable condition in compliance with all applicable laws and codes,
- F. exercise any and all rights of the Defendants and/or Plaintiff (in any event subject to Plaintiff's consent) in and to any and all licenses. If the issuing agency requires that Receiver or its nominee apply for a new license, permit or other document, Receiver or its nominee may continue to operate under the current permit until the new one is

issued to ensure no disruption of service occurs;

- G. retain, hire or discharge on-site employees at the Mortgaged Property, if any, (none of whom are or shall be deemed to be employees of Plaintiff) without any liability to the Receiver or Plaintiff. Defendants will be solely and exclusively responsible for any claims or liabilities in any way related to an employee's employment with or separation from Defendants, including any compensation, benefits, payroll taxes, workers compensation insurance, severance liabilities, contractual obligations, benefit plans or liabilities related to the Workers Adjustment and Retraining Notification Act (WARN), 29, U.S.C. § 2101 et seq., or similar state statutes or regulations;
- H. make repairs and alterations to the Mortgaged Property in compliance with all laws and all liens, covenants and restrictions of record;
- I. pay all appropriate real estate taxes, personal property taxes, or other taxes or assessments against the Mortgaged Property;
- J. conduct a marketing or leasing program with respect to the Mortgaged Property, or employ a marketing or leasing agent or agents to do so, directed to leasing under such terms and conditions as Plaintiff may in its sole discretion deem appropriate or desirable;
- K. employ such contractors, subcontractors, materialmen, architects,

engineers, consultants, managers, brokers, marketing agents, or other employees, agents, independent contractor or professionals, as FUSB may in its sole discretion deem appropriate or desirable to implement and effectuate the rights and powers granted therein;

- L. execute and deliver, as attorney-in-fact and agent of Defendants or in Defendants' own name, such documents and instruments as are necessary or appropriate to consummate authorized transactions;
- M. enter into such leases, whether real or personal property, or tenancy agreements, under such terms and conditions as the Plaintiff may in its sole discretion deem appropriate or desirable in compliance, however, with Section 42 of the Internal Revenue Code (Title 26), the requirements of the South Carolina State Housing Finance and Development Authority, and all covenants and restrictions of record;
- N. collect and receive the Rents from the Mortgaged Property;
- O. eject tenants or repossess personal property, as provided by law, for breaches of the conditions of their leases or other agreements, in compliance, however, with all laws, and all liens, covenants and restrictions of record;
- P. sue for unpaid Rents, payments, income or proceeds in the name of Defendants or Plaintiff;
- Q. maintain actions in forcible entry and detainer, ejectment for possession and actions in distress for rent;

- R. compromise or give acquittance for Rents, payments, income or proceeds that may become due;
- S. delegate or assign any and all rights and powers given to FUSB by the Mortgage; however, no part of this Order provides the Receiver the right to sell the Mortgaged Property without further order of this Court;
- T. require any and all officers, directors, managers, agents, representatives, independent contractors, partners, affiliates, attorneys, accountants, shareholders and employees of these Defendants to return any and all Rents in their possession;
- U. open and review mail directed to Defendants and/or their representatives pertaining to the Mortgaged Property without further order from the Court;
- V. enter into contracts and agreements necessary to continue normal operations of the Mortgaged Property in the Receiver's name;
- W. amend, modify or terminate any existing contracts affecting the operations of the Mortgaged Property, but only upon terms and conditions that are subject to FUSB's approval;
- X. reject any unexpired contracts of Defendants that are burdensome on the Receivership Property;
- Y. Ensure that all of Borrower's agents, employees, representatives, officers, principals, affiliates, successors and assigns comply with the terms of this Order.

6. Obligations of Defendants. Defendant Interfaith Apts. Co. is hereby ordered and directed to;

- A. Cooperate with and assist the Receiver in connection with his duties and obligations hereunder;
- B. Immediately surrender to the Receiver complete operating control of the Mortgaged Property and the management thereof;
- C. Deliver to the Receiver all books, records, accounts and documents relating to the Mortgaged Property, and the operations thereon (including surrendering to the Receiver of full control of all FUSB or other depository accounts in which Borrower holds a full or partial ownership interest) including without limitation: tenant records, deposits, trust funds, payroll records and deposits, vendor statements and invoices, and such other books and records as are necessary for the on-going operation of the Mortgaged Property;
- D. Immediately remit to the Receiver all Rents currently in possession of the Borrower and all Rents that subsequently come into Borrower's possession;
- E. Within ten (10) days of this order turn over to Receiver or Receiver's agents all books, records, ledgers security deposits, escrows, leases, contracts, computers, tax returns, tax records (for income, sales, use, excise, property, ad valorem or any other taxes), and other information (or photocopies of same) relating to the Mortgaged Property, and the operations thereon that are maintained by Borrower in any form, including electronically (whether on computers, computer disks, tapes or other electronic data storage media),

including information regarding software programs utilized by Borrower and all administrator access codes thereto in order to permit Receiver or Receiver's agents access to all such information relating to the Mortgaged Property, and the operations thereon;

- F. To the extent the Receiver deems it necessary, execute an assignment to the Receiver concerning such receivables as it is necessary to effectuate collection of reimbursements;
- G. Take such other and further actions as may be necessary or required by the Receiver to effectuate the terms of this Order.

7. Collection of Accounts Receivables Assignment. Defendant Interfaith Apts. Co. shall take any and all action necessary and requested by Receiver to allow all Rents payable by any person or organization to Defendants to be paid to the Receiver or the Receiver's agent on behalf of Defendants for deposit into the Receiver Accounts. Such payments shall continue to be deposited into the Receiver Accounts until such persons or organizations are notified otherwise.

8. Injunction. Defendants are hereby:

- A. Enjoined from incurring additional debt or other obligations on behalf of or secured by the Mortgaged Property, except as otherwise approved by the Receiver and FUSB;
- B. Enjoined from interfering with or hindering in any way whatsoever the Receiver in the performance of the Receiver's duties herein described

and in the performance of any duties incident thereto;

- C. Enjoined from collecting, withdrawing, transferring, conveying, concealing, or interfering in any way with the Receiver's access to the Mortgaged Property, and the operations thereon during the pendency of the Receiver's appointment;
- D. Enjoined from taking or causing to be taken any action that would diminish or impair the value of the Mortgaged Property;
- E. Enjoined from removing, destroying, changing, copying, altering, or otherwise disposing of any assets owned by Defendants or relating to the Mortgaged Property, including without limitation any books and records;
- F. Enjoined from transferring, conveying, assigning, pledging, deeding, selling, renting, leasing, encumbering, changing ownership of, vesting of title to, or otherwise disposing of, or any of the other assets owned by Defendants or relating to the Mortgaged Property;
- G. Enjoined from causing Defendants' agents, employees, representatives, officers, principals, affiliates, successors, and assigns from interfering in any way with Receiver's duties under the terms of this Order; and
- H. Enjoined from terminating or surrendering any permit, certificate, license, or franchise agreement related to the Mortgaged Property.

9. Obligations of Parties. Any and all persons in possession of or having control over Rents or any documents, books, or accounting records relating to the operation of the Mortgaged Property, shall deliver them to the Receiver forthwith, and shall account for and pay over to the Receiver all Rents in the person's possession. Included within these records are copies, if any, of all service contract and utility bills, any and all current or past operating statements of the Mortgaged Property, and any other documents maintained by the Defendants or their agents pertinent to the financial management and the Mortgaged Property.

10. In order to promote judicial efficiency, all persons who receive actual or constructive notice of this Order are enjoined in any way from disturbing the Mortgaged Property or from prosecuting any new proceeding (including collection or enforcement proceedings) that involve the Receiver or the Property (including any proceeding initiated pursuant to the United States SC Bankruptcy Code) unless such person or persons first obtains the permission of this Court.

11. The Receiver shall not be liable for any obligation of the Defendants relating to the Mortgaged Property that arose prior to the effective date of this Order, including, without limitation, any contingent or unliquidated obligations, taxes of any kind, assessments, utility charges, or goods or services provided to Defendants, the Mortgaged Property, nor shall the Plaintiff or Receiver be obligated to advance any of its own funds to pay any expense of maintenance or other liability of the Mortgaged Property. However, the Receiver is responsible for continuing, or replacing, all applicable or appropriate insurance. Notwithstanding the foregoing, should the Plaintiff decide, in its discretion, to advance funds to maintain or preserve the Mortgaged Property the repayment of all such advances shall be secured by the Loan Documents, shall be added to any judgment entered in this action and shall be payable.

12. In holding, retaining, managing, operating, preserving and protecting the Mortgaged Property, the Receiver shall not be bound by or otherwise subject to any existing management agreement, any real estate listing, brokerage, sales or leasing agreement or any other obligation contract or agreement, or contractual terms, including but not limited to liquidated damages, which exist as of the date of this Order and that relates to the ownership, use, leasing, management, maintenance, repair, preservation or operation of the Mortgaged Property. This paragraph does not apply to tenants' leases, as to which Receiver shall be bound.

13. Remittance of Rents. Nothing in this Order shall impair or in any manner prejudice the rights of Plaintiff to receive payments of the Rents pursuant to the terms and provisions of the Loan Documents, and the Receiver is hereby authorized with the prior approval of this Court to remit to Plaintiff all funds, proceeds and Rents that constitute Plaintiffs collateral for application to the indebtedness under the Loan Documents, to the extent not expended for any of the purposes herein authorized.

14. Compliance with laws. The Receiver shall ensure that the Mortgaged Property is at all times operated in accordance with state, local, and federal laws, including without limitation Section 42 of the Internal Revenue Code until such further order of Court.

15. Insurance and Bond. The Receiver shall cause Receiver, in its capacity as Receiver, to be named as an additional insured party on any existing liability and property damage insurance policies on the Mortgaged Property and if needed, is authorized to obtain customary insurance coverage for the Mortgaged Property, as a property expense. Moreover, because no bond shall be required in connection with the appointment of the Receiver herein, the Receiver shall cause customary liability and property damage insurance

policies to remain in place with respect to the Mortgaged Property throughout the receivership contemplated herein, and any premiums to be paid in connection with the same shall continue to be treated as a normal operating expense. Within a reasonable time after the entry of the Order, the Receiver shall cause a copy of this Order to be transmitted to any insurance carrier that has issued applicable policies in this connection. The Receiver shall be responsible for obtaining replacement for any insurance policies that terminate upon assumption of management by the Receiver, including without limitation Workers Compensation insurance and umbrella coverage.

16. Scope of Authority. This Order is without prejudice to the right of the FUSB or Receiver to make future application to this Court by motion and upon notice to all parties for further or other authority as may be necessary in its performance of Receiver's duties.

17. Certified Copies of Order. The Clerk of Court is hereby authorized and directed to make certified copies of this Order, at the Receiver's request, for use by the Receiver.

18. No liability. Neither the Receiver nor those acting on his behalf will be liable (a) for any damage, injury or cause of action arising out of or related to the assets of the Mortgaged Property, or the execution of his duties as Receiver except for Receiver's gross negligence or willful misconduct; or (b) to any person or entity for the payment, or failure to pay, expenditures arising from the Defendants' business operations. No person or entity shall file suit against the Receiver, or take other action against the Receiver, without an order of this Court permitting the suit or action.

19. Preliminary Receiver Report: Receiver's Reports. The Receiver shall serve upon counsel for the Defendants and FUSB, (a) a preliminary receiver's report on or before May 31, 2013 (b) on a monthly basis on or before the last day of the month for the immediately preceding month, monthly operating statement and balance sheet and other reports as necessary to accurately describe the sources and uses of income including a ledger indentifying monthly receipts and disbursements, census and other pertinent statements regarding the financial condition of the Mortgaged Property, (c) tenant income qualification reports, (d) any reports due to the South Carolina State Housing Finance and Development Authority; and (e) such other reports or accountings as the Parties may reasonably request


from time to time.

20. Court Jurisdiction. The Court retains jurisdiction to enter such further orders that shall be necessary to carry out the terms and conditions of this Order. This Order is without prejudice to the right of the FUSB, the Receiver or Defendants to make future applications to this Court by motion and upon notice to all parties for further, different or other authority as may be necessary in the Receiver's performance of this duties.

21. Access to Collateral/Books and Records. FUSB or its designees, upon reasonable request, shall have the right to inspect its Collateral, including any books and records of Defendants.

22. Removal; Resignation. The Receiver shall serve at the pleasure of this Court and shall be compensated for its services as described hereinabove and in the Motion. The Court may remove the Receiver upon a showing of good cause, in which case a new Receiver may be appointed in accordance with S.C. Code Ann. § 15-65-10. The Receiver may resign at any time, upon thirty (30) days written notice to FUSB and Defendants.

AND IT IS SO ORDERED

A handwritten signature in black ink, appearing to read "W. Jeffery Long", is written over a horizontal line. The signature is cursive and somewhat stylized.

April 26 2013

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF WILLIAMSBURG
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-45-0686

First United Security Bank,

Interfaith Apts. Co., a S.C.L.P., a South
 Carolina limited partnership, et. al.,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: S. Nelson Weston, Jr.	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED
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 2012

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: