

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
C/A NO.: 2023-CP-26-06121

United States of America acting through the
Rural Housing Service or successor agency,
United States Department of Agriculture,

Plaintiff,

vs.

Eric M. Vaughn, and South Carolina
Department of Revenue,

Defendants,

**JUDGMENT OF FORECLOSURE
AND ORDER FOR SALE**
(Deficiency Waived)
(Non-Eligible for Loan Modification Under
the Home Affordable Modification
Program)
OR
(Subject to Modification Under the Home
Affordable Modification Program but will
not be modified)

Pursuant to Rule 53 SCRPC and the Order of Reference filed herein, the above-entitled matter was referred to the undersigned, as Master-in-Equity for Horry County, to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the cause with appeal, if any, directly to the South Carolina Court of Appeals.

The case was called twice prior to commencing the hearing.

Pursuant to the said Order of Reference, a hearing was held on October 8, 2024 at 11:00 A.M. via the videoconferencing platform *WEBEX.com*. At the hearing, testimony was taken and evidence presented, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on April 9, 2023.
2. The Summons and Complaint were filed on October 3, 2023.
3. Service was made upon the Defendants named in this order as is shown by the Proof of Service filed herein.

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4. Defendant Eric M. Vaughn (“Vaughn”) was served at 114 Green Vanue, Shelby, North Carolina and no Answer or other responsive pleading was served upon Plaintiff United States of America acting through the Rural Housing Service or successor agency, United States Department of Agriculture (“Plaintiff”) and is now in default.
5. Defendant South Carolina Department of Revenue (“SCDOR”) filed an Answer copies of which have been filed of record.
6. According to the Affidavit filed herein, the Vaughn is not in the Military Services of the United States of America, as contemplated under the Servicemembers Civil Relief Act 108 P.L. 189, 117 Stat. 2835 (50 USC App. §§ 501-597b)(“SCRA”), and any amendments thereto.
7. Defendants were notified of the date, time, and place of the hearing as shown on the Notice of Hearing dated September 4, 2024 and filed herein contemporaneous therewith.
8. For value received, Vaughn made, executed and delivered to Plaintiff a Promissory Note (“Note”) dated April 5, 2010, promising thereby to pay to Plaintiff the sum of \$80,000.00, upon the terms and conditions set forth therein.
9. On the same day, Vaughn made, executed, and delivered to Plaintiff a Subsidy Repayment Agreement (“Subsidy”) promising to repay the subsidy he received as part of the loan transaction represented by the Note and Mortgage subject of this matter.
10. To better secure the payment of the Note and Subsidy described above, Vaughn made, executed and delivered to Plaintiff or successor agency in writing, a

Mortgage dated April 5, 2010, (“Mortgage”) covering real property in Horry County more fully described therein and below. The Mortgage was filed on April 6, 2010, and is of record in the office of the ROD for Horry County in Mortgage Book 5244 at Page 128.

11. This Mortgage constitutes a first lien on the subject property.
12. The titleholder of record in and to the subject property as of the filing of Lis Pendens in this action is Vaughn who is the original mortgagor.
13. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note, Subsidy, and Mortgage in the hands of the attorney herein for collection.
14. The sum of \$2,500.00 is a reasonable fee to allow as attorney fees for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the Note and Mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.
15. The amount due and owing on the Note, with interest at the rate provided in the Note, and Subsidy along with other costs and expenses of collection, including attorney's fee, secured by the Mortgage is as follows:

a.	Principal due as of October 8, 2024	\$68,597.03
b.	Interest from August 5, 2018, the date of default, through October 8, 2024, the date of hearing, at 4.875%	\$20,669.37
c.	Late Charges before being sent to attorney for collection	\$59.29
d.	Subsidy granted	\$235.20
e.	Escrow/Impound required	\$1,230.05

f.	fees required with payoff:		
	o Escrow fees	=	\$15,446.49
	o Caretaking fees	=	\$26,551.48
	o Interest on fees	=	\$5,798.39
g.	Attorney's fee		\$2,500.00
h.	Costs of collection prior to hearing		\$1,067.06
	 Total Debt due under the Note, Subsidy and Mortgage, including interest to date shown		 \$142,003.16

16. It appears from the Authority to Testify and Statement of Debt that the Plaintiff began maintaining the Property on or about December 9, 2019 during the Coronavirus pandemic although the account was in default since August 5, 2018.
17. The Plaintiff testified the Coronovirus Aid, Relief and Economic Security (CARES Act) Act passed by Congress on March 25, 2020 stopped all pending foreclosure actions for government backed loans, including direct USDA loans under the 502 Loan Program pursuant to the Housing Act of 1949 as amended, 7 CFR, Part 3550, including the Note at issue in this case.
18. The CARES Act pursuant to Section 4022 all direct and government backed securities were placed on a moratorium which was extended periodically by Congress.
19. The CARES Act moratorium also provides *except with respect to a vacant or abandoned property, a servicer of a Federally backed mortgage loan may not initiate any judicial or non-judicial foreclosure process, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.*
20. The CARES Act applied to federally back loans, not direct government direct loans such as the one set forth herein.

21. Rather the USDA in conjunction with the presidential mandates issued its own moratoriums on all direct loans and collection efforts and published same to <https://www.rd.usda.gov/coronavirus> through July 31, 2021 and required that homeowners be reviewed again prior to proceeding with foreclosures.
22. The Note at issue is not a federally backed mortgage, but rather a direct loan to the United States of America and as such, the Plaintiff testified it placed a moratorium on all foreclosure efforts for direct government loans and collections.
23. The Plaintiff has not satisfied this Court that the CARES Act or any moratorium prohibited the Plaintiff from proceeding with its foreclosure against the Note and Mortgage at issue following the Defendant's abandonment of the property on or about December 9, 2019.
24. Upon weighing the equitable rights to the parties relating to the debt components of interest and property maintenance charges accruing over an extended period time as identified above, the Court has determined that the Plaintiff sat upon its rights to commence and finalize their foreclosure action such that it should not be entitled to the full amount of its debt as set forth hereinabove.
25. This determination is based upon equitable principles, specifically, the doctrine of unclean hands and other applicable equitable principles, specifically the doctrine of unclean hands and other applicable equitable maxims.
26. While this is a default matter with Defendant filing no answer or responsive pleading or otherwise appearing, and the court is addressing this issue *sua sponte* as a matter of public policy due to Plaintiff's significant delay in initiating and finalizing the foreclosure.

27. As a result, the Court finds Plaintiff's interest recovery should be limited to two years from the date of default, or November 2018, which the Court believes to be a reasonable period within which Plaintiff could have brought and finalized their foreclosure action.
28. The Court is aware the South Carolina Supreme Court issued its own moratorium on all foreclosures and evictions from March 18, 2020 through May 15, 2020, however, it remains convinced the Plaintiff had adequate time prior to the filing of this case within which to complete its foreclosure action against Defendant.
29. The Court reviewed the Authority to Testify and Statement of Debt along with the payoff funds panel, fee breakdown, mortgage contracting services, LLC invoice screen, the display check screen for tax disbursement to the Horry County Treasurer, the collection comments, the insurance hazard item screen.
30. I find that the Plaintiff has not provided to my satisfaction, the necessary proof of cancelled checks for any disbursements for taxes and insurance or the insurance declaration pages to substantiate the disbursements on the account and, therefore, I am not satisfied these items were properly advanced on the Defendant's Account.
31. Similarly, the cost of property maintenance and other property preservation costs indicated in the attachment to the Affidavit of Debt filed October 7, 2024 shall be reduced to **\$7,819.18 instead of the original amount of \$26,551.48; escrow fees shall be reduced to \$3,630.92 instead of the original amount of \$15,446.49; and interest on the principal is limited to two (2) years accrued interest to \$13,395.60 from \$20,669.37.**

32. While the Court recognizes the reduction in the interest alters the calculation of debt agreed upon by the Plaintiff and the Defendants above named contained within the Notes and Mortgage, the determination is based upon the equitable maxims, “He who seeks equity must due equity”, “delay defeats equity, or equity aids the vigilant not the indolent” and “Equity will not allow a wrongdoer to profit by a wrong.”

33. Accordingly, the debt Plaintiff is allowed to collect under the Notes, with interest at the rate provided in the Notes, Subsidy and other costs and expenses of collection, including attorney's fee, secured by the Mortgage is hereby limited to the following:

a.	Principal due as of October 8, 2024	\$68,597.03
b.	Interest from August 5, 2018, the date of default, through August 5, 2020, the date of hearing, at 4.875%	\$6,705.12
c.	Late Charges before being sent to attorney for collection	\$59.29
d.	Subsidy granted	\$235.20
e.	Escrow/Impound required	\$1,230.05
f.	fees required with payoff:	
	o Escrow fees =	\$3,630.92
	o Caretaking fees =	\$7,819.18
	o Interest on fees =	\$1,017.45
g.	Attorney's fee	\$2,500.00
h.	Costs of collection prior to hearing	\$1,067.06
	 Total Debt due under the Note, Subsidy and Mortgage, including interest to date shown	 \$92,861.30

Per Diem at \$9.16

34. The Plaintiff is seeking foreclosure of the Mortgage against all Defendants, and its right to a deficiency judgment against Defendant Eric M. Vaughn is expressly waived.

35. SCDOR is named a defendant herein by virtue of any right, title, claim or interest in may have in the property subject of this action arising from a tax lien against Eric Vaughn bearing tax lien number 956981 in the sum of \$330.35. Any interest of said defendant is subsequent and junior to Plaintiff's Mortgage.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

The Plaintiff should have judgment of foreclosure of the Mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The Defendant(s) named herein and all persons whosoever claiming under him be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said mortgaged premises so sold, or any part thereof.
2. Plaintiff's Mortgage constitutes a first lien on the subject property.
3. There is due to the Plaintiff on the obligation and Mortgage set forth in the Complaint the sum of **\$92,861.30** representing the total debt due Plaintiff as set out in the Findings of Fact *supra*.
4. The attorney fees included herein are fair and reasonable given (1) the nature of these proceedings, (2) the time actually devoted to the matter; (3) the professional standing of attorney who regularly represents clients in matters of this type as a partner in an AV rated firm; and (4) for the beneficial results that client has received.
5. The amount due in the preceding paragraph (the "Total Debt" as set forth hereinabove) shall accrue interest at the rate of 4.875% per annum and together with such interest shall constitute the total debt due the Plaintiff.

5. The judgment amount may be subject to increase to permit the Plaintiff to recover additional costs and expenses incurred within the foreclosure process and authorized under South Carolina law. Such additional costs and expenses shall be established by affidavit and shall be submitted to the Court without further hearing. Said affidavit must be presented to the Court for consideration within ten (10) days from the date of sale and must include supporting documentation. Jurisdiction over each component of the total debt is reserved to the undersigned to determine and to facilitate the assessment and payment of any such costs and/or assessments.

6. On or before the date of sale of the property hereinafter described, Plaintiff or Plaintiff's attorney, is to be paid the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

7. On default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, shall be sold by the undersigned Master in Equity for Horry County at public auction, at the Horry County Courthouse, 1301 Second Avenue, Conway, County and State aforesaid, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on some other day appointed by the Court), on the following terms, that is to say:

A. FOR CASH: The undersigned Master in Equity for Horry County will require, at the time of the bid, a deposit of five (5%) percent on the amount of the bid (in cash or equivalent) same to be applied on the purchase price if compliance is made; but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to make the required deposit at the time of bid or comply with the other terms of the bid

within thirty (30) days, then the property may be re-sold on the same terms and conditions on some subsequent sales day, but at the risk of the defaulting bidder(s).

B. The successful bidder at the sale should be required to pay interest from the date of sale at the judgment rate of interest of 4.875%. at the per diem rate of \$9.16 to compliance.

C. The sale shall be subject to taxes and assessments, existing easements and restrictions and easements and restrictions of record, and any other senior encumbrances.

D. Plaintiff to pay for any statutory commission on sale from the proceeds of sale, and Purchaser to pay for deed preparation, costs of recording the deed and deed stamps.

8. A personal or deficiency judgment is specifically waived, bidding will conclude at the **fall of the gavel** on the date of the sale.

9. The undersigned Master in Equity for Horry County, will by advertisement according to law, give notice of the time, and place of sale; advertisement shall not be initiated any sooner than six weeks prior to the scheduled sales date; and the terms thereof, and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within thirty (30) days after date of sale, then the undersigned Master in Equity for Horry County may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

10. The undersigned Master in Equity for Horry County will apply the proceeds of sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

NEXT: To the payment to the Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same.

NEXT: Any surplus will be held pending further Order of this Court.

11. The Plaintiff shall have judgment of foreclosure.

12. If the Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses, and the indebtedness of Plaintiff in full, Plaintiff may pay to the undersigned Master in Equity for Horry County only the amount of the costs and expenses, crediting the balance of the bid on Plaintiff's indebtedness.

13. Should the Plaintiff, Plaintiff's attorney or agent fail to appear on sales day, the property shall not be sold, but shall be re-advertised and sold at some convenient sales day thereafter when the Plaintiff, Plaintiff's attorney or agent is present.

14. In the event of surplus funds and upon notification of the same, the Plaintiff shall provide this court Mortgagor's contact and identifying information ("Ordered Information") from their files so that Mortgagor may be located and notified of any remaining surplus funds. Ordered Information includes, but is not necessarily limited to the following: names, most recent mailing address, most recent email address, phone numbers, date of birth and social security numbers. Ordered Information provided to this court shall be kept confidential, shall be used for the sole purpose of notifying Owners of remaining surplus funds, and shall be destroyed upon distribution of attributable surplus funds. Ordered Information will not be published in the public record. Ordered Information required by this court shall be provided to the court within a reasonable time period.

15. In the event the successful bidder is other than the Defendant in possession herein, upon the presentation of a Writ of Assistance, the Sheriff of Horry County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all

personal property located thereon, and put the successful bidder or his assigns in such peaceable possession. Removing the personal property shall not cause a public nuisance.

16. The successful bidder upon timely submission of the bid deposit shall be entitled to payoff amounts from any lienholder associated with the property that is the subject of this action. Liens include, but are not limited to, mortgages, statutory liens (mechanic's liens, property owners' association liens or other liens created by operation of law), judgments, tax liens and others. In the event the Plaintiff is the successful bidder, Plaintiff shall also be entitled to payoff amounts from lienholders. Lienholders shall provide payoff information within ten (10 days) of request.

17. The deed of conveyance made pursuant to this sale shall be indexed in the grantor index by the Register of Deeds in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the undersigned Master in Equity for Horry County, who executes such deed as grantor.

18. The Master in Equity for Horry County shall direct the Clerk of Court/Register of Deeds to release of record the mortgage lien being foreclosed after the Order Confirming Sale and Disbursements has been executed and filed, which mortgage lien is described as follows:

That certain Mortgage given by Eric M. Vaughn to United States of America acting through the Rural Housing Service or successor agency dated April 5, 2010, and recorded in the Office of the Clerk of Court/Register of Deeds for Horry County on April 6, 2010, in Book 5244 at Page 128.

19. The undersigned Master in Equity for Horry County will retain jurisdiction to do all the necessary acts incident to this foreclosure including, but not limited to, the issuance of a Supplemental Order to evidence additional debt incurred if the sale of the property is delayed by the filing of a bankruptcy petition, transfer of service of the Note and Mortgage by the Plaintiff, or an attempt of the parties to reach a settlement, the issuance of a Supplemental Order to correct a

harmless error in the action that does not substantially affect the rights of the parties, the issuance of a Writ of Assistance, disposing of any surplus funds pursuant to Rule 71(c), SCRCP, and hearing any issues involving appraisal proceedings under S.C. Code Ann §29-3-680 et seq (1976) as amended.

20. The mortgaged property to be sold by the Master in Equity for Horry County is described as:

All and singular, all that certain piece, parcel or lot of land, lying and being in Conway Township, Horry County, South Carolina, being designated as Lot No. 121, as shown on a map prepared by S.D. Cox Surveyors, Inc., dated December 16, 1977, Pine Valley Estates, Phase Two. A copy of said map is incorporated herein as forming a part of this description.

This being the same property conveyed to Eric M. Vaughn by deed of All Star Financial, LLC dated April 5, 2010 and recorded in the Office of the Register of Deeds for Horry County on April 6, 2010 in Book 3453 at Page 2810.

TMS No.: 1501711033
Address: 615 Ford Circle, Conway, South Carolina 29526

[MASTER IN EQUITY ELECTRONIC SIGNATURE PAGE TO FOLLOW]

February _____, 2025.
Horry County, South Carolina

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF HORRY**

IN THE COURT OF COMMON PLEAS

**JUDGMENT IN A CIVIL CASE
CASE NO.: 2023-CP-26-06121**

United States of America acting through the Rural Housing Service or successor agency, United States Department of Agriculture,

PLAINTIFF,

Eric M. Vaughn, South Carolina Department of Revenue, and Occupant(s),

DEFENDANTS.

Submitted by: HARRELL, MARTIN & PEACE, P.A. Taylor A. Peace, SC Bar #100206 Jamie A. Weller, SC Bar #105548 135 Columbia Avenue, Post Office Box 1000 Chapin, South Carolina 29036	Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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/hearing before the court. The issues have been tried or heard and 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 _____
 NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE COURT RULING IN THIS APPEAL.

RECEIVED
Apr 10 2025
SC Court of Appeals

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 PUBLIC 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)
United States of America acting through the Rural Housing Service or successor agency, United States Department of Agriculture	Eric M. Vaughn	THE PROPERTY WHICH IS THE SUBJECT OF THIS ACTION BE SOLD AT PUBLIC SALE PURSUANT TO THE JUDGMENT OF FORECLOSURE AND ORDER FOR SALE. \$n/a
If applicable, describe the property, including tax map information and address, referenced in the order: TMS No.: 1501711033 Address: 615 Ford Circle, Conway, South Carolina 29526		

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.

_____, 20____
 Alan Clemmons
 Master in Equity for Horry County



Horry Common Pleas

Case Caption: United States Of America , plaintiff, et al VS Eric M Vaughn ,
defendant, et al
Case Number: 2023CP2606121
Type: Master/Order/Foreclosure & Sale and Form 4

So Ordered

s/Alan D. Clemmons 3088 Master in Equity

Electronically signed on 2025-02-09 14:21:32 page 16 of 16