

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE CHARLESTON
Mikell R. Scarborough, Master In Equity Court

Vandora M. Huggins-Edwards, Appellant

v.

Deutsche Bank National Trust Company
As Trustee of Amerquest Mortgage Securities, Inc.
Asset Backed Pass Through Certificates,
Series 2005-R4CGM under The Pooling and Serving
Agreement dated as May 01, 2005, without recourse, Respondent

RECORD ON APPEAL

Vandora M. Huggins-Edwards
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(843)801-7392
PRO SE for Appellant

Rogers, Townsend and Thomas
220 Executive Center Drive (29210)
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Eve Moredock Stacey Attorney for Plaintiff
John J. Hearn Attorney for Plaintiff
Sean M. Forester Attorney for Plaintiff
Attorneys for Respondent Deutsche Bank
National Trust Company, as Trustee of
Amerquest Mortgage Securities, Inc., Asset
Backed Pass through Certificates, Series
2005-R4CGM under Pooling and Servicing
Agreement dated May 1, 2005, without
Recourse

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SC Court of Appeals

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The Appellant proposes the following be included in the Record on Appeal:

1. That on the Record of Appeal the Appellant Vandora M. Huggins-Edwards is not an attorney.

I'm presenting this instrument to the South Carolina Court of Appeals, Honorable Jenny Abbot Kitching to my best understanding of the South Carolina Appeal Rules as well as to my understanding to the South Carolina Laws.

2. That on the Record of appeal the Appellant will submit on the Record of Appeal the Respondent Attorney is requesting that this court rule on the foundation in the Table of Authorities based on Cases that are similar to Foreclosure action 2006-CP-10-2859. With all due respect the Appellant request that this Court take into consider the Laws that apply to South Carolina Laws that are different throughout each State. The Appellant is requesting that this Court of Appeals to rule as the see the eyes of Law in the Matter of Foreclosure action 2006-CP-10-2859.

3. That on the Record of Appeal the Appellant discovered that the Respondent Attorney Rogers Townsend attorney John J. Hearn signed and filed a motion to Amend Complaint civil action 06/2859. That accordance to this instrument Master in Equity Court scheduling ordered filed on December 15, 2010 this motion claiming Notice Required by the Fair Debt Collection Practices Act 15 U.S.C. Section 1601, As Amended. AS FEE SIMPLE for attorney fees on behalf of Deutsche Bank, Trustee for Ameriquet the original mortgage lender.

4. That on the Record of Appeal as described on November 24, 2010 the Master-in Equity Honorable Judge Mikell Scarborough Granted ordered of judgment that Deutsche Bank National Trust Company as Trustee of Ameriquet the Creditor named in action 06/2859 is not the original creditor.

5. That on the Record of Appeal the Law Firm of Roger Townsend & Thomas, PC, Law Firm will be is the bent fiery of the \$300.000.00 Judgment that Granted by the Master in-Equity Court

final order Granted on February 28, 2012.

6. That on the Record of Appeal the Law Firm of Rogers Townsend would come back to Petition the Lower court for Deed and title to Foreclosure Lot 322, lot 323 as Fee Simple for Attorney Fees owed by Deutsche Bank National Company, as Trustee of Amerquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated May 1, 2005, without recourse.

7. That on the Record of Appeal to demonstrate poor defense my paid attorney Arthur McFarland did not objected to the authenticity of the documents or admissibility of the original Amerquest Mortgage Note (Plaintiff Trail Tran Exh.17) and of the Assignment of the Amerquest Mortgage to Deutsche Bank. (Plaintiff Trail Tran Exh. 18)

8. That on the Record of Appeal Amerquest still owns the Original Mortgage Note.

9. That on the Record of Appeal final order of the lower courts base on the Master in Equity erred in its final ordered stating in its final order that Vandora M. Huggins-Edwards is breached the term of the original note.

10. That on the Record of Appeal as described in the Respondent Attorney Motion for Partial Summary Judgment filed on December 29, 2011 it clearly states that Lucille Huggins Is Borrower of the Novstar Mortgage Note BK W476 PG. 16. (RT. Part Sum Jud Mot. Exh.1)

11. That on the Record of Appeal as described in the Respondent Attorney Motion Motion for Partial Summary Judgment filed on December 29, 2011 it clearly states that Lucille Huggins Is the Borrower of the Amerquest Mortgage Company on May 06, 2005. (RT.Par Sum Jud Mot. Exh.2)

12. That on the Record of Appeal in the Amerquest closing attorney Satisfaction of Mortgage BK Y539pg306 for the Borrower Lucille Huggins November 25, 2005.(RT Par Sum Jud Mot Exh. 3,4)

13. That on the Record of Appeal The Master In Equity erred in its Final Order filed on April 05, 2012 Granting Judgment of foreclosure in the amount of \$306,066.94, to have the Subject Property sold at a foreclosure sale, and to a deficiency judgment against Vandora M. Huggins-Edwards in the event that the foreclosure sale proceeds to satisfy the Total Debt. That lower court erred in not holding Lucille Huggins account bile for the \$ 92,490.22 she Borrower from Ameriquest Mortgage. (RT. Par Sum Jud Mot. Exh.3)

14. That on the Record of Appeal The Law Firm of Roger Townsend and Thomas & PC, Attorney for Deutsche Bank National Trustee had three attorneys that signed and submitted documents to the lower Court: Attorney Eve Moredock- Stacey, Attorney John J. Hearn and Attorney Sean M. Foerster.

15. That on the Record of Appeal the Respondent Attorney Eve Moredock Stacy filed Summons and Notice Foreclosure of Real Estate Mortgage filed on July 24, 2006, Foreclosure action 2006-CP-10-2859: Deutsche Bank National Trust Company Trustee for Ameriquest Plaintiff, Vandora M. Huggins-Edwards Defendant this clearly show cause of action

16. That Lucille Huggins the borrower of the Original Ameriquest Note and was never sent a Summons and Notice of the original of foreclosure action 06/2859 filed by the Respondent Attorney Eva Moredock Stacey on July 24, 2006.

17. That on the Record of Appeal a foreclosure hearing was scheduled on September 18 , 2006 No one from the Law Firm of Rogers Townsend & Thomas PC appeared for this hearing. The appellant and then Charles Houston appeared from the hearing. On this day the Master Equity Court Honorable Judge Scarborough did not dismiss the hearing because he was not there. The hearing was dismiss Charleston County foreclosure clerk Harriet Hendricks, she told us after waiting for hours no one for the Respondent Attorney office was going to appear. They were several other people waiting that day for some to appear for this hearing in the Master in

Equity court. That on December 11, 2010 Harriet Hendricks was fired from the Master In Equity After coming with a money making idea of putting together a list of foreclosure property in Charleston, South Carolina and selling them to Law Firms such as Rogers Townsend & Thomas .

18. That on the Record of Appeal the Appellant Vandora M. Huggins-Edwards in Charleston County Court of Common Pleas filed on October 09, 2006 Notice of Motion and Motion to Set Aside Entry of Default in the matter of foreclosure action 06/2859, to show cause of Poor defense my Attorney Arthur McFarland never request a hearing for this matter, nor Did my attorney did present this document to nor did my attorney mention this Motion at the At the Trail hearing on February 28, 2012.

19. That on the Record of Appeal I certified letter on August 24, 2006 from an AMC Mortgage Service, Inc. the company that services the mortgage for Ameriquest. This letter stated the right to cancel my mortgage with Ameriquest. I was informed that Ameriquest was several Litigation for Violation of the Truth and Lending Act various other violation. Let the record show cause of action the Ameriquest mortgage was in the Federal Court during the Assignment of Mortgage to Deutsche Bank as it Trustee. Let the record show that Respondent Attorney did not attach nor did the Respondent Attorney filed a Power of Attorney from Deutsche Bank to demonstrate that they are representing Deutsche Bank so far all there is the Respondent Attorney filing documents on its behalf.

20. That on the Record of Appeal Ameriquest was fully of aware of the titles issues prior to the Assignment of Mortgage. Let the record show the Respondent Attorney is the Judicial System to Quite a difficult that the subject property was already in litigation with Ameriquest fraudulent mortgage loans.

21. That on the Record of Appeal the Ameriquest closing attorney Paul Ferrara willfully,

knowingly and purposely omitted Lucille Huggins name on the Original Mortgage Note when he filed this instrument in Charleston County RMC office. Let the record show the Respondent attorney acknowledge the underlying fact that Lucille Huggins is Prime borrower of foreclosure action 06/2859 as described in the Respondent Attorney Motion for Partial Summary Judgment filed on December 29, 2011 Exh. 1, 2, 3, 4.

22. That on the Record of Appeal the Ameriquest closing attorney Paul Ferrara did not appear at the Trail hearing on February 28, 2012 to verify the validity of the Original Mortgage Note BK R 534 pg. 330, to testified to the fact he did not a title search for the subject property prior to the closing of the original mortgage note. Let the record show Mr. Ferrara actions clearly demonstrate that the full knowledge that mortgage note was done with his unclean hands. Let the record show I was the victim from the day I signed this mortgage note.

23. That on the Record of Appeal that is described in the settlement statement Mr. Ferrara At closing was paid by Ameriquest to do a title search.

24. That on the Record of Appeal Carolina Nation Title Company should also be held Accountable as described in the Security Instrument 3.5 clearly state that the title insurance must the Title policy. On April 06, 2005 the day of the closing the subject property owners are Vandora M. Huggins- Edwards and Buster Huggins Sr. knowing this information Carolina Nation Title Company still approved title insurance on the subject property.

25. That on the Record of Appeal the contents that Respondent Attorney attached to Foreclosure action 06/2859 the Estate of Henry B Huggins Jr., the Estate of Rickey Henry Huggins and the Estate of Michelle Huggins simply to prolong the foreclosure action claiming that it took years to contact all heirs of Buster Henry Huggins Sr. On the day of the Trail hearing the lower court lack jurisdiction assigning the above Estates as heirs to the subject property owned by the Buster Henry Huggins Sr. To show of action none of the above Estates petition

Charleston County Probate Court in the matter of Buster Henry Huggins Sr. ES 2004-ES-10-1585
After the initial estate was open.

26. That on the Record of Appeal the lower Court erred in using the testimony of Sharon H. Smack to design her list of heirs to Buster H. Huggins Sr. estate 04/1585 after the allowable Time under the Laws of the Charleston County Probate court.

27. That on the Record of Appeal David J. Merrill affidavit disputes his sworn testimony at the Trail Hearing on February 28, 2012 when he did in fact establish in his testimony clearly stated that Lucille Huggins did sign the original Mortgage agreement.

28. That on the Record of Appeal the lower court erred in using the testimony of David J. Merrill The employee of American Home Mortgage Services to establish that Vandora M. Huggins-Edwards sole owner. Let the record the undisputed evidences clearly demonstrate that Mr. Merrill show cause of action he had full knowledge of the title issues prior to his testimony.

29. That on the Record of Appeal at the trail hearing the lower court used the testimony of David J. Merrill to establish validity of the original mortgage note. Let the record show that David J. Merrill was not the Ameriquest closing attorney. Mr. Merrill affidavit only states that The appellant Vandora M. Huggins-Edwards is the sole borrower in the matter of foreclosure property.

30. That on the Record of Appeal the Appellant has demonstrate by the preponderance of Evidence that Vandora M. Huggins-Edwards is not the sole borrower of the original mortgage note.

31. That on the Record of Appeal the Appellant is respectfully request that South Carolina Court of Appeal in its final order convey the Original Mortgage Note deed Bk R 534 pg. 330 to Vandora M. Huggins-Edwards cause of action a victim of predatory lending and fraud.

The on the Record of Appeal let the record clearly demonstrate that John C. Bigler is not

A party of interest in the matter of foreclosure action 06/2859.

32. That on the Record of Appeal John C. Bigler never filed a formal Summons or Complaint with Charleston County Court of Common Pleas that he was a party interest in the matter of foreclosure action 06/2859 and joint civil action 2007-CP-10-2596.

33. That on the Record of Appeal the Respondent Attorney Sean M. Forester in its initial brief Fail to inform this court that on May 18, 2008 foreclosure action 06/2859 and civil action 07/2596 was once a joint action. This is how and when the Respondent Attorney then John J. Hearn introduced John C. Bigler into the foreclosure action 06/2859 without any Administrative Judge approval.

34. That on the Record of Appeal this is not the first delinquent tax property that John C. Bigler Purchased at Charleston County Delinquent tax auction.

35. That on the Record of Appeal John C. Bigler on October 01, 2007 was the successful bidder Delinquent tax property description 418-05-00-280 and purchased the property AS is.

36. That on the Record of Appeal John C. Bigler received a clear title to property 418-05-00-280 on July 10, 2009 seventeen after his purchase.

37. That on the Record of Appeal the County Treasure of Charleston Count issued a tax Execution Directed to the delinquent tax collector Mary Scarborough by authority of said Acts of the General Assembly of South Carolina and statutes of this state against the defaulting taxpayer Lucille Huggins Etal. Let record show that Lucille Huggins left a will.

38. That on the Record of Appeal John C. Bigler is not entitled to quite title in foreclosure action 06/2859 and let the record show that Mr. Bigler is not entitled to purchase additional property to enhance his profit sale on his delinquent tax purchase property.

39. The on the Record of Appeal the Delinquent Tax sale purchase is fraud and the Respondent Attorney step in and assistant Mr. Bigler with his purchase.

40. That on the Record of Appeal Charleston County Delinquent Tax collector Mary M.

Scarborough sworn testimony on the day of the trail hearing contradict the information found in John C. Bigler delinquent tax deed Bk. 0067 pg. 755.

41. The on the Record of Appeal the Appellant is respectfully requesting

that this court convey John C. Bigler deed book 0067 pg. 755 to Vandora M. Huggins-Edwards due to the underlying fact that Mr. Bigler committed fraud to obtain this property.

42. That on the Record of Appeal of the Lower court erred in granting an \$83,000.00

Judgment order for attorney fee, please take into consider that Respondent attorneys took six years to unsuccessfully cover up the Original mortgage note that was done with unclean hands by the Ameriquest closing attorney Mr. Ferrara intention was done by human error his action is clearly demonstrated as intentional in order to close the mortgage on the subject property for profit.

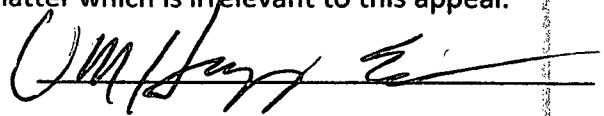
43. That on the Record of Appeal the Respondent Attorney Designation of Matter do not Include any explanation as how or when John C. Bigler became a party of interest in the matter of foreclosure action 06/2859.

44. That on the Record of Appeal I the appellant still live in the house of the subject property 1218 Gunn Ave. Charleston, S.C. 29407

45. That on the Record of Appeal the appellant is submitting the original Trail Transcript Trail before the Honorable Mikell R. Scarborough, reported by Bernadette A. Cali, CSR and Notary Public, at 10:00 a.m. on February 28, 2012 at 100 Broad Street, Charleston, South Carolina.

I certify that this Record on Appeal contains no matter which is irrelevant to this appeal.

September 16, 2013



Vandora M. Huggins-Edwards Pro Se
1218 Gunn Avenue
Charleston, South Carolina
(843)801-7392

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE CHARLESTON COUNTY

MASTER IN EQUITY COURT

HONORABLE JUDGE MIKELL R. SCARBOROUGH

Case No. 2006-CP-10-2859

Appellate Case No. 2012-212524

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgages Securities, Inc. Asset Backed Passed
Through Certificates, Series 2005-R4CGM under the Pooling
And Serving Agreement dated as May 01, 2005, without recourse,

Respondent,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards; Sylvia Anne Lawrence a/k/a Sylviatte Anne Lawrence; Glenn Huggins; Micheal Huggins; Donnell Huggins; Samuel Huggins; Ira S. Huggins; Derwin Huggins; Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton; Sharon H. Smack; Dewayne Dixon; Kimberly Nelms; Timothy Nelms; Jennifer Nelms; Michael A. Brown; Demetrius Huggins Nelms; a minor, Darius Simmons; a minor, Dondre Simmons; a minor; Reginald Huggins; Joseph Huggins; Heather Huggins; Barbara Huggins; any other Heirs-at-Law or Devisees of Rickey Henry Huggins, Deceased their heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them; any other Heirs-at-Law or Devisees of Henry Buster Huggins, Jr., Deceased, their heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them; any other Heirs-at-Law or Devisees of Michelle Huggins; Deceased; theirs heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them; any other Heirs-at-Law or Devisees of Buster Huggins Sr., Deceased, theirs heirs, Personal Representative, Administrators, Successors and assigns, and all other persons entitled to claim through them; all unknown persons with any right, title or interest in the real estate described herein; who may be in the military service of the United States of

persons disability being a class designated as Richard Roe; South Carolina Department of Revenue; Safeway Finance; Ford Motor Credit Company; General Motors Acceptance Corporation; White Directory Holding Carolina, Inc. d/b/a The Talking Phone Book; Monogram Credit Card Bank of Georgia; Michael Twitty; Deborah Twitty; The United States of America, by and through its agency, The Internal Revenue Service; and John C. Bigler..... Defendants,

Of Whom Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards _____Appellant.

Brief of Appellant

Vandora M. Huggins-Edwards
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(843) 801-7392
Appellant-Pro Se

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(803) 771-7900
Attorney for Respondent

Motors Acceptance Corporation; White Directory Holding Carolina, Inc. d/b/a The
Talking Phone Book; Monogram Credit Card Bank of Georgia; Michael Twitty;
Deborah Twitty; The United States of America, by and through its agency, The
Internal Revenue Service; and John C. Bigler..... Defendants,
Of Whom Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards _____ Appellant.

PROOF OF SERVICE

I HEREBY CERTIFY that I have served the Record on Appeal and Initial brief
the Respondent Attorney on September ~~18~~²⁴, 2013 BY HAND DELIVERY addressed to
following on record;

Sean M. Foerster
Rogers & Townsend & Thomas PC
P. O. Box 100200 (29202)
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(803) 771-7900

Attorneys for Respondent Deutsche Bank
National Trust Company, As Trustee of
Amerquest Mortgage Securities, Inc.
Asset Backed Pass Through Certificates,
Series 2005-R4CGM under pooling
And Servicing Agreement dated May 1, 2005,
Without recourse


Vandora M. Huggins-Edwards
1218 Gunn Avenue
Charleston, South Carolina
(843) 801-7392

The Appellant-PRO SE

NOW, On July 16, 2012 I Vandora M. Huggins-Edwards the Appellant in this action petition on the Record of Appeal in the Court Appeal relief in the matter of foreclosure action 2006-CP-10-2859.

The Respondent attorney has no factual evidence to support the claim made in regards to foreclosure action 06/2859 that Deutsche Bank Trustee for Ameriquest. There were no affidavits or testimony by the Main Respondent to show cause or deposition to Support said issue in this action to the lower courts as well as the Court of Appeal.

The Respondent Attorney did not produce any document pertaining to the Subject Property from beginning to present; who carry the Original Note on The subject property described at the trial hearing on the day of February 28, 2012, if the Respondent Attorney had not produced the Proper witness's testimony to support it claims and the proper legal documents on the day of the trial hearing to support its claim.

That it would have been easier to settle all issue at present in this action. Uniformed Commercial Code Law Section 1-201(3) (12) (23) (31) (34) (36) this step is to ensure fair and impartial negotiation was and is being made to clear issues. Sec. Eric v. Tompkins 304 U.S. 64, 58 S. Ct. 817, 82 2 Ed. 1188.

No attorney has a legal right to sign and document pertaining to the subject property, unless he/she is registered by Law to do so-real-estate.

Fraud and Conspiracy-read 18 U.S.C., section 371. Uniformed Commercial Code 3-305 1, 2.

There is no legal Lawful money in circulation today, Article 1, section 10, Clause 8, remedies at Law; money is debased, UCC 1-207. No one can pay a debt if no money in circulation to pay off and debit if no money in circulation to pay off a debt, federal Reserve Notes (money is Void). See Jerome Daley v. Minnesota Bank.

In 1933 President Roosevelt passed HJR 192 June 1933, since the Government took the reward and this the people had no money, the Government would pay the debts for the people thereby giving them Unlimited credit. This legislation states that one cannot demanded from you a certain form of currency such as the Assignment of Mortgage.

Since any form and all forms of currency and Mortgage Notes are your credit. That Deutsche Bank Trustee for Ameriquest is in breach of Public Law: PL 73-10 as described in the Ameriquest Closing Security Instruments.

It would have been easier to settle all issues at present, including John C. Bigler delinquent tax purchase.

Fraud vitiates the most solemn of contracts, sec U.S. v. Throckmorton, Fraudulent credit is wrong on the part of the bank, Neal v. Clark.

Biblical Law 'Common Law', supersedes all Laws, "Christian is custom, Custom is Law, Public Law 97-280, and 96 stat. 1211, as the year of Bible (1983).

2. That the appellant Vandora M. Huggins-Edwards will demonstrate that due ineffective assistance of counsel, my attorney Arthur McFarland on February 28, 2012

was appointed by the appellant in the matter of foreclosure action 06/2859 and then joint action 2007-CP-10-2596. My attorney did not offer any defense in the matter of foreclosure action 2006-CP-10-2859 and joint civil action 07/25 96. Ref. Plaintiff Trail Hearing Transcript 2/28/12 pg. 13 (ref. pg.26)

3. That the Respondent Attorney Sean Forester submitted its Affidavit of Attorney's Fee And Costs on the day of the Trail Hearing 02/28/12 to the Lower Court in the amount of \$83,000.00. On the same day of the Trail Hearing 02/28/12, the Lower Court at the end of day the Lower Court awards the Respondent Attorney fees. Plaintiff affidavit Ref. pg. 12.

4. That in consideration the Appellant Attorney offered no defense nor it did he Appellate attorney dispute or object filed any Motions against the respondent attorney claim Affidavit of Attorney Fees in the amount of \$83, 0000.00 that not submitted to him prior to the trail hearing on 02/28/12. Ref. pg. 12. Plaintiff Attorney Fees

5. In the Respondent Attorney Affidavit of Attorney's Fees and Cost, Deficiency Judgment Demanded was only against Vandora M. Huggins-Edwards, The Law Firm Of Rogers Townsend & Thomas, PC, to foreclosure the mortgage that is the Subject of this action. The Plaintiff (Deutsche Bank) instructed this firm to handle this action as expeditiously as possible. Ref. pg. 12. Plaintiff Attorney Fees.

6. That in consideration the Respondent Attorney took six years to complete this foreclosure action 06/2859, in order for John C. Bigler to be the successful tax purchaser to the adjoining property within the six years. Ref. pg. 3, ref. pg. 10.

7. That in consideration the Respondent Attorney John J. Hearn and Sean M. Forester had full knowledge to underlying fact that Lucille Huggins left a will composed by her attorney W. H. Brockinton Sr. that is filed in Charleston County Probate Court. In this instrument it does not include John Kachmarsky as tenant in common to her

Estate. Ref. pg. 23 Plaintiff Trail Hearing Trans. Exh.9

8. That into consideration that Buster Huggins Sr. left no will, but yet his attorney W. H. Brockinton Sr. opened his estate that does not show cause of action that Buster Huggins Sr. conveyed the Master Deed bk. U 104 at pg. 134 to the Plaintiff John Kachmarsky Deed Bk. 400 at 505 in lieu of attorney fees in his affidavit to demonstrate how and why the attorney in matter of 93-ES- 1108 in the matter of the estate of Henry B. Huggins Jr. whom name is not listed on John C. Bigler delinquent tax deed. Vol. II Ref. pg. 42 Defendant trail hearing Exh. 1.
9. That in consideration John C. Bigler waited from October 02, 2008 until April 06, 2009 to pay his final fees to obtain his tax deed. That the Respondent Attorney Sean M. Forester received a the Judgment Order for the Partial Summary Judgment signed by Mr. Hearn April 09, 2009 in the matter of civil action 07/2596, the Plaintiff in this Action is John Kachmarsky. Vol. II Ref. pg. 47; Def. Exh. 6.; vol.II Ref pg. 45; Def Exh. 4.
10. That into consideration SC Tax Commission the Laws demand that Mary Scarborough collect the final fee from the successful tax bidder a year and day after purchase, from John C. Bigler. Ms. Scarborough waited seventeen months to collect final fees of \$138.00 to obtain the tax deed after the allowable time by law. Ref. vol. II pg. 47.; Exh. 6.
11. That in consideration that the Respondent attorney stated in its Affidavit of attorney cost that they discovered I did not own a 100% of subject property 06/2596. I the Appellant at time I had no knowledge that the co-borrower Lucille Huggins was refinancing the Original Amerquest Note to pay-off the loan to Nova star which not paid off with U. S. Currency. Ref. vol. II pg. 31; Planf. Exh. 17.
12. That into consideration that on the final closing day Mr. Ferrara the closing attorney

did Not make full disclosure of above issues to the Appellant on the day of the closing Original Ameriquest Mortgage Note that signed for the subject property.

13. That into consideration that the Appellant has proven by the preponderance of documentary evidence above that the closing attorney Mr. Ferrara did not supervisor a title search, Mr. Ferrara actions clearly demonstrates that he personally did not do the title search when he read Deed Bk. Y517 pg. 835 Ref.. vol. I pg. 9

14. That the documentary evidences further below will show cause of action that the Respondent attorney then John J. Hearn discovered that the Original Ameriquest Note was done with unclean hands that is demonstrated by the actions of Mr. Ferrara starting with the Original Mortgage Note.

15. That the documentary evidence show cause of action that the Plaintiff, Deutsche Bank the allege Trustee of the Ameriquest Loan, should be suing the Ameriquest Closing Attorney Paul Ferrara Esquire and Nation Title Company for insuring the Ameriquest Original Mortgage Note for not doing its own title search and they still insured the property. Ref. vol. I pg. 7 Plaintiff Exh. 4.

16. That into consideration that Respondent Attorney in its Affidavit of Attorney fees Is charging the appellant for Subpoena fees for their key witness the Ameriquest Closing attorney Mr. Paul Ferrara whom choose not to appear before the Lower Court, on February 28, 2012. Ref Vol. I pg. 9.

17. That into consideration the Respondent Attorney Sean M. Forester had full Knowledge Mr. Ferrara could not give testimony on the day of the trail hearing on February 28, 2012 in matter of the Ameriquest Original note due to the discovery underlying of fact that the closing attorney Mr. Ferrara was bound by a signed contract that he could not testify against Ameriquest in any court. In other words Mr. Ferrara signed a Gag Order with Ameriquest but yet Mr. Ferrara fail to appear at the trail

hearing on February 28, 2012 to plead his Fifth Amendment rights.

18. That into consideration that the Ameriquest Closing attorney Paul Ferrara composed and signed the Original Mortgage Note refused to give his honest testimony to the Lower Court. To the validity of the Original Mortgage Note. Ref. vol. II pg. 31 Planf. Exh.17

19. That into consideration that the Respondent Attorney Sean M. Forester Affidavit and Attorney Fee & Costs in this instrument the Appellant is being charge for reviewing the Ameriquest closing attorney's Mr. Ferrara closing file this instrument should have been filed along with the Original Mortgage Deed. Ref. vol. pg. 12

20. That into consideration the Respondent Attorney Sean M. Forester documented in It's affidavit of attorney fees and cost it intent ally and purposely withheld the date in which the respondent attorney then, John J. Hearn reviewed the Ameriquest the original files of the closing attorney Paul Ferrara. This instrument date will clearly demonstrate how long the Respondent Attorneys knew about Mr. Ferrara predatory loan and filing the false information on Deed Y517 pg. 835 in order to get the Ameriquest Mortgage Loan approved. Ref vol. pg. 12.

22. That into consideration given the above information Roger Townsend & Thomas PC then attorney John J. Hearn should have immediately contacted the Appellant Lawyer then Charles Houston in 2007 and said to him that they made a grave illegal error was by the Ameriquest Closing Attorney Mr. Ferrara.

23. That into consideration after the Respondent Attorney John J. Hearn discovered the fraudulent documents that the Closing Attorney Paul Ferrara submitted to Charleston County RMC known as Mortgage Bk. R 534 pg. 334 and that the respondent attorney Continue forward by the assignment of Mortgage to Deutsche Bank with this knowledge of fraud is undisputable. Ref vol. II pg. 32;

24. The Closing Attorney Mr. Ferrara and The Respondent Attorney then John J. Hearn never complied with any of the Lower Court scheduling order in the matter of joint foreclosure action 06/2596 and joint civil action 07/2596 to show cause of action that Deed bk. Y517 pg. 835 this instrument clearly demonstrates that Buster Huggins conveyed to Lucille Huggins in Deed Book U476 at page 699 only fifty percent, and Deed bk. A59 pg. 471 clearly demonstrates that Buster Huggins still is own fifty percent of the foreclosure Property on the day of the final closing. Ref. pg. 7; Plaintiff Motion to Amend complaint Exh. 1

25. The appellant has proven by the preponderance of the documentary evidences Deed bk. Y517 pg. 835 was the only instrument submitted to Ameriquest at the time of the appellant loan Application. Ref. pg. 7; Planit Mot to Amen Compl Planf. Exh.3

26. That Mr. Ferrara had full knowledge from the start that I was not 100% percent owner of the foreclosure property and yet he got the Original Mortgage Note approved by intentionally submitting fraudulent information. This dispute the Respondent Attorney claim that the Appellant mislead Ameriquest Mortgage Company and the Closing Attorney Mr. Ferrara on the final closing day. Ref. pg. 12 Trail Hearing Transcript.

27. That into consideration that the Closing Attorney Mr. Ferrara had full knowledge at the time of the Original Mortgage Note that clearly states in the entrustment Deed Bk. Y571 pg. 835 that the foreclosure property is a part Plat F at pg. 188, If the Closing Attorney Mr. Ferrara had done a title search he would have discovered the adjoining property was also owed by Lucille Huggins on day of the closing and that on the final day of closing Lucille Huggins no longer held any interest to the foreclosure property. Ref vol. I. pg.7; Planitf Exh. 1.

28. That into consideration the Ameriquest Closing Attorney Mr. Ferrara testimony would have a made difference in the outcome in the Lower Court decision on the day of the trail hearing on February 28, 2012. Ref. vol. I pg. 10.
29. That into consideration that the Respondent Attorney submitted to the Lower court The Plaintiff's Assignment of Mortgage without validation of the individuals that signed this instrument Ms. Lara the President for Ameriquest could not be reach by phone or by mail correspondence. Ref. vol. II pg. 32 Plant Exh 18.
29. That into consideration that in this instrument no Representative or Attorney for Deutsche Bank formally acknowledges and signed this instrument to show cause of action that Deutsche Bank acknowledge that they agreed to the assignment of the original Ameriquest Mortgage Note. Ref. vol. II pg. 32. Plant Exh 18.
30. That the Assignment of Mortgage that was presented at the trail hearing is just a piece of paper that hold no face value. Simple base on the signature of Rose C. Lara, the Vice President of Ameriquest Mortgage. This person was not a the trail hearing to defend the Ameriquest Assignment of Mortgage. Ref. vol. II Plant Exh 18
31. That into consideration that Appellant Attorney in the Lower Court did not object to The Respondent Attorney submitting the Assignment of Mortgage without the testimony of Rosa C. Lara the Vice President.
32. That into consideration the Respondent Attorney Sean M. Forester to enter as exhibit the Assignment of Mortgage BKC598 pg. 671 this instrument clearly states FOR VALUE RECEIVED his instrument clearly demonstrates during the time of the Assignment of Mortgage to Deutsche Bank no money was in circulation at this time due to the underlying fact that Ameriquest Mortgage Company was undergoing finical difficulties and Legal Issues in the Supreme Courts of during the Assignment of Mortgage to the Plaintiff Deutsche Bank. Ref. vol. 1 pg. 4: Ref. Vol. I pg.5.

33. That into consideration that the Respondent Attorney stated in the Affidavit for Attorney fees that they discovered that John Kachmarsky owner Of JK Properties, no date of discovery was listed in this instrument. Ref. vol. I, pg.12. Let the record show that when the Plaintiff Mr. Kachmarsky stolen this property From my father Buster Huggins by way of Deed BK M 400 at pg. 505 as tenant In common as heir to the estate of Henry B. Huggins Jr. he was overwhelm with The free property he stole, Mr. Kachmarsky an Real Estate attorney he failed to do a Survey and title search prior to presenting his case to the Probate Court.

34. That into consideration that the Appellant Vandora M. Huggins-Edwards in 2004 filed a small claim action against the Plaintiff in the matter of 07/2596 stating that the Plaintiff Mr. Kachmarsky should pay rental fee for the house that sat on Foreclosure lot 323, the small claim court dismiss without prejudice due to lack of jurisdiction.

35. That in consideration Mr. Kachmarsky filed three years later and discovering that the Appellate was in foreclosure of the adjoining property Mr. Kachmarsky the owner of JK Properties, LLC filed on June 19, 2007 Civil action 2007-CP-10-2596 naming Deutsche Bank Trustee for Ameriquest Mortgage as Defendant to Quite Title and Encroachment.

36. That into consideration the Respondent Attorney Sean M. Forester in its Affidavit of Attorney Fees and Cost is now allowing the Appellant to submit into documentary? evidences to the Court of Appeal into exhibit copy of civil action 2007-CP-10- 2596 the Summons and Complaint of JK Properties owner John Kachmarsky filed in Charleston County Clerk of Courts Julie J. Armstrong on June 19, 2007.

37. That into consideration the Respondent Attorney John J. Hearn had full knowledge to the underlying fact that John Kachmarsky never paid the delinquent property

Taxes Deed Bk. M400 at pg. 500 for the year of 2006 and 2007 prior to filing civil action 07/2596 on June 19, 2007. Claiming Deutsche Bank as defendant in this action.

38. That into consideration as describe in the Affidavit of Attorney's Fee and Costs the Respondent Attorney John J. Hearn acknowledge that he signed on May 18, 2008 agreed to a consent order consolidating Foreclosure Action 2006-CP-10-2859 and the Plaintiff JK Properties, LLC Civil Action 2007-CP-10-2596 as a one action.

39. That into consideration the Respondent Attorney John J. Hearn had full knowledge that Mr. Kachmarsky had legal grounds to pursue this lawsuit and it action was Frivolous Action on grounds Mr. Kachmarsky he filed a lawsuit with unclean hands.

40. That into consideration the Respondent Attorney Affidavit of Attorney Fees and Cost Show cause of action that they been monitoring the tax sale of Adjoining property Since they received the Summons and Complaint for civil action on June 19, 2007. Ref. vol. II pg.45. Mr. Bigler delinquent tax purchase on October 01, 2007.

41. That into consideration the Respondent Attorney John J. Hearn signed and submitted counterclaim and cross claim May of 2008 in this instrument clearly Mr. Hearn states that he has knowledge to the inconsistency of the deed that JK Properties Owner John Kachmarsky submitted to Charleston County office of RMC as evidences of Fraud.

42. That into consideration that in this instrument John J. Hearn is submitting documentary evidences that he acknowledge the underlying fact he knew in 2008 that John C. Bigler was the successful tax bidder to the adjoining property since October 01, 2007. Ref vol. II pg.45

43. That into consideration the Respondent Attorney John J. Hearn filed in the Court of Julie J. Armstrong on February 16, 2009 a Partial Summary Judgment in the matter of civil action 07/2596 of joint action to foreclosure action 06/2859 the Motion is based on

John C. Bigler the successful Tax purchaser. Ref. vol. I pg. 11.

44. That into consideration The Respondent Attorney John J. Hearn signed this Instrument and failed to file a copy of it action in the matter of foreclosure action 06/2589 and then joint action 07/2596. Ref. vol. I pg. 11.

45. That into Consideration the Respondent Attorney John J. Hearn had full knowledge that he himself just penciled in John C. Bigler into both actions 07/2596 and 06/2859 without seeking any Administrative Judge approval from any of the lower court requesting that Mr. Bigler to be a party of interest in the matter of foreclosure action 06/259 and civil action 07/2596 the Plaintiff in this action is JK Properties LLC not John C. Bigler as the Plaintiff in civil action 07/2596. Ref. vol. I pg. 7 Motion to Amend Complaint Second Amended Lis Pendens. This dispute the Respondent Attorney claim In the Designation Matter that the Appellant did not name John C. Bigler in this action Mr. Bigler has no Standing in this action.

46. That into consideration that the Respondent Attorney John J. Hearn or Sean M. Forester and John C. Bigler never submitted to the Lower Court a Summons and Compliant submitted to the Appellate that Mr. Bigler is a party of interest in both joint actions. Mr. Bigler was just stepping into Mr. Kachmarsky shoes in the matter of civil action 07/2596 and foreclosure action 06/2859.

47. That into consideration the Respondent Attorney Mr. Hearn advised Mr. Bigler not file his own summons and complaint in the Court of Julie J. Armstrong after his Successful tax purchase on October 02, 2008 for the encroachment and the additional Property of lot 323, Mr. Hearn and Mr. Bigler both had full knowledge that there was no encroachment on the foreclosure property and Mr. Bigler delinquent property? due the underlying fact that each property has its own TMS # and each property has Separate deeds own by one individual. Ref. vol. II pg. 48. Def. Exh. 8. Ref. vol. 1 pg. 13

Trail Hearing testimony of John C. Bigler.

48. Therefore they created the encroachment issues to buy more time for delinquent tax purchase and expensive attorney fees. In accordance of the Laws of Charleston County, Charleston, South Carolina Delinquent Tax purchaser the Respondent Attorney Mr. Hearn is fully aware of the delinquent tax Law clearly states Mr. Bigler was instructed consult an attorney prior to making his delinquent tax sale. Ref. vol. II pg. 45.

49. That into Consideration the Respondent attorney John J. Hearn signed the Motion For Partial Summary Judgment in the matter of 07/2596 rested on the grounds that

50. That the Plaintiff John Kachmarsky in action 07/2596 was longer interested in redeeming the delinquent tax property from John C. Bigler the successful tax purchaser on the final day of redemption October 02, 2008. Ref. vol. I pg. 11

51. That into consideration the Respondent Attorney Mr. Hearn show cause of action in its letter to the lower court on June 08, 2009 the BASIS for the Partial Summary Judgment 07/2596 was on behalf of successful tax sale purchaser John C. Bigler. The action of the Respondent Attorney clearly demonstrate it action is Conflict of Interests. Ref. vol. 1 pg. 6.

52. That the Appellant is confused as to whom the Respondent Attorney was representing in the Lower Court on March 16, 2009 in joint action their client Deutsche Bank in Foreclosure Action 06/2589 or John C. Bigler the successful delinquent tax purchase whom is not a party of interest in either actions. Ref. vol. 1, pg. 6.

53. That into consideration the Respondent Attorney Mr. Hearn is now disassociating himself at point from the delinquent tax as described in the letter he wrote to Lower Court on June 08, 2009 in the matter of civil action 07/2596 that it is voiding

The Tax Sale due to insufficient notice to interest parties, to include their client Deutsche Bank and the Appellant and Attorney that John C. Bigler was the Successful

tax purchaser since 2007. Ref. vol. 1. Pg. 6

54. That into consideration the Respondent Attorney Mr. Hearn kept a lot of illegal secret from the Lower Court, First Mr. Ferrara the Closing Attorney Closing the Ameritrust without doing a Title Search, secondly John Kachmarsky never paid any Property taxes, submitting fraudulent deeds to the RMC to the lower court. Mr. Hearn actions for bringing Mr. Bigler into suit law without Administrative approval clearly demonstrates his actions as fraud. The Respondent Attorney John J. Hearn kept Mr. Bigler under the radar until 2009 clearly show motive and by its actions that the Respondent Attorney Mr. Hearn show cause of action that he is involved in the purchase of Mr. Bigler delinquent tax sale. Ref. vol. II pg. 45; def. exh.. 4

55. That it is the Respondent Attorney Mr. Hearn who initially and who formally introduced John C. Bigler to the Lower Court in its Counterclaim and Cross Claim 2008.

56. That into consideration the Respondent Attorney John J. Hearn signed this letter he sent to lower court on February 16 2009 stating that he and the Plaintiff in 07/2596 John Kachmarsky discuss the tax sale and Mr. Kachmarsky decided in 2009 he no longer interested in redeeming the Delinquent tax property. Ref. vol. I pg. 11.

57. That into consideration the Respondent Attorney Mr. Hearn on this day had full knowledge to the underlying fact that the Plaintiff Mr. Kachmarsky in joint foreclosure action 06/2859 and joint civil action 07/2596 was represented by its attorney Coming B. Gibbs. Therefore the respondent attorney John J. Hearn by law should be only communicating with the Plaintiff Mr. Kachmarsky in the matter of civil action 07/2596 and joint action 06/2859 without the Plaintiff Attorney Coming B. Gibbs present in this during the time of this discussion. Ref vol. I pg. 11.

58. That into consideration that this instrument written by Respondent Attorney John J. Hearn stated that no one from the estate of Lucille Huggins came forward to redeem the

delinquent property on the final day of redemption. To dispute the Respondent Attorney claim On October 01, 2008, Charleston County delinquent Tax Director Mary Scarborough was avoiding my calls prior to final day of redemption. On this day by Charleston County Delinquent tax office on this day of the final Redemption Ms. Scarborough personally excepted money from the property own by the estate of Buster Huggins Sr. owner of lot 318. On October 01, 2008 Ms. Scarborough refused the payment for delinquent tax property Lot 324 legally owned by Defaulting tax payer Lucille Huggins. Ms. Scarborough stated that the property was purchase by the City of Charleston and cannot be redeemed even on the final day of redemption.

59. That into consideration the Respondent Attorney Mr. Hearn had full knowledge since 2006 that Lot 322, 323 and 324 was owed by Lucille Huggins the Borrower on the Original Ameriquest Mortgage Note and failed to the delinquent property taxes in the amount of \$1,700.00 that is owed on adjoining the foreclosure Lot 323 on behalf it client. Ref. vol. II pg.13 Testimony of Mary Scarborough

60. That into consideration Charleston County Tax Director Ms. Scarborough again deny the estate of Lucille Huggins after the final Partial Summary Judgment order was received on April 09, 2009 from the Lower Court orders that Ms. Scarborough signed a document stating that she has legal right in refuse a Cashier Check for \$4000.00 dollars money from the Appellant to redeem the delinquent property from Mr. Bigler. This money would have paid all the back taxes and the interests to Mr. Bigler on his \$30,000.00. Ref. vol.I pg. 13; Testimony of Mary Scarborough.

61. That into consideration that in April 06, 2008 the Plaintiff Mr. Kachmarsky in civil Action 07/2596 with the help of friend on Charleston County Police this law enforcement this detective requested from the Grand Jury arrest warrant for the Appellant

Vandora M. Huggins arrest charging the Appellate with Burglary II a Felony for removing the Personal Property owned by the estate of Lucille Huggins on the adjoining property Lot 324. Later all charges was drop and this felony burglary charge on my criminal record.

62. The Plaintiff in civil action 07/2596 and joint foreclosure action 06/2859

In November of 2008 Mr. Kachmarsky hired Carolina Disposal and Sign company to Dispose of the Personal Property belonging to the estate of Lucille Huggins, and boarded up all the windows and doors on the house without Administrative approval from the Master-in-Equity Honorable Judge Scarborough due to the underlying that foreclosure action 06/2859 and civil action 07/2596 is one action during the time Mr. Kachmarsky was clearing the path for John C. Bigler in both actions. That the Plaintiff Mr. Kachmarsky still did not redeem the Adjoining property tax on the final day of Redemption on October 02, 2008 at Charleston County delinquent office, prior to Mr. Kachmarsky action described above. Ref. vol. II pg.45.

63. That in consideration Let the record show that Respondent attorney Mr. Hearn in action 06/2859 and the Plaintiff attorney in action 07/2596 was Order by the lower court to file scheduling orders beginning January 16, 2008 to file Motion of discovery the up until September 31, 2008 Ref. vol. I pg. 7.

64. The respondent attorney waited one year after the joint action to file on March 16, 2009 a Partial Summary judgment in the matter of joint action 07/2596 naming John C. Bigler the successful tax bidder to Quite Title and Encroachment. On this day the plaintiff and the defendant John C. Bigler failed to appear before the Honorable Judge Scarborough. Ref. vol. I pg. 7; Ref vol. I pg. 6

The respondent again was awarded a judgment when none of the Plaintiff appeared in Court on March 16, 2009.

65. Let the record show that the law firm of Rogers Townsend & Thomas, PC by law is misleading and misrepresenting their Client as well as withholding information that involved the delinquent tax purchase of John C. Bigler since the original purchase on October 01, 2007 the documentary evidence show cause of action will Motive as why it took the respondent attorney John J. Hearn six years to foreclosure on the property 06/2859. Ref. vol. I pg. 10

67. Let the record that the documentary evidences above clearly demonstrates by the Actions of the respondent attorney John J. Hearn and John C. Bigler they both in Communicating in regards to Mr. Bigler being the successful tax bidder prior to Delinquent tax sale on October 01, 2007 Ref. vol. I pg. 6.

68. Let the record show as described in the documentary evidences below that is Clearly demonstrated in the timeline and base only by the actions of John C. Bigler and John Kachmarsky the paper trail is undisputable evidences that they both intent ally Is committing a fraudulent act that John C. Bigler would purchase the delinquent tax Property and None would ever know what they did.

69. Let the record show that on October 01, 2007 Mr. Bigler was only bidder to Pay \$30,000.00 dollars in cash, for a Delinquent tax property that was already in two litigation and numerous owners. Ref. vol. II pg. 45.

70. Let the record show that Mr. Bigler had prior knowledge that individuals still was Living in the house that he purchased on October 01, 2007 because had to a least Drive by the residence prior to his purchase.

71. Let the record show on October 11, 2007 the plaintiff 06/2596 Mr. Kachmarsky on This day personally appeared at the house located on the property that John C. Bigler Just purchase on October 01, 2007. Mr. Kachmarsky call Charleston City Police Claiming that it was his house and the people living it was trespassing

on this day Mr. Kachmarsky filed a police report have my brother Earl Huggins arrested for trespassing claiming he owned the property. The above information clearly Demonstrate undisputable evidences that show cause of action John C. Bigler and Plaintiff in 06/2596 Mr. Kachmarsky both communicated prior to Mr. Bigler delinquent tax sale purchase on October 01, 2007.

72.The Chain of Title that Mr. Bigler enters into exhibits at the trail hearing show the inconsistence in each of the deeds submitted by John Kachmarsky to Charleston County RMC Office. This documentary evidence clearly demonstrate submitted by John C. Bigler show undisputable evidences that the Plaintiff John Kachmarsky NEVER HAD A CLEAR TITLE to the property that John C. Bigler now own.

73.The above information show cause of action that the respondent had full knowledge of the inconsistencies in Mr. Bigler Title Chain due to the underlying fact that the Plaintiff John Kachmarsky in then joint actions 06/2596 let the delinquent tax property pass because he knew that the deed of distribution Bk. M400 at pg. 500 would not give him a clear title to real property TMS 410-05-00-280. Charleston County Delinquent Tax. Director Mary Scarborough did not include the defendant John C. Bigler Exhibit 3, The Quit Claim Bk. 388 at pg. 300 is not named in the Delinquent Tax Deed Bk. 00677 pg. 755 this instrument does not bear the signature of Lucille Huggins Acknowledging this document.

74.My attorney failed to submit documentary evidences to the master court that will demonstrate that the delinquent tax sale is a fraud.

75.Let the record show cause of action that demonstrate to this court fraud as to The Ameriquest assigned the Mortgage to Deutsche Bank under Court ordered restraining it from proceeding with this Foreclosure proceeding by Order of the U. S. District for the Northern District of Illinois IN Re Ameriquest Mortgage Co. Mortgage

Lending Practices Litigation No MDL 1715 408 F. Supp. 2d 1354 (2005). That the lower court was informed that Ameriquest made neglect and false misleading representation such as the Assignment of Mortgage to Deutsche Bank. Ref. vol. I pg. 4, Ref. vol. I pg. 5 76. That the fact to be consider in the Record on Appeal by South Carolina Court of Appeal Court is that the Honorable Mikell R. Scarborough signed into Order foreclosure title of real property TMS 418-05-00-279 a/k/a Lots 322 and 323 to Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement Dated as May 1, 2005, without recourse ("subject property") quieted in the persons In the matter of the heirs at Law Estates of Henry B. Huggins Jr. 1993-ES-10-01108; Plaintiff Trail hearing 2/28/12 Exhibit 11 name the Heirs-at-Law to it estate. Ref. vol. II Pg. 25.

77. For the record as describe in the Plaintiff Trail Hearing 2/28/12 Exhibit 12 this Instrument clearly demonstrates that Henry B. Huggins Jr. died on December 01, 1981 The laws of South Carolina Probate Court clearly states at the Estate of Henry Buster Huggins Jr. ES- 93-1108 should have never been opened in 1993 ten years After the death of Henry Buster Huggins Jr.

78. In the matter of the Estate of Michelle Huggins 2002-ES-10-00366 Kimberly Nelms, Timothy Nelms, Jennifer Nelms, Micheal A. Brown, Demetrius Huggins-Nelms, Darius Simmons, Donde Simmons are the heir-at-law to Michelle Huggins Estate. Please take into consideration that Rickey Huggins predecease Buster H. Huggins Sr. and Lucille Huggins as described in the Plaintiff Trail hearing 2/28/12 Exhibit 14 Trail before the Honorable Mikell R. Scarborough, reported by Bernadette A. Cali, CSR and Notary Public, at 10:00 a.m. on February 28, 2012 at 100 Broad Street, Charleston, South Carolina on the Record of Appeal.

On the day of the trail hearing the Respondent Attorney used the testimony of Sharon Smack to quite title on behalf the estate of Henry Rickey Huggins in the matter of foreclosure action 2006-CP-10-2859. Trail Hearing 2/ 28/12 Transcript pg. 26 thru pg. 29. Ref. vol I pg. 12 Testimony of Sharon Smack.

79. That taken into consideration that South Carolina Probate Courts have subject-Matter Jurisdiction to determine paternity for the purpose of determine heirs at law to the Estate Henry Rickey Huggins, Leila Huggins is not the mother of Barbara Huggins. Ref. vol. I pg. 12 Testimony of Sharon Smack.

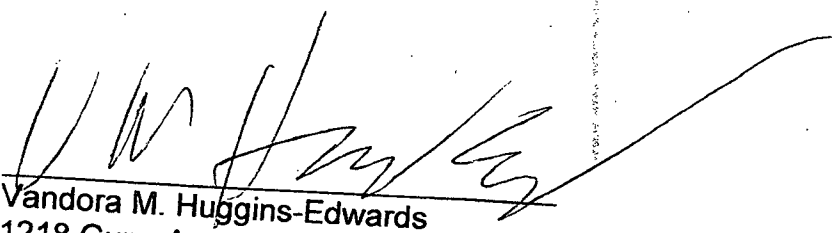
80. That in consideration on the record of appeal that the Respondent Attorney did not Submit documentary evidence from Probate Court of Charleston County that Supports it claim that the children of Henry Rickey Huggins, Reginald Huggins, Joseph Huggins, Heather Huggins and Barbara Huggins never opened an estate for Henry Rickey Huggins in Charleston County Probate Court upon his death in 1994, declared whom the legal heir at law are and to determine if they have legal standing in foreclosure action 06/2859.

81. Let the record show that the Plaintiff Trail Hearing 2/28/21 Exhibit 15 this instrument is undisputable evidences that the lower court erred in Granting Quite Title to Deutsche Bank Trustee to Ameriquest Mortgage base on the underlying fact that Charleston County Probate Court Final Ordered filed on April 05, 2012. Ref. vol. I pg. 10 Therefore the Appellant has demonstrated by the Preponderance of the evidences that the Master-in-Equity lack jurisdiction in Accordance to Title 62 South Carolina Probate Code 62-1-302 (1), (a) (e) Subject Matter Jurisdiction to Quite Title of subject property.

I certify that the Appellant initial brief on the Record of Appeal contains no matter Is irrelevant to this appeal.

Respect submitting,

September 18, 2013



Vandora M. Huggins-Edwards
1218 Gunn Avenue
Charleston, S. C. 29407

EXHIBIT "D"

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as
Trustee of Ameriquest Mortgage Securities, Inc.,
Asset Backed Pass Through Certificates, Series
2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without
recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards;

Defendant(s).

(009088-00508 MPM)

Loan Number: 0114711120

Second Loan Number:

IN THE COURT OF COMMON PLEAS

DOCKET NO. 06-CP-10-2859

SUMMONS AND NOTICES
(NON-JURY)
FORECLOSURE OF REAL ESTATE
MORTGAGE
Deficiency Judgment Waived

BY
JULIE J. ARMSTRONG
CLERK OF COURT

2006 JUL 24 PM 12: 27

FILED

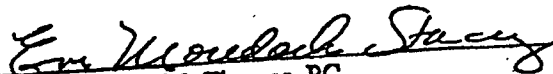
TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 700 Gervais Street, Suite 100, Post Office Box 100200, Columbia, South Carolina 29202, within thirty (30) days after the service hereof, exclusive of the day of such service, except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master in equity/special referee, pursuant to Rule 53, of the South Carolina Rules of Civil Procedure.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse.


Rogers Townsend & Thomas, PC
ATTORNEYS FOR PLAINTIFF
Samuel C. Waters (SC Bar #5958) Cheryl H. Fisher (SC Bar #15213)
Reginald P. Corley (SC Bar #69453) Jennifer W. Rubin (SC Bar #16727)
Ellie C. Floyd (SC Bar # 68635) Michael P. Morris (SC Bar #73560)
Eve Moredock Stacey (SC Bar # 5300) Warren V. Ganjehsani (SC Bar #17040)
Mary R. Powers (SC Bar #16534)
700 Gervais Street, Suite 100 Post Office Box 100200 (29202)
Columbia, SC 29201 (803) 744-4444

Columbia, South Carolina
July 21, 2006

AMC Mortgage Services, Inc.
P.O. Box 11000
Santa Ana, CA 92711-1000



HUGGINS-EDWARDS VANDORA M
HUGGINS LUCILLE
1218 GUNN AVE
CHARLESTON, SC 29407

August 24, 2006

VIA Certified Mail RRR and First Class Mail
Article No. 7182 6389 3060 0876 7241

Loan Number: 0114711120
Property Address: 1218 GUNN AVE, CHARLESTON SC, 29407

Dear Homeowner(s):

Certain borrowers have challenged Ameriquest Mortgage Company's ("Ameriquest") practices under the Truth in Lending Act. They claim that Ameriquest has not provided proper Notices of Right to Cancel to its borrowers. Borrowers who did not receive a legally sufficient Notice of Right to Cancel have up to three years to cancel their mortgage transaction (four years in Massachusetts). The right to cancel ends if there is a completed foreclosure sale.

You have been identified as someone whose Ameriquest loan is subject to a foreclosure sale in the near future. You should review your transaction with an attorney or legal services organization to determine if you have an enforceable right to cancel and whether it is in your interest to cancel.

If you cancel, a court will need to determine if your cancellation is effective. If a court determines that your cancellation is effective, your mortgage will be void and you will not have to pay any finance charges. Instead, you will have to immediately repay any unpaid principal amount (for example, by refinancing your loan).

This Notice is being given to you pursuant to an order of the Court in "*In re Ameriquest Mortgage Company Mortgaged Lending Practices Litigation*," M.D.L. No. 1715, Lead Case No. 05-cv 07097 (N.D. Ill.). Please do not call the Court.

Sincerely,

AMC Mortgage Services

Federal Law requires us to notify you that we are acting as a debt collector. If you are currently in a bankruptcy or have received a discharge in bankruptcy as to this obligation, this communication is intended for informational purposes only and is not an attempt to collect a debt in violation of automatic stay or the discharge injunction.

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

RETURN RECEIPT REQUESTED
USPS MAIL CARRIER
DETACH ALONG PERFORATION

CERTIFIED MAIL

CERTIFIED MAIL



7182 6389 3060 0876 7241

RETURN RECEIPT REQUESTED

Mortgage Services, Inc.
Box 11000
Santa Ana, CA 92711-1000

RETURN SERVICE REQUESTED

HUGGINS-EDWARDS VANDORA M
HUGGINS LUCILLE
1218 GUNN AVE
CHARLESTON, SC 29407

Handwritten: Lm 8/20/06

Handwritten: 9-15
9-23

REMOVE SIDE EDGES FIRST
CREASE AND TEAR THIS STUB ALONG PERFORATION



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO; 2006-CP-10- 2859

DEUTSCHE BANK NATIONAL TRUST)
COMPANY AS TRUSTEE OF)
AMERIQUEST MORTGAGE SECURITIES,)
INC. ASSET BACKED PASS THROUGH)
CERTIFICATES, SERIES 2005-R4CGM)
UNDER THE POOLING AND SERVICING)
AGREEMENT DATED AS OF MAY1, 2005)
WITHOUT RECOURSE)

Plaintiffs)

Vs.)

VANDORA M. HUGGINS- EDWARDS)
A/K/A/ VANDORA H. EDWARDS)

Defendants)

NOTICE OF MOTION
AND MOTION TO SET ASIDE
ENTRY OF DEFAULT

BY _____

JULIE A. HARRIS
CLERK OF COURT

2006 OCT -9 PM 2:43

FILED

TO: EVE MOREDOCK STACEY, ESQUIRE OF THE FIRM OF ROGERS TOWNSEND &
THOMAS, PC; ATTORNEYS FOR PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that the Defendant, Vandora M. Huggins- Edwards by and through his undersigned attorney, will ten (10) days after service of this Notice of Motion and Motion move before the Presiding Judge, of the Circuit Court for the Ninth Judicial Circuit, at the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina, or at such other time and place as may be convenient to the Court and counsel for the following relief by the Court:

The Defendant, Vandora M. Huggins- Edwards pursuant to Rule 55(c) and 60 (b)(2) of the South Carolina Rules of Civil Procedure, moves the court to

That by Certified Mail dated August 24, 2006 I received a certified letter from AMC Mortgage Service, Inc., the company that services the mortgage for Ameriquest. The letter stated that I had been identified as a Mortgagee who had the right to cancel my mortgage with Ameriquest.

3.

That based on this representation made to me by the Plaintiff's agent I did not take any action to contact an attorney to represent me in response to the Complaint that had been served on me. A copy of the letter is attached as Exhibit 1 to this Affidavit.

4.

The next misrepresentation that I received was a letter from the Plaintiff's legal counsel informing me by letter dated September 18, 2006, a copy of which is attached as Exhibit 2, that a hearing had been held and a Judgment of Foreclosure and Sale entered on October 9, 2006. Because of this confusion, I did contact an attorney to aid me in determining what my rights were.

5.

That I have a meritoriously defense to this Foreclosure proceedings and with the Court's consent will promptly file my Answer thereto.

6.

I am informed and believe that in addition to the meritoriously defense that I have meritoriously Counterclaims that I will assert against the Plaintiffs. These will include a cause of action under the Equal Credit Act, 15 U.S.C. § 1691D and also U.S.C. § 1681M (a) and Violation of The Truth and Lending Act, 15 U.S.C. § 1601, et al. and the Federal Reserve Regulation Z, C.F.R. § 226.1 et seq. and 1681A (k) an action for Unjust Enrichment and the South Carolina Unfair Business Practice Act.

set aside the Entry of Default entered against her by the Clerk of Court and/ or pursuant to Rule 12 (b) (1) and (8) to dismiss the action herein.

The grounds for the Motion are the following:

First: That the Defendant sent correspondence directly to the Defendant that stated that the mortgage foreclosure action would be cancelled.

Second: That jurisdiction of this action is now pending and/ or the Plaintiff is under Court ordered restraining it from proceeding with this foreclosure proceeding by Order of the U.S District Court for the Northern District of Illinois In Re Ameriquest Mortgage Co. Mortgage Lending Practices Litigation No MDL 1715 408 F. Supp. 2d. 1354 (2005).

Third: That the Defendant is informed and believes that upon the combined grounds of excusable neglect and false and misleading representation made by Ameriquest after the action herein was instituted she will present good cause for the Court to set aside the default.

Fourth: That the Defendant has a meritorious defense to this action and counterclaims to assert against the Plaintiff.

The Defendant's Affidavit in support of this Motion is annexed.

Respectfully submitted,

THE HOUSTON LAW FIRM, PA



Charles E. Houston Jr.

State Bar # 2663

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Attorney for Defendant

North Charleston, SC
October 9, 2006



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JK Properties, LLC,

Plaintiff,

v.

Minnie Huggins, Sharon H. Smack, Derwin Huggins, Dewayne Dixon, Andrean Huggins Cotton, Vandora M. Huggins-Edwards, Samuel Huggins, individually and as Personal Representative of the Estate of Henry Buster Huggins, Sr., Michael Huggins, Ira Huggins, Donnell Huggins, Sylvia Ann Lawrence, individually and as Personal Representative of the Estate of Lucille Huggins, Glenn M. Huggins, Kimberly Nelms, Timothy Nelms, Jennifer Nelms, Michael A. Brown, Demetrius Huggins Nelms, Darius Simmons, Dondre Simmons, Reginald Huggins, Joseph Huggins, Heather Huggins, Barbara Huggins, any Unknown Heirs of Henry Buster Huggins, Sr. and Lucille Huggins, and Deutsche Bank National Trust Company,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2007-CP-10-2596

ORDER

(010378-00062)

This matter came before me at a hearing on March 16, 2009, on Defendant Deutsche Bank National Trust Company's Motion for Partial Summary Judgment. Sean M. Foerster, Esq., appeared on behalf of Defendant, Defendant Deutsche Bank National Trust Company ("Deutsche Bank"). For the reasons stated below, Deutsche Bank's Motion for Partial Summary Judgment is GRANTED.

FACTS

1. JK Properties was the owner of a 46/100th share of the property known as Lot 324 ("subject property") more fully described in Exhibit A to the Complaint in this action. JK Properties co-owned this property with Defendants Minnie Huggins (30%), Sharon H. Smack (6%), Derwin Huggins (6%), Dewayne Dixon (6%), and Andrean Huggins Cotton (6%) ("co-owners"). (Complaint ¶ 2.)
2. A house is situated upon the subject property.
3. The subject property is bordered on the east by a parcel of land ("adjoining property") more fully described in Exhibit C to the Complaint in this action. Deutsche Bank is the mortgagee of the adjoining property and had initiated a foreclosure action against the adjoining property on July 24, 2006. *See Deutsche Bank Nat'l Trust Co. v. Vandora M. Huggins-Edwards et al.*, 06-CP-10-2859, in the Charleston County Court of Common Pleas.
4. The house located on the subject property encroaches onto the adjoining property. (Compl. ¶ 5.)
5. JK Properties filed this action on June 19, 2007, seeking to have the property line between the subject property and the adjoining property re-drawn so that the house would not encroach on the adjoining property. (Compl. ¶ 18; *see also* Exhibit E to the Complaint.) The Complaint also sought a partition by sale of both the subject property and the adjoining property. (Compl. ¶¶ 20, 22.)
6. Deutsche Bank filed an Amended Answer on March 20, 2008, asserting a counterclaim against JK Properties for encroachment of the house onto the adjoining property. (Amended Answer, Counterclaim and Crossclaim of Deutsche Bank National Trust Company ¶¶

20-25.) Deutsche Bank also asserted crossclaims for encroachment against the co-owners of the subject property. (Amended Answer, Counterclaim and Crossclaim ¶¶ 20-25.)

7. The subject property has since been sold at a tax sale on October 1, 2007, to John Bigler ("Bigler").

8. The period of redemption expired on October 2, 2008, and neither JK Properties nor any of the other Defendants redeemed the property.

9. As the successful purchaser at the tax sale, Bigler is responsible for paying to the Charleston County Delinquent Tax Department, among other amounts, the costs of the execution and delivery of the tax deed.

10. The Charleston County Delinquent Tax Department has sent to Bigler a request for the fees necessary to record the tax deed, but Bigler has yet to submit the necessary funds to the Charleston County Delinquent Tax Department.

11. The Charleston County Delinquent Tax Department has not yet issued a tax deed to the subject property to Bigler and will not do so until Bigler submits all funds necessary to complete the tax sale transaction.

12. Defendant Vandora M. Huggins-Edwards has requested that she, or any other member of the Huggins family with an interest in the subject property, be permitted to pay off the delinquent taxes and thereby reclaim the subject property in the event that Bigler fails to pay to the Charleston County Delinquent Tax Department the funds necessary to complete the tax sale transaction.

LAW

"Every action shall be prosecuted in the name of the real party in interest." Rule 17(a), SCRC. "Generally, a party must be a real party in interest to the litigation to have standing."



Sloan v. Friends of the Hunley, Inc., 369 S.C. 20, 28, 630 S.E.2d 474, 479 (2006) (citing *Evins v. Richland County Historic Pres. Comm'n*, 341 S.C. 15, 21, 532 S.E.2d 876, 879 (2000)). "A real party in interest is a party with a real, material, or substantial interest in the outcome of the litigation." *Id.* (citing *Baird v. Charleston County*, 333 S.C. 519, 530, 511 S.E.2d 69, 75 (1999)).

Because JK Properties no longer holds an interest in the subject property, it is no longer a real party in interest to this action. Because JK Properties is no longer a real party in interest, it no longer has standing to maintain this action.

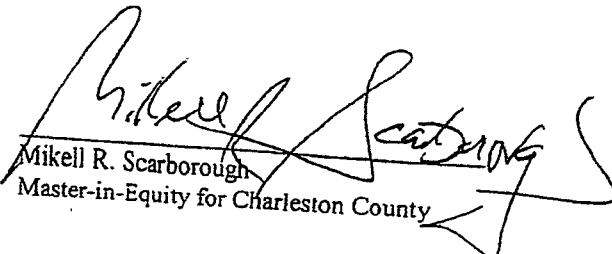
CONCLUSION

There is no genuine issue of material fact that JK Properties no longer has standing to maintain the claims stated in its Complaint and that Deutsche Bank is entitled to partial summary judgment as a matter of law on the claims asserted against it by JK Properties. Deutsche Bank's Motion for Partial Summary Judgment is GRANTED. Deutsche Bank's counterclaim and crossclaims are unaffected by this order.

Furthermore, John Bigler, the purchaser of the subject property at the tax sale, has until May 1, 2009, to pay all funds necessary to complete the tax sale of the subject property to the Charleston County Delinquent Tax Department. If John Bigler fails to satisfy his obligations and complete the tax sale transaction by May 1, 2009, then Vandora M. Huggins-Edwards, or any other member of the Huggins family with an interest in the subject property, will be permitted to pay off the delinquent taxes to the Charleston County Delinquent Tax Department and thereby reclaim the subject property (Lot 324).

AND IT IS SO ORDERED.

4/15
March 15, 2009


Mikell R. Scarborough
Master-in-Equity for Charleston County

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Defendants.

$$\begin{array}{c}) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

CASE NO.:2007-CP-10-2596

Motion before the

For Deutsch Bank: Seam M. Foerster, Esq.
Rogers, Townsend and Thomas
220 Executive Center
Columbia, S.C. 29210

Vandora M. Huggins Edwards
1218 Gunn Avenue
Charleston, S.C. 29407

Bernadette A. Cali, CSR
Master in Equity, 100 Broad Street
Charleston, South Carolina 29401
(843) 958-5071

1 (Court convenes, 10:00 a.m.)

2 THE COURT: I have two cases in front of me. I
3 know one is a foreclosure. One was originally a JK
4 Properties versus Minnie Huggins and others, case. I
5 think that's the one we're here on this morning.

6 MR. FOERSTER: That is correct, Your Honor.

7 THE COURT: There is a third case outstanding out
8 there. That's really a quiet title or a boundary line
9 adjustment or something.

10 MS. HUGGINS: Encroachment.

11 THE COURT: There is a bunch of them in this case.
12 Mr. Foerster, I'm not sure exactly what your marching
13 orders were for coming here today but my notes reflect
14 in the case of JK Properties, LLC versus Minnie Huggins
15 and others, Civil Action number 2007-CP-10-2596 that a
16 summary judgment motion was scheduled for today. Is
17 that your understanding?

18 MR. FOERSTER: Yes, partial summary judgment
19 motion.

20 THE COURT: Was that your firm's motion?

21 MR. FOERSTER: Yes, it is.

22 THE COURT: On behalf of Deutsch Bank?

23 MR. FOERSTER: Yes.

24 THE COURT: That was as to JK Properties or as to
25 everybody involved?

1 MR. FOERSTER: Only as to JK Properties' claims.

2 THE COURT: Ms. Huggins, you are here without
3 benefit of counsel but do you understand why we're here
4 today?

5 MS. HUGGINS: Well, my attorney is not here,
6 Sherry Crummy. And Deutsch Bank -- I mean Mr.
7 Mr. Kachmarsky is not here.

8 THE COURT: I think Mr. Kachmarsky, as I
9 understand, is just bailing out of this case.

10 MS. HUGGINS: Well, I would like maybe for him to
11 file a deposition on the fact that he's bailing out of
12 the case.

13 THE COURT: I'll take care of that in short order.

14 MS. HUGGINS: Okay, sir. Mr. Kachmarsky is
15 bailing out. The property that he's asking or the tax
16 sale I just found out belongs to my mother.
17 Mr. Kachmarsky gave the Estate the illusion that he
18 owned this property all up until this point, and we've
19 lost it on Sheriff's sale. The original deed belongs
20 to my father which was transferred to my mother. But
21 John Kachmarsky came up with deed M-400 page 505
22 stating that he's the owner. Now, he filed a civil
23 action --

24 THE COURT: Let me stop you. You're giving me the
25 whole history of the case. Somewhat I'm aware of it.

1 But it's not your motion today. It's Mr. Foerster's on
2 behalf of his client. So let me have him state the
3 motion, then we'll go from there.

4 MS. HUGGINS: Sure.

5 THE COURT: I'm a little confused procedurally
6 myself. So let me just get there, because I have a
7 remedy that I would like to implement, but we got to
8 get there. Let's go one step at a time.

9 Mr. Foster, go ahead.

10 MR. FOERSTER: May it please the Court, Your
11 Honor, as we already said this is case number 07-CP-10
12 2596, that is JK Properties versus Minnie Huggins and
13 others. I'm Sean Foerster, as I said before, here
14 instead of John Hern and we represent Deutsch Bank
15 National Trust Company, one of the Defendant's in this
16 case.

17 We filed a motion for Partial Summary Judgment on
18 January 23rd, 2009. We're moving for summary judgment
19 only as to the claims of Plaintiff JK Properties, LLC
20 against Deutsch Bank. We're doing so on grounds that
21 the property at issue in this case was sold at a tax
22 sale on October 1st, 2007.

23 The period of redemption expired on October 2cnd,
24 2008. JK Properties nor Mr. Kachmarsky redeemed the
25 property in time and from our conversation with him

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1 they don't intend -- they're washing their hands of
2 this litigation and walking away. In case you don't
3 recall the facts of this case, Your Honor, I can give
4 them to you briefly.

5 THE COURT: That's fine. I do recall them. It's
6 a mess. Here's my question for you. Who purchased the
7 property at the October 2007 tax sale?

8 MR. FOERSTER: I called the Tax Assessor's office
9 last week and was told it was a man name Mr. John
10 Bigler (phonetic). That's all they could tell me.
11 Last week I sent in voir request for them to give me as
12 much information as they can. I asked them if a tax
13 deed had been issued. They said not yet because he has
14 not paid the recording fees yet for the tax deed, but
15 as soon as he does they would issue one. They could
16 not give me a ballpark figure as to when that was going
17 to be.

18 THE COURT: So based on information Mr. Bigler was
19 the purchaser of the tax sale, but does not yet have a
20 deed because he has not yet complied with the final
21 payment.

22 MR. FOERSTER: That is correct, Your Honor.

23 THE COURT: I'm assuming Deutsch Bank didn't step
24 in and pay that.

25 MR. FOERSTER: No, Your Honor. Our mortgage is

1 actually on the adjoining property. This is the one
2 where the house is on a lot that's the subject of
3 today's action is encroaching onto the insured parcel.

4 MS. HUGGINS: That's my question to you, Your
5 Honor.

6 THE COURT: Hold on.

7 MR. FOERSTER: We also -- that's our motion.
8 Basically we're saying he's no longer a real party in
9 interest and -- but that's our motion but with that
10 said we have some outstanding issues in both this case
11 and the foreclosure case.

12 THE COURT: Did Mr. Kachmarsky individually or
13 through his attorney, Mr. Gibbs, send you any documents
14 saying they were no longer involved or they just sort
15 of walked away?

16 MR. FOERSTER: This is from conversation between
17 John Hern and Mr. Kachmarsky saying that he had
18 purposely he was not going to redeem the property.

19 THE COURT: All right. On the theory of easy come
20 easy go?

21 MR. FOERSTER: I think when he took the property
22 he didn't understand what he was getting into. So what
23 we have left now is Deutsch Bank, we had filed in an
24 Amended Answer on March 20, 2008. We had served a
25 counterclaim against JK Properties and cross claims

1 against the other defendants all for encroachment. We
2 were hoping to resolve that encroachment problem in
3 this case so our foreclosure action could proceed. We
4 either want the encroachment of the house removed or
5 want damages for the diminishment and for the value on
6 the insured parcel next door.

7 That said, we also have another issue. We may
8 need to amend our pleadings once we figure out exactly
9 if Mr. Bigler is going to get the tax deed and who
10 exactly is going to be the real party in interest. At
11 this time we just don't know for sure if it's going to
12 be Mr. Bigler. He may simply decide to walk away from
13 the land, too. All we know is he was successful
14 bidder. We made the four year request to get more
15 information about Mr. Bigler and so we could possibly
16 contact him and find out what his intentions are as to
17 this property.

18 (Reading)

19 THE COURT: Okay. In the case of JK Properties
20 versus Huggins the Plaintiff is no longer a real party
21 in interest, so that action should be -- at least that
22 action as Plaintiff should be dismissed.

23 Now, in that action in the 2007-2596 the Court
24 previously allowed you to amend your complaint? That
25 was in the other one, in the foreclosure action. So

1 where do you stand as a moving party in the 2007 case?

2 Does this end the 2007 case or not?

3 MR. FOERSTER: No, we have a live counterclaim and
4 cross claims.

5 THE COURT: You're counterclaim is as to whom?

6 MR. FOERSTER: It's as to JK Properties, but it
7 will be as to whoever takes the tax deed. Once we
8 confirm it is going to be Mr. John Bigler we will amend
9 to name him.

10 THE COURT: So that's strictly as to the property
11 line dispute?

12 MR. FOERSTER: Correct, Your Honor.

13 THE COURT: What about your foreclosure action?
14 What's going on with that one?

15 MR. FOERSTER: In the foreclosure action basically
16 we have the order of publication documents ready to go,
17 but we're still in the process of getting a guardian ad
18 litem for unknown minors and everybody else we need to
19 get a guardian for. We've been trying to serve
20 everybody. Most of the people we haven't been able to
21 serve amended lis pendens, amended Complaint on.
22 Mostly the children at the very bottom. Children of
23 Michelle Huggins, three or four of them, trying to
24 track them down, figure out how old they are and all
25 this. We would like a little more time to keep working

1 on that. That's another thing I might be able to
2 request today, an amended Scheduling Order.

3 THE COURT: According to the Order I signed last
4 fall there was supposed to be one, but I don't see one.
5 Did you-all circulate an amended Scheduling Order?

6 MR. FOERSTER: The last Scheduling Order I have is
7 September 10, 2008. I've got a copy of that for you.

8 THE COURT: Let me take a look at that.

9 So I signed this Scheduling Order at the same
10 time I signed this Order granting your motion to amend
11 and vacate. Both executed September 4 and filed
12 September 10 last year.

13 When was it that, if you know, when did you-all
14 discover that the third party had purchased the
15 property at tax sale?

16 MR. FOERSTER: I believe from what John Hern told
17 me it was, I believe, maybe November or December. Not
18 exactly sure. He just learned from talking to
19 Mr. Kachmarsky about it. Mr. Kachmarsky purposely did
20 not redeem the property.

21 THE COURT: So today was the date for the trial
22 which, of course, is not happening. This case is going
23 nowhere fast is the problem.

24 MS. HUGGINS: I can help you out, though.

25 THE COURT: One second, Ms. Huggins. I'm trying

1 to figure out how we're going to proceed. There was a
2 status conference back in December, I think, that was
3 just people -- telephone call that day. Parties bring
4 current survey showing boundaries, structures and
5 applicable setback lines to the status conference which
6 I know I've not seen.

7 Is there any new survey of the property done?

8 MR. FOERSTER: No, Your Honor. I believe it was
9 John Kachmarsky's -- he was the one to get that done.
10 From what I understand he decided not to do it.

11 THE COURT: I'll grant your motion for summary
12 judgment. That will take care of getting JK out of the
13 case. Ms. Huggins, I'll be glad to hear from you at
14 this particular time.

15 MS. HUGGINS: If --

16 THE COURT: Stand up for me.

17 MS. HUGGINS: I'm sorry. I apologize. The state
18 did not know that the property was ours before John
19 Kachmarksy decided he was not going to pay the taxes.
20 John Kachmarksy acquired this property by fraud. I
21 have evidence here on the Deed of Distribution where he
22 signed himself as a descendant to my brother's Estate
23 which gave him 40%. JK Properties got another 6% from
24 the Estate of Michelle Huggins.

25 THE COURT: What's the date on those? When did

1 that deed go down?

2 MS. HUGGINS: This -- actually this Deed of
3 Distribution was filed with the RMC because my parents
4 was --

5 THE COURT: On what date, Ms. Huggins?

6 MS. HUGGINS: November 20, 2002.

7 THE COURT: There is a one year statute of
8 limitations, so you're probably outside of that at this
9 particular time. That dog ain't going to hunt.

10 MS. HUGGINS: Well --

11 THE COURT: I'm not going to go there any more on
12 that one. Thank you.

13 MS. HUGGINS: My parents was granted life estate
14 on the property.

15 THE COURT: My recollection is Mr. Kashmarsky took
16 that in lieu of a fee and he's been regretting that
17 ever since. No money, he took property, got mixed up
18 in this thing.

19 MS. HUGGINS: Here's his fee. His fee was only
20 6%. When he rendered service for Renee' Slack
21 (phonetic) on the Estate from Michelle Huggins. All
22 the Estate of Lucille Huggins is asking you today, Your
23 Honor, is giving us the opportunity to pay our taxes on
24 TMS number --

25 THE COURT: I think you-all are probably in a

1 position to be able to go to Mr. Bigler.

2 MS. HUGGINS: Mr. Bigler --

3 THE COURT: Hear me out, now. I don't know who
4 the guy is. But if he has not paid the rest of his
5 money then I guess that's the next thing I'm going to
6 do. Hold on. Let me finish. Mr. Bigler was supposed
7 to pay his money November 1st of '08?

8 MR. FOERSTER: I'm not sure exactly when he was
9 supposed to pay the recording fees. Told me they sent
10 him notice. Didn't tell me when. Wouldn't give me too
11 much information on the phone.

12 THE COURT: Delinquent tax office?

13 MR. FOERSTER: Right.

14 MS. HUGGINS: Could make sure Mr. Bigler has no
15 association with Deutsch Bank or Mr. John Kashmarsky at
16 this point? That somehow this could be figured out in
17 this situation. Because we lost our property by being
18 allude by Mr. John Kachmarsky. He was the owner. All
19 we want to do is pay the taxes on this property,
20 refinance property, pay Deutsch Bank their money. My
21 parents, Buster and Lucille Huggins, worked hard to
22 accumulate all this. My parents was legal citizens.
23 They never broke a law in their lives. They work hard
24 for this property. And the taxes, even Deutsch Bank
25 said in there cross claim and counter claim, they're

1 charge is Mr. Kashmarsky for fraud and inconsistency of
2 documents. They are aware of the tactic Mr. Kashmarsky
3 used in order to gain this property.

4 THE COURT: I'm ready to rule.

5 Now, the '06-2859, that's your foreclosure action.

6 MR. FOERSTER: Yes, Your Honor.

7 THE COURT: One time consolidated, now been
8 deconsolidated. I don't know what's going on. You've
9 got 90 days to get that case before me. March 16th.
10 On or before June 15 that foreclosure action needs to
11 be in front of me.

12 MR. FOERSTER: Yes, sir.

13 THE COURT: Otherwise I'll dismiss it. Be gone.
14 June 15th. Contact this office and get that date lined
15 up. As to the '07 action, this property line dispute
16 with all these parties, I'm going to give -- issue an
17 order, although Mr. Bigler or whatever his name is, is
18 not presently before the Court he's got until -- either
19 he or Ms. Huggins' family, if he doesn't pay it, has
20 until May 1st, 2009 to pay the outstanding taxes on
21 that property. That's the deadline. If he doesn't pay
22 it by then, Ms. Huggins, you and your family can get
23 together ad pay those taxes. I'll give you credit for
24 that. You can step back in front of this mortgage
25 company. All right?

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16

1 THE COURT: That will be fine. Thank you.

2 MR. FOERSTER: Thank you.

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1 Pay the taxes on the property otherwise we'll go
2 forward with that one. I'll keep these on the same
3 track, same wave length, but we got to get somewhere
4 with this thing. It's just floundering. It's just
5 going nowhere slow.

6 MS. HUGGINS: Will I be able to pay taxes prior to
7 May 1st?

8 THE COURT: Oh, yes. I'm giving Mr. Bigler until
9 May 1st. If you pay it ahead of time -- I want you to
10 make sure -- probably not going to let you pay it.

11 MS. HUGGINS: She won't. We've been down -- went
12 down there today to pay. It didn't allow us to pay it.

13 THE COURT: Somebody needs to contact Mr. Bigler.
14 Mr. Foerster, you prepare an order that says that I've
15 granted your motion for summary judgment and a fellow
16 by the name of John Bigler has stepped into the shoes
17 of JK Properties, LLC. That now entitles him to be
18 party in a lawsuit, so he's buying a lawsuit. He has
19 until May 1 of 2009 to satisfy his obligation to the
20 delinquent tax office. If not then Ms. Huggins or
21 anybody on her behalf can pay that and keep the
22 property in the family. And then that will be just a
23 battle between Deutsch Bank and the Huggins family.

24 MS. HUGGINS: Will it be over if I can pay the
25 taxes or refinance and pay them and we all can get

1 along?

2 THE COURT: We'll try to set it up so we can get
3 to that point.

4 MS. HUGGINS: Thank you.

5 THE COURT: We can go from there. Does that make
6 sense to you?

7 MR. FOERSTER: Yes, Your Honor.

8 THE COURT: Got to take out the sword and cut the
9 notch. Thank you very much.

10 MR. FOERSTER: Thank you.

11 THE COURT: Good luck to all of you. If
12 Mr. Bigler or the Huggins family can't pay taxes,
13 Ms. Huggins, what you need to do is go find out what
14 the amount is.

15 MS. HUGGINS: \$4,000.

16 THE COURT: Take certified funds down there or get
17 certified funds from the bank and tender those funds by
18 letter. Your lawyer will know how to do that. Put
19 you-all in standing in the shoes. Mr. Bigler is either
20 in this lawsuit or he's not. If I was him I wouldn't
21 buy that property knowing I would be in a lawsuit.

22 (Discussion off the record.)

23 THE COURT: Anything further?

24 MR. FOERSTER: Do you have any preference as to
25 the order. Can I send it by email?

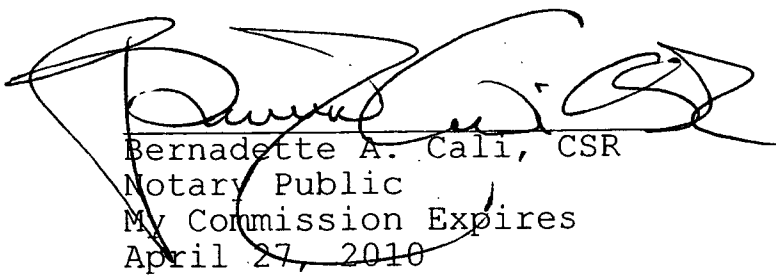
20 THE OTHER. CAN I SEND TO MY CLIENT.

STATE OF SOUTH CAROLINA)
Bernadette A. Cali, CSR)
Master in Equity, 100 Broad Street)
Charleston, South Carolina 29401)
COUNTY OF CHARLESTON)
(843) 958-5071)

I, Bernadette A. Cali, Notary Public, do hereby certify that the within hearing was taken and transcribed by me; and that the foregoing pages are a true and accurate transcript of the within proceedings. I further certify that the persons were present as stated.

I further certify that I am not of counsel or kin to any of the parties to this action, nor am I interested in the result of the said action.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this August 17, 2009.


Bernadette A. Cali, CSR
Notary Public
My Commission Expires
April 27, 2010

Bernadette A. Cali, CSR
Master in Equity, 100 Broad Street
Charleston, South Carolina 29401
(843) 958-5071

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
CASE NO. 06-CP-10-2859

**MOTION
INFORMATION FORM
AND COVER SHEET**

Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through
Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse ☒
Plaintiff

v.

Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards, et al. ☐ Defendant

Check box above indicating submitting party

name, S.C. Bar no. and address of plaintiff's attorney

John J. Hearn (SC Bar # 6635)
Rogers Townsend & Thomas, PC
220 Executive Center Drive, Suite 109 (29210)
P.O. Box 100200
Columbia, SC 29202-3200
telephone: 803-771-7900 fax: 803-343-7017

name, S.C. Bar no. and
address of Defendant's
attorney

telephone: fax:
email: othe
r:

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I and III)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete SECTIONS II and III)

SECTION I: Hearing Information

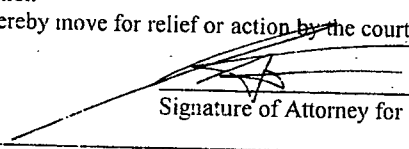
Nature of Motion: Motion to Amend Complaint
Estimated Time Needed: 10 min

Court Reporter Needed: YES/NO

SECTION II: Motion Type

- ☒ Written motion attached
☐ Form Motion —

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Plaintiff/Defendant

February 10, 2010
Date submitted

SECTION II: Motion Fee

- ☒ **PAID — AMOUNT: \$ 25.00**
☐ **EXEMPT:** ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☒ Other: _____

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: _____

JUDGE
CODE: _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

- ☐ **MOTION FEE COLLECTED:** _____
☐ **CONTESTED — AMOUNT DUE:** _____

SCCA/233 (11/2003)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

CASE NO. 2006-CP-10-2859

**MOTION
INFORMATION
FORM
AND COVER SHEET**

Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse

☒ Plaintiff

v.

Vandora M. Huggins-Edwards, et al. ☐ Defendant

Check box above indicating submitting party

name, S.C. Bar no., and address of plaintiff's attorney

Sean M. Foerster (SC Bar # 77644)
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, SC 29202-3200
sean.foerster@rtt-law.com
(803) 744-1855 tel. # (803) 343-7017 fax #

name, S.C. Bar no., and address of Defendant's attorney

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion for Partial Summary Judgment

Estimated Time Needed: This case is referred to the Charleston County Master in Equity and a hearing will be scheduled with him.

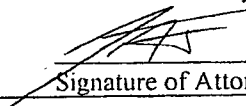
Court Reporter Needed: YES/NO

SECTION II: Motion Type

☒ Written motion attached

☐ Form Motion —

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Plaintiff/Defendant

December 29, 2011

Date submitted

SECTION II: Motion Fee

☒ PAID—AMOUNT: \$25.00

☐ EXEMPT:

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC)

☐ Proposed order submitted at request of the court; or,

reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: Referred to Master by Motion and Order of Court

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE

CODE: _____

Date: _____

CLERK'S VERIFICATION

DATE FILED

Collected by: _____

(print name)

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED—AMOUNT DUE: _____

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Amerquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May
1, 2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; et al.;

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2006-CP-10-2859

PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR PARTIAL SUMMARY
JUDGMENT

(10378.62 SMF)

TO: THE ABOVE NAMED DEFENDANTS AND/OR THEIR COUNSEL

YOU WILL PLEASE TAKE NOTICE that on **Friday, January 27, 2012, at 10:30 a.m.** at the Charleston County Courthouse, 100 Broad Street, Courtroom 2A, Charleston, SC 29401, Plaintiff Deutsche Bank National Trust Company, as Trustee of Amerquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse ("Plaintiff"), will move before the Honorable Mikell R. Scarborough, Master in Equity for Charleston County, for an order granting partial summary judgment in its favor pursuant to Rule 56(d), SCRPC, as to its cause of action for equitable subrogation in its foreclosure complaint against Defendant Vandora M. Huggins-Edwards, on the grounds that:

1. Vandora M. Huggins-Edwards took out the \$120,800.00 mortgage loan that is the subject of this foreclosure action with Plaintiff's predecessor-in-interest, Amerquest Mortgage Company ("Amerquest"), on May 6, 2005. (Affidavit of David J. Merrill ¶ 4.)

2. At the time of the loan closing, there already existed a first lien mortgage on the subject property given to NovaStar Mortgage by Buster Huggins, Sr. and Lucille Huggins dated November 17,

2003, and recorded in the office of the RMC/ROD for Charleston County on November 25, 2003, in Book W476 at Page 168 (hereinafter "the NovaStar Mortgage"). (Merrill Aff. ¶ 5.)

3. The interests of the Cotenants in the subject property, which did not arise until Buster Huggins, Sr. died intestate on April 14, 2004, were subordinate to the NovaStar Mortgage executed by Buster Huggins, Sr. and Lucille Huggins.

4. Out of the \$120,800.00 in mortgage loan proceeds from Ameriquest, the closing attorney disbursed \$92,490.22 to NovaStar Mortgage, thereby satisfying its mortgage loan. (Merrill Aff. ¶ 6.)

5. A Satisfaction of the NovaStar Mortgage was executed on May 19, 2005, and recorded on June 7, 2005, in the Office of the RMC/ROD for Charleston County in Book Y539 at Page 306. (Merrill Aff. ¶ 7.)

6. There is no genuine issue of material fact that Ameriquest would have been entitled to be equitably subrogated to the rights of NovaStar in the subject property.

7. "The requirements a mortgagee must meet to qualify for equitable subrogation are:

- (1) the party claiming subrogation has paid the debt;
- (2) the party was not a volunteer, but had a direct interest in the discharge of the debt or lien;
- (3) the party was secondarily liable for the debt or for the discharge of the lien;
- (4) no injustice will be done to the other party by the allowance of equitable subrogation; and
- (5) the party asserting the doctrine did not have actual notice of the prior mortgage."¹

Matrix Fin. Servs. Corp. v. Frazer, 394 S.C. 134, 137, 714 S.E.2d 532, 533 (2011).

8. In this case, the proceeds from Ameriquest's loan to Vandora M. Huggins-Edwards were used to completely satisfy the debt secured by the NovaStar Mortgage.

9. Ameriquest had a direct interest in the discharge of the debt secured by the NovaStar Mortgage and was not a volunteer in respect to the payment of that debt. Ameriquest was not refinancing its own debt.

¹ The final "actual notice" element of equitable subrogation is inapplicable in this case because Plaintiff is not seeking to use this doctrine to gain priority over an intervening mortgage.

10. Ameriquest was secondarily liable for the discharge of the debt secured by the NovaStar Mortgage and the satisfaction of the NovaStar Mortgage.

11. But for Ameriquest's mortgage loan, the NovaStar Mortgage would still encumber the interests of the Cotenants. Therefore, no injustice would be done to Vandora M. Huggins-Edwards, the Cotenants, or to any other party by the allowance of equitable subrogation.

12. Thus, Ameriquest would have been entitled to be equitably subrogated to all of the rights previously held by NovaStar in the subject property, including its encumbrance of the interests of every one of the Cotenants in the subject property.

13. Ameriquest assigned all of its rights and interest in the mortgage that is the subject of this foreclosure action to Plaintiff by Assignment of Mortgage dated July 27, 2006, and recorded on August 21, 2006, in the Office of the RMC for Charleston County in Book 598 at Page 671. (See copy of recorded Assignment attached as Exhibit 1.)

14. In South Carolina, it is well established that an assignee stands in the shoes of its assignor. *Twelfth RMA Partners, L.P. v. National Safe Corp.*, 335 S.C. 635, 639, 518 S.E.2d 44, 46 (Ct. App. 1999). "When a contract is assigned, the assignee should have all the same rights and privileges ... as the assignor." *Id.*

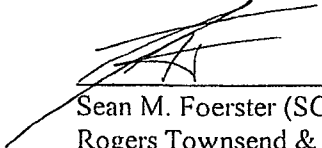
15. Plaintiff, as assignee of the mortgage, stands in the shoes of Ameriquest with respect to all of its rights, including the right to be equitably subrogated to the rights of NovaStar in the subject property.

16. Therefore, Plaintiff respectfully requests an Order from the Court equitably subrogating Plaintiff to the rights of NovaStar, including its lien rights, securities, and remedies, and declaring Plaintiff's Mortgage a first priority lien that encumbers the interests of all of the Cotenants in the subject property.

Specifically, this motion is based on the Affidavit of David J. Merrill filed herewith and the exhibits attached thereto (with loan numbers redacted from exhibits by Plaintiff's counsel and with

permission of affiant), the Exhibit attached to this motion, the pleadings, Rule 56(d), SCRCp, the case law of South Carolina, and such other and further matters as may be properly presented to the court.

Respectfully submitted,



Sean M. Foerster (SC Bar # 77644)
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, SC 29202-3200
(803) 744-1855
sean.foerster@rtt-law.com

Attorneys for Plaintiff Deutsche Bank National Trust Company,
as Trustee of Ameriquest Mortgage Securities, Inc., Asset
Backed Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May 1, 2005,
without recourse
Rogers Townsend & Thomas, PC and its staff are debt collectors.

December 29, 2011

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

(009088-00508 MPM)

Loan Number: 0114711120

Second Loan Number:

ASSIGNMENT OF MORTGAGE
Mortgage Book R534 at Page 330



BKC 598PG671

FOR VALUE RECEIVED, we hereby set over, transfer and assign unto Deutsche Bank National Trust Company, as Trustee of Amerquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse, c/o AMC Mortgage Services, Inc., (505 S. Main Street, Suite 6000 final packages), 505 City Parkway West, Suite 100, Orange, CA92868-4509, its successors and assigns, all our rights, title and interest in and to a certain Mortgage, together with the Note thereby, executed by Vandora M. Huggins-Edwards to Amerquest Mortgage Company dated April 6, 2005, and duly recorded in the Public Records of Charleston County, State of South Carolina, on April 27, 2005, in Mortgage Book R534 at Page 330.

IN WITNESS WHEREOF, Amerquest Mortgage Company has caused this instrument to be executed in its corporate name and behalf by Rose C. Lara, as its Vice President, duly authorized, on this 27th day of July, 2006.

Amerquest Mortgage Company by AMC
Mortgage Services, Inc., as Authorized Agent

By:

Rose C. Lara
Rose C. Lara, Vice President

Tamara Price
Witness No. 1 Tamara Price

M. Reveles
Witness No. 2 M. Reveles

STATE OF CALIFORNIA

COUNTY OF ORANGE

ACKNOWLEDGMENT

S.C. Code § 30-5-30
(Effective January 1, 1995)

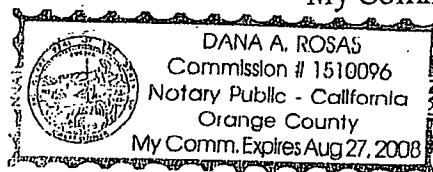
I, the undersigned, Notary Public for the State of California, do hereby certify that Amerquest Mortgage Company by AMC Mortgage Services, by Rose C. Lara, its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand this 27th day of July, 2006.

Dana A. Rosas
NOTARY PUBLIC FOR

My Commission Expires: 9/27/2006

RETURN TO:
Rogers, Send & Thomas, P.C.
Post Office Box 100200
Columbia, South Carolina 29202



BKC 598PG672

RECORDER'S PAGE

NOTE: This page MUST remain
with the original document



Filed By:

Rogers Townsend & Thomas, PC
220 Executive Ctr Dr Ste 109
Post Office Box 100200
Columbia SC 29202

FILED

August 21, 2006

9:26:20 AM

BKC 598PG671

Charlie Lybrand, Register
Charleston County, SC

DESCRIPTION	AMOUNT
ASSIGNMENT	\$ 6.00
Postage	
TOTAL	\$ 6.00

DRAWER:

C - slw

DO NOT STAMP BELOW THIS LINE

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May
1, 2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; et al.;

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2006-CP-10-2859

AFFIDAVIT

(010378-00062 SMF)

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

1. My name is DAVID J. WEEB and I am authorized to execute this affidavit as an
employee of American Home Mortgage Servicing Inc. ("AHMSI"). AHMSI is the servicing agent of the
mortgage loan ("subject loan") of Defendant Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards on
behalf of Plaintiff Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage
Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and
Servicing Agreement dated as of May 1, 2005, without recourse.

2. In its capacity as Plaintiff's servicer, AHMSI maintains records for the subject loan in the
ordinary course of its business. As part of my job responsibilities, I am familiar with the records
maintained by my company in connection with the subject loan. I have personal knowledge of the facts
set forth in this affidavit.

3. I have personal knowledge of AHMSI's procedures for creating and maintaining these
records. They include: (a) being posted at or near the time of the occurrence of the matters recorded by
persons with personal knowledge of the information in the business record or from information
transmitted by persons with personal knowledge; (b) being maintained in the course of AHMSI's
regularly conducted business activities; and (c) being records created and maintained on each customer as
the regular practice of AHMSI in its servicing operations.

4. According to the loan records that I have reviewed, Vandora M. Huggins-Edwards took out the \$120,800.00 mortgage loan that is the subject of this foreclosure action with Ameriquest Mortgage Company ("Ameriquest") on May 6, 2005.

5. As part of the closing, Ameriquest needed to satisfy a previous first lien mortgage on the subject property given to NovaStar Mortgage by Buster Huggins, Sr. and Lucille Huggins dated November 17, 2003, and recorded in the office of the RMC/ROD for Charleston County on November 25, 2003, in Book W476 at Page 168. (See copy of recorded NovaStar Mortgage attached hereto as Exhibit 1.)

6. Out of the \$120,800.00 in mortgage loan proceeds from Ameriquest, the closing attorney disbursed \$92,490.22 to NovaStar Mortgage, thereby satisfying its mortgage loan. As evidence of this payoff, attached are copies from AHMSI's file for this loan of the HUD-1 settlement statement (Exhibit 2) and a document entitled "Items to be Paid Off from Loan Proceeds" (Exhibit 3) prepared and signed by the closing attorney.

7. A Satisfaction of the NovaStar Mortgage was executed on May 19, 2005, and recorded on June 7, 2005, in the Office of the RMC/ROD for Charleston County in Book Y539 at Page 306. (See copy of Satisfaction attached as Exhibit 4.)

FURTHER AFFIANT SAYETH NOT.

Name

DAVID J. WERRELL

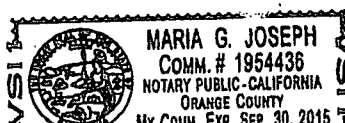
Print Name

ASSISTANT SECRETARY

Title

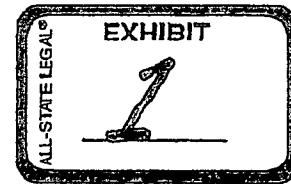
SWORN to before me this 27th
day of DECEMBER 2011.

Notary Public for



After Recording Return To:
ROVASTAR MORTGAGE, INC.,
ATTN: COLLATERAL CONTROL
6200 OAK TREE BLVD. 3RD FLOOR
CLEVELAND, OH 44131

BK H476PG168



This instrument was prepared by:

Title Order No.: HUGGINS
Escrow No.: HUGGINS
LOAN #: ~~XXXXXXXXXX~~

[Space Above This Line For Recording Data]

MORTGAGE

MIN 100080100039998926

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **NOVEMBER 17, 2003**, together with all Riders to this document.

(B) "Borrower" is **BUSTER HUGGINS AND LUCILLE HUGGINS**.

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the beneficiary under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, Michigan 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is **ROVASTAR MORTGAGE, INC.**

Lender is a CORPORATION,
THE STATE OF VIRGINIA,
3RD FLOOR, CLEVELAND, OH 44131.

organized and existing under the laws of
Lender's address is 6200 OAK TREE BLVD.

Lender is the mortgagee under this Security Instrument.

(E) "Note" means the promissory note signed by Borrower and dated **NOVEMBER 17, 2003**. The Note

states that Borrower owes Lender *******NINETY THOUSAND TWO HUNDRED FIFTY AND NO/100**
***** Dollars (U.S. **\$90,250.00**)
plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **DECEMBER 1, 2033**.

(F) "Property" means the property that is described below under the heading "Transfer of Rights In the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|---|---|
| ☐ Adjustable Rate Rider | ☐ Condominium Rider | ☐ Second Home Rider |
| ☐ Balloon Rider | ☐ Planned Unit Development Rider | ☐ Other(s) [specify] |
| ☐ 1-4 Family Rider | ☐ Biweekly Payment Rider | |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

Initials: *B H K*

LOAN 11

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 6500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS the following described property located in the COUNTY [Type of Recording Jurisdiction] of CHARLESTON

[Name of Recording Jurisdiction]:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF. (STATE:

SOUTH CAROLINA, COUNTY: CHARLESTON)

APN #: 41/-05-00-280

which currently has the address of 1218 GUNN AVENUE, CHARLESTON,

[Street] [City]

South Carolina 29407 ("Property Address"):

[Zip Code]

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right; to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received

Initials: *B R L*

by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments in, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

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Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

8. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, unless extenuating circumstances exist which are beyond Borrower's control.

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7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. Borrower shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. Borrower shall not, without the express written consent of Lender, alter or amend the ground lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing in modifying the

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mortgage insurer's risk, or reducing losses, if such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1988 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender,

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance. By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits

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under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in the Property. As used in this Section 18, "interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 17.

Initials: BAH

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. **Release.** Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. **Homestead Waiver.** Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. **Waiver of Appraisal Rights.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY

Initials: AKH

APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in § 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

Samuel J. Dugan
Samuel J. Dugan

Buster Huggins (Seal)
 BUSTER HUGGINS

Lucille Huggins his attorney in fact

Lucille Huggins (Seal)
 LUCILLE HUGGINS

State of SOUTH CAROLINA
 County of Charleston

The foregoing instrument was acknowledged before me this 11-17-03 (date)
 by Buster Huggins and LUCILLE HUGGINS

 (name of person acknowledged).

Samuel J. Dugan
 Signature of Person Taking Acknowledgement
 My commission expires: 12-12-06

EXHIBIT "A"

ALL THOSE TWO (2) LOTS OF LAND, WITH THE BUILDINGS THEREIN, SITUATE, LYING AND BEING ON THE PUBLIC ROAD OR STREET KNOWN AS SEVENTH AVENUE (N/K/A GUNN AVENUE), IN THAT PORTION OF HILLSBORO CALLED MARYVILLE IN ST. ANDREWS PARISH, IN THE COUNTY AND STATE AFORESAID, AND KNOWN AND DESIGNATED AS LOTS NOS. 322 AND 323 ON PLAT OF PART OF HILLSBORO CALLED MARYVILLE, WHICH PLAT IS RECORDED IN PLAT BOOK "F", PAGE 188, IN THE RMC OFFICE FOR CHARLESTON COUNTY.

MEASURING AND CONTAINING IN FRONT,, TOGETHER, ONE HUNDRED (100') FEET, AND THE SAME ON THE BACK LINE, BY ONE HUNDRED (100') FEET IN DEPTH.

BUTTING AND BOUNDING TO THE NORTH ON LOTS 308 AND 309 ON SAID PLAT; TO THE EAST ON LOT NO ____; TO THE SOUTH ON SEVENTH AVENUE (N/K/A GUNN AVENUE); AND TO THE WEST ON LOT NO. 324 ON SAID PLAT.

TMS# 418-05-00-279

BEING THE SAME PROPERTY CONVEYED TO BUSTER HUGGINS BY DEED OF HENRY GRAVES AND SARAH HEYWARD (FORMERLY SARAH HEYWARD) GRAVES DATED NOVEMBER 4, 1954 AND RECORDED NOVEMBER 4, 1954 IN BOOK A59, PAGE 471, THE RMC OFFICE FOR CHARLESTON COUNTY, SOUTH CAROLINA. BUSTER HUGGINS CONVEYED AN UNDIVIDED ONE HALF INTEREST TO LUCILLE HUGGINS BY DEED DATED NOVEMBER 17, 2003 AND RECORDED SIMULTANEOUSLY HERewith IN THE RMC OFFICE FOR CHARLESTON COUNTY, SOUTH CAROLINA.

BK " W476PG178

FILED

W476-168

2003 NOV 25 AM 8:46

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

16.00
A

 Daniel J. Dugan
2154 N. Center Street
Suite A-103
N. Charleston, SC 29406

2

**A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
SETTLEMENT STATEMENT**
Optional Form for Transactions without a Sale
NAME AND ADDRESS OF BORROWER:

Vandora M. Huggins-Edwards and
Luello Huggins
1218 Gunn Ave.
Charleston, SC 29407

NAME AND ADDRESS OF LENDER:

Ameriquest Mortgage Company
1 Poston Road, Suite 140
Charleston, SC 29407

PROPERTY LOCATION:

1218 Gunn Ave.
Charleston, SC 29407
Charleston County, South Carolina

SETTLEMENT AGENT: Ferrara Law Firm, PLLC

PLACE OF SETTLEMENT: 100 S. Main Street, Suite M
Summerville, S.C. 29403

SETTLEMENT DATE: May 8, 2005 **Disbursement:** 05/13/05

LOAN NUMBER:**I. SETTLEMENT CHARGES****800. ITEMS PAYABLE IN CONNECTION WITH LOAN**

801. Loan Origination Fee	% to	
802. Loan Discount	3.102% to Ameriquest Mortgage Company	3,819.70
803. Appraisal Fee	to Ameriquest Mortgage Company	350.00
804. Credit Report	to	
805. Lender's Inspection Fee	to	
806. Mortgage Ins. App. Fee	to	
807. Mortgage Broker Fee	to	
808.		
809.		
810. Tax Related Service Fee	to Ameriquest Mortgage Company	70.00
811. Flood Search Fee	to Ameriquest Mortgage Company	5.00
812. Lender Processing Fee	to Ameriquest Mortgage Company	628.00
813. Administrative Fee	to Ameriquest Mortgage Company	239.00
814.		
815.		
816.		
817. Application Fee	to Ameriquest Mortgage Company	380.00
818.		
819.		
820.		

900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE

901. Interest 04/13/05 to 05/01/05 @ \$	29.120000/day	524.16
902. Mortgage Insurance Premium for	months to	
903. Hazard Insurance Premium for	1.0 yr to	
904.		
905.		

1000. RESERVES DEPOSITED WITH LENDER

1001. Hazard Insurance	months @ \$	per month	
1002. Mortgage Insurance	months @ \$	per month	
1003. City/Town Taxes	months @ \$	per month	
1004. County Taxes	months @ \$	per month	
1005. Assessments	months @ \$	per month	
1006.	months @ \$	per month	
1007.	months @ \$	per month	
1008.	months @ \$	per month	0.00

1100. TITLE CHARGES

1101. Settlement Fee	to	
1102. Title Search	to Nations Title	125.00
1103. Title Examination	to Ferrara Law Firm, PLLC	160.00
1104. Title Ins. Binder	to Nations Title	75.00
1105. Document Prep.	to	
1106. Notary Fees	to	
1107. Attorney's Fees	to Ferrara Law Firm, PLLC	550.00
(Includes above item numbers: 1101, 1103, 1109)		
1108. Title Insurance	to Nations Title	299.60
(Includes above item numbers: 1101, 1103, 1109)		
1109. Lender's Coverage	\$ 120,800.00	373.99
1110. Owner's Coverage	\$	
1111.		
1112. Express Mail/Wire Fees	to Ferrara Law Firm, PLLC	60.00
1113.		
1114.		
1115.		
1116.		
1117.		
1118.		

1200. GOVERNMENT RECORDING AND TRANSFER CHARGES

1201. Recording fees: Mortgage	\$ 26.00	Releases \$ 10.00	35.00
1202. City/County Tax/Stamp:	Mortgage	\$	
1203. State Tax/Stamp:	Mortgage	\$	
1204.			
1205.			

1300. ADDITIONAL SETTLEMENT CHARGES

1301. Survey		
1302. Pest Inspection		
1303.		
1304. County Taxes	Charleston County Tax Collector	
1305.		

1400. TOTAL SETTLEMENT CHARGES (enter on line 1602)

7,282.39

M. DISBURSEMENT TO OTHERS

1601. Disbursement	to	
Chrysler Financial		13,007.00
1602.		
1603.		
1604.		
1605.		
1606.		
1607.		
1608.		
1609.		
1610.		
1611.		
1612.		
1613.		
1614. Mortgage	to	
NovaStar Mortgage		92,490.22
1620. TOTAL DISBURSED		105,657.22
(enter on line 1603)		

N. NET SETTLEMENT

1600. Loan Amount	\$	120,800.00
1601. Plus Cash/Check from Borrower	\$	0.00
1602. Minus Total Settlement Charges (line 1400)	\$	7,282.39
1603. Minus Total Disbursements to Others (line 1620)	\$	105,657.22
1604. Equals Disbursements to Borrower (after expiration of any applicable rescission period required by law)	\$	7,980.42

The undersigned hereby certifies the receipt of a completed copy of this statement & any attachments referred to herein

Borrower Vandora M. Huggins-Edwards
Vandora M. Huggins-Edwards

Certified to be a true copy. Lucille Huggins
Lucille Huggins

Paul B. Ferrara, III
Paul B. Ferrara, III
Settlement Agent

ALL-STATE LEGAL[®] EXHIBIT
3

Loan Number : ~~XXXXXXXXXXXX~~

[illegible]

(W) = Included in Wire

75-7UNV (2/2004)



When Recorded Return To:
 DOCK LLC
 1111 Alderman Drive
 Suite 350
 Alpharetta, GA 30005

30304-01 01/11/2001

NV 000 0000912345

CREW:07/13/2005 PREP:R052 DRID:NV-MERS RC:RD
 ROSCSC:755505SC:CHARLESTON
 MIN #: 1000801003998926
 VRU Tel#: 888679-MERS
 Property Address: 1218 GUNN AVENUE
 CHARLESTON, SC 29407

EX Y539P6306



SATISFACTION OF MORTGAGE

The debt, secured by the mortgage described below, having been paid; the lien of the said mortgage is hereby declared forever discharged and satisfied; and the cancellation of the said mortgage upon the record thereof is hereby authorized and directed.

Original Mortgage(s): BUSTER HUGGINS AND LUCILLE HUGGINS.
 Original Mortgage: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
 Mortgage in the Original Amount of: \$90,250.00 Date of Mortgage: 11/21/2003
 Recording Date: 11/25/2003 Liber/Book F: W 476 Folio/Page #: 168
 Comments: ORIGINAL LENDER: NOVASTAR MORTGAGE, INC.
 and recorded in the official records of CHARLESTON County, State of South Carolina affecting Real Property and more particularly described on said Mortgage referred to herein.
 Witness the due execution hereof by the signor(s) and holder(s) of said mortgage this date of 05/19/2005.

Signed, Sealed and Delivered in the presence MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

Jessica Leete
 Witness: JESSICA LEETE

Pat Kingston
 PAT KINGSTON
 VICE PRESIDENT

Linda Thoresen
 Witness: LINDA THORESEN

Mary Witthoefft
 MARY WITTHOEFFT
 ASSISTANT SECRETARY

State of GA
 County of FULTON

Personally appeared before me JESSICA LEETE, and made oath that he/she with the corporate seal of the MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., affixed to the foregoing instrument and that he/she also saw PAT KINGSTON, VICE PRESIDENT and MARY WITTHOEFFT, ASSISTANT SECRETARY, of said MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., sign and attest the same, and that he/she with LINDA THORESEN witnessed the execution and delivery thereof as the act and deed of the said MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

Jessica Leete
 JESSICA LEETE
 Signed to before me this 05/19/2005

Donna Hull
 Notary Public



DONNA HULL
 Notary Public - Georgia
 Fulton County
 My Comm. Expires Sept. 10, 2006

BX H476PG178

BX Y539PG307

FILED

W476-168

2003 NOV 25 AM 8:46

CHARLES LYBRAND
REGISTER
CHARLESTON COUNTY SC

16/2

Daniel J. Dugan
2164 N. Center Street
Suite A-103
N. Charleston, SC 29406

best
u

DOCK, LLC
1111 ALDERMAN DR STE 350
ALPHARETTA GA 30005-9929

FILED

Y539-296
2005 JUN -7 PM 12:00

CHARLES LYBRAND
REGISTER
CHARLESTON COUNTY SC
SATISFACTION

Sat
5.00
C

CERTIFICATE OF SERVICE BY MAIL
Civil Action # 2006-CP-10-2859

I, the undersigned attorney with the law firm of Rogers Townsend & Thomas, PC, do hereby certify that I have served a copy of the foregoing document upon the parties by U.S. Mail, postage prepaid, on December 29, 2011, at the following addresses:

Document Served:

Plaintiff's Notice of Motion and Motion for Partial Summary Judgment
Affidavit of David J. Merrill

Party Served:

Arthur C. McFarland, Esquire
The Law Office of Arthur C. McFarland
1847 Ashley River Road
Charleston, SC 29407

Glenn M. Huggins
109 Spring Avenue
Watertown, NY 13601

Ira S. Huggins
c/o FCI Petersburg-Low
Reg. No. 12531-171
P.O. Box 1000
Petersburg, VA 23804

Ronald W. Urban, Esquire
Office of General Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211

Roy Boggs, Esquire
Korn Law Firm
P.O. Box 12369
Columbia, SC 29211-2369

Leo A. Dryer, Jr., Esquire
Dryer Law Office
P.O. Box 11567
Columbia, SC 29211

Lee E. Berlinsky, Esquire
Assistant U.S. Attorney
151 Meeting Street, Ste. 200
Charleston, SC 29401

John C. Bigler
15 Leeann Lane
Mt. Pleasant, SC 29464

Eben H. Cockley, Esquire
56 Broad Street
Charleston, SC 29401

Sylvia Anne Lawrence a/k/a Sylviatte Anne Lawrence
600 Cane Mill Court
Summerville, SC 29485

Donnell Huggins
1218 Gunn Avenue
Charleston, SC 29407

Samuel Huggins
1990 Ashley River Road
Charleston, SC 29407-4780

Derwin Huggins
5752 Utrecht Road
Baltimore, MD 21206-2935

Sharon H. Smack
1957 Boeing Avenue
Charleston, SC 29407

Dewayne Dixon
2405 Southern Blvd. - Apt. 7F
Bronx, NY 10458

Jennifer Nelms
2802 Olinville Avenue - Apt. E-9
Bronx, NY 10467

Kimberly Nelms
c/o Jennifer Nelms
2802 Olinville Avenue - Apt. E-9
Bronx, NY 10467

Timothy Nelms
2802 Olinville Avenue - Apt. E-9
Bronx, NY 10467

Timothy Nelms
c/o Jennifer Nelms
2802 Olinville Avenue - Apt. E-9
Bronx, NY 10467

Michael A. Brown
1957 Boeing Avenue
Charleston, SC 29407

Michael A. Brown
c/o Jennifer Nelms
2802 Olinville Avenue - Apt. E-9
Bronx, NY 10467

Demetrius Huggins Nelms – a minor
1957 Boeing Avenue
Charleston, SC 29407

Darius Simmons – a minor
1957 Boeing Avenue
Charleston, SC 29407

Dondre Simmons – a minor
1957 Boeing Avenue
Charleston, SC 29407

Reginald Huggins
1064 Springfield Church
Trenton, SC 29847

Joseph Huggins

1064 Springfield Church
Trenton, SC 29847

Heather Huggins
1064 Springfield Church
Trenton, SC 29847

Barbara Huggins
1064 Springfield Church
Trenton, SC 29847

Michael Twitty
2412 Caslreagh Road
Charleston, SC 29414

Deborah Twitty
2412 Caslreagh Road
Charleston, SC 29414



Sean M. Foerster (S.C. Bar # 77466)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May
1, 2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; Sylvia Anne Lawrence a/k/a Sylviette Anne
Lawrence; Glenn M. Huggins; Michael Huggins;
Donnell Huggins; Samuel Huggins; Ira Huggins a/k/a
Ira S. Huggins; Derwin Huggins; Andrean Huggins
Cotton a/k/a Adrienne Huggins Cotton; Sharon H.
Smack; Dewayne Dixon; Kimberly Nelms; Timothy
Nelms; Jennifer Nelms; Michael A. Brown; Demetrius
Huggins Nelms, a minor; Darius Simmons, a minor;
Dondre Simmons, a minor; Reginald Huggins; Joseph
Huggins; Heather Huggins; Barbara Huggins; any other
Heirs-at-Law or Devisees of Ricky Henry Huggins,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or Devisees of Henry Buster Huggins, Jr.,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or Devisees of Michelle Huggins, Deceased,
their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled
to claim through them; any other Heirs-at-Law or
Devisees of Buster Huggins, Sr., Deceased, their heirs,
Personal Representatives, Administrators, Successors
and Assigns, and all other persons entitled to claim
through them; all unknown persons with any right, title
or interest in the real estate described herein; also any
persons who may be in the military service of the
United States of America, being a class designated as
John Doe; and any unknown minors or persons under a
disability being a class designated as Richard Roe;
South Carolina Department of Revenue; Safeway
Finance; Ford Motor Credit Company; General Motors
Acceptance Corporation; White Directory Holdings
Carolina, Inc. d/b/a The Talking Phone Book;
Monogram Credit Card Bank of Georgia; Michael
Twitty; Deborah Twitty; and the United States of
America, by and through its agency, the Internal
Revenue Service;

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NOS.: 2006-CP-10-2859

PLAINTIFF'S NOTICE OF MOTION AND
SECOND MOTION TO AMEND COMPLAINT

TO: THE ABOVE NAMED DEFENDANTS:

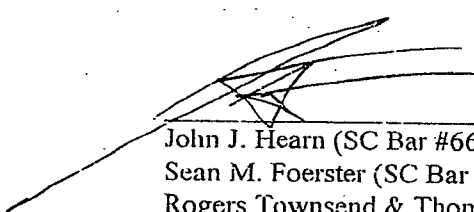
Plaintiff Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse ("Plaintiff"), will move before the Master in Equity for Charleston County, South Carolina, on the tenth (10) day after service hereof, or as soon thereafter as counsel may be heard, for an Order pursuant to Rule 15(a), SCRCF, granting Plaintiff leave to file a Second Amended Complaint on grounds that justice would be served and no prejudice would inure to the Defendants to allow the amendment.

Specifically, Plaintiff seeks to allege a new cause of action regarding the encroachment of an adjoining parcel of land onto the property that is the subject of this foreclosure action. In addition, the Second Amended Complaint will name John C. Bigler as a defendant by virtue of his ownership of the encroaching property. Such an amendment comports with Rule 15(c), SCRCF, in that John C. Bigler has received such notice of the institution of this foreclosure action that he will not be prejudiced in maintaining his defense on the merits, and he knew or should have known that this action would have been brought against him by virtue of his recent purchase of the encroaching property at a Charleston County Tax Sale.

A copy of the Second Amended Complaint is attached hereto as an exhibit and is made a part of this motion. Plaintiff will mail a copy of the proposed Second Amended Complaint to the parties prior to any hearing on this motion. As part of the motion hearing, Plaintiff would ask the Court to hold an additional status conference and, if necessary, issue an appropriate amended scheduling order.

signature on the following page

Respectfully submitted,



John J. Hearn (SC Bar #6635)
Sean M. Foerster (SC Bar #77466)
Rogers Townsend & Thomas, PC
220 Executive Center Drive – Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803) 771-7900

Attorney for the Plaintiff, Deutsche Bank National Trust
Company, as Trustee of Ameriquest Mortgage
Securities, Inc., Asset Backed Pass Through Certificates,
Series 2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without recourse

February 10, 2010

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May
1, 2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; Sylvia Anne Lawrence a/k/a Sylviatte Anne
Lawrence; Glenn M. Huggins; Michael Huggins;
Donnell Huggins; Samuel Huggins; Ira Huggins a/k/a
Ira S. Huggins; Derwin Huggins; Andrean Huggins
Cotton a/k/a Adrienne Huggins Cotton; Sharon H.
Smack; Dewayne Dixon; Kimberly Nelms; Timothy
Nelms; Jennifer Nelms; Michael A. Brown; Demetrius
Huggins Nelms, a minor; Darius Simmons, a minor;
Dondre Simmons, a minor; Reginald Huggins; Joseph
Huggins; Heather Huggins; Barbara Huggins; any other
Heirs-at-Law or devisees of Ricky Henry Huggins,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or devisees of Henry Buster Huggins, Jr.,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or devisees of Michelle Huggins, Deceased,
their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled
to claim through them; any other Heirs-at-Law or
Devisees of Buster Huggins, Sr., Deceased, their heirs,
Personal Representatives, Administrators, Successors
and Assigns, and all other persons entitled to claim
through them; all unknown persons with any right, title
or interest in the real estate described herein; also any
persons who may be in the military service of the
United States of America, being a class designated as
John Doe; and any unknown minors or persons under a
disability being a class designated as Richard Roe;
South Carolina Department of Revenue; Safeway
Finance; Ford Motor Credit Company; General Motors
Acceptance Corporation; White Directory Holdings
Carolina, Inc. d/b/a The Talking Phone Bocs.;
Monogram Credit Card Bank of Georgia; Michael
Twitty; Deborah Twitty; the United States of America,
by and through its agency, the Internal Revenue
Service; and John C. Bigler;

IN THE COURT OF COMMON PLEAS

DOCKET NO. 06-CF-10-2859

SECOND AMENDED LIS PENDENS
Deficiency Judgment Demanded

Defendants.

(010378-00062 SMF)

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the above-named Defendant(s) for the foreclosure of a certain mortgage of real estate given by Vandora M. Huggins-Edwards to Ameriquet Mortgage Company dated April 6, 2005, and recorded in the Office of the RMC/ROD for Charleston County on April 27, 2005, in Mortgage Book R534 at Page 330. This Mortgage was subsequently assigned to the Plaintiff herein by Assignment of Mortgage dated July 26, 2006, and recorded on August 21, 2006, in Book C598 at Page 671.

The premises covered and affected by the said mortgage and by the foreclosure thereof were, at the time of the making thereof and at the time of the filing of this notice, described as follows:

ALL those two (2) lots of land, together with the buildings thereon, situate, lying and being on the public road or street known formerly as Seventh Avenue, but now known as Gunn Avenue, in the portion of Hillsboro called Maryville, in St. Andrews Parish, in the County of Charleston, State of South Carolina, and known and designated as Lot Nos. 322 and 323 on a plat of Hillsboro called Maryville, which plat is recorded in Plat Book "F", at Page 188 of Charleston County. Reference is hereby craved to said plat for a more complete and accurate metes and bounds description.

This being the identical property conveyed to Vandora H. Edwards a/k/a Vandora M. Huggins-Edwards by deed of Lucille Huggins, dated November 15, 2004 and recorded December 2, 2004 in Deed Book Y517 at Page 835.

Property Address: 1218 Gunn Avenue
Charleston, SC 29407

TMS# 418-05-00-279

NOTICE IS ALSO HEREBY GIVEN THAT an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the above-named Defendant(s) for certain encroachments by the property adjoining the real property that is the subject of the above mentioned foreclosure action.

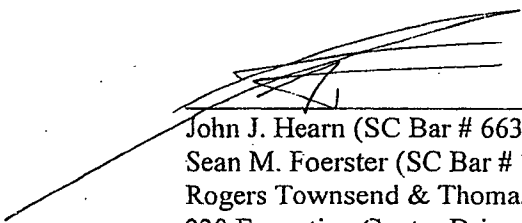
The premises covered and affected by the Plaintiff's cause of action for encroachment were, at the time of the making thereof and at the time of the filing of this notice, described as follows:

ALL that certain lot, piece or parcel of land, with the building and improvements thereon, situate, lying and being in the Town of Maryville, St. Andrew's Parish, in Charleston County, State aforesaid, and known as Lot 324; it being a portion of Lots #54 and #55 on

a plat of Hillsboro made by Guerard in November, 1885, said lot being approximately fifty (50) feet by one hundred (100) feet.

BUTTING AND ABOUNDING to the North on the property now or formerly of J.S. and Eva Washington, to the East on property of Buster Huggins, to the South on Gunn Avenue and to the West on Diana Street. Reference should be has to a deed to Henry B. Huggins dated July 3, 1974, and recorded in Book U-104 at Page 134, RMC Office for Charleston County.

TMS# 418-05-00-280



John J. Hearn (SC Bar # 6635)
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Attorneys for the Plaintiff, Deutsche Bank National
Trust Company, as Trustee of Ameriquest Mortgage
Securities, Inc., Asset Backed Pass Through Certificates,
Series 2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without recourse

February 10, 2010

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May
1, 2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; Sylvia Anne Lawrence a/k/a Sylviatte Anne
Lawrence; Glenn M. Huggins; Michael Huggins;
Donnell Huggins; Samuel Huggins; Ira Huggins a/k/a
Ira S. Huggins; Derwin Huggins; Andrean Huggins
Cotton a/k/a Adrienne Huggins Cotton; Sharon H.
Smack; Dewayne Dixon; Kimberly Nelms; Timothy
Nelms; Jennifer Nelms; Michael A. Brown; Demetrius
Huggins Nelms, a minor; Darius Simmons, a minor;
Dondre Simmons, a minor; Reginald Huggins; Joseph
Huggins; Heather Huggins; Barbara Huggins; any other
Heirs-at-Law or Devises of Ricky Henry Huggins,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or Devises of Henry Buster Huggins, Jr.,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or Devises of Michelle Huggins, Deceased,
their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled
to claim through them; any other Heirs-at-Law or
Devises of Buster Huggins, Sr., Deceased, their heirs,
Personal Representatives, Administrators, Successors
and Assigns, and all other persons entitled to claim
through them; all unknown persons with any right, title
or interest in the real estate described herein; also any
persons who may be in the military service of the
United States of America, being a class designated as
John Doe; and any unknown minors or persons under a
disability being a class designated as Richard Roe;
South Carolina Department of Revenue; Safeway
Finance; Ford Motor Credit Company; General Motors
Acceptance Corporation; White Directory Holdings

IN THE COURT OF COMMON PLEAS

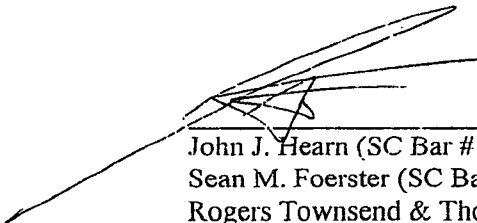
DOCKET NO. 06-CP-10-2859

SECOND AMENDED SUMMONS AND
NOTICES

(NON-JURY)

QUIET TITLE; EQUITABLE SUBROGATION;
ENCROACHMENT; FORECLOSURE OF REAL
ESTATE MORTGAGE; PARTITION
Deficiency Judgment Demanded

Second Amended Summons and Notices
06-CP-10-2859



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Attorneys for the Plaintiff, Deutsche Bank National
Trust Company, as Trustee of Ameriquest Mortgage
Securities, Inc., Asset Backed Pass Through Certificates,
Series 2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without recourse

February 10, 2010

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May
1, 2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; Sylvia Anne Lawrence a/k/a Sylviette Anne
Lawrence; Glenn M. Huggins; Michael Huggins;
Donnell Huggins; Samuel Huggins; Ira Huggins a/k/a
Ira S. Huggins; Derwin Huggins; Andrean Huggins
Cotton a/k/a Adrienne Huggins Cotton; Sharon H.
Smack; Dewayne Dixon; Kimberly Nelms; Timothy
Nelms; Jennifer Nelms; Michael A. Brown; Demetrius
Huggins Nelms, a minor; Darius Simmons, a minor;
Dondre Simmons, a minor; Reginald Huggins; Joseph
Huggins; Heather Huggins; Barbara Huggins; any other
Heirs-at-Law or Devisees of Ricky Henry Huggins,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or Devisees of Henry Buster Huggins, Jr.,
Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other
persons entitled to claim through them; any other Heirs-
at-Law or Devisees of Michelle Huggins, Deceased,
their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled
to claim through them; any other Heirs-at-Law or
Devisees of Buster Huggins, Sr., Deceased, their heirs,
Personal Representatives, Administrators, Successors
and Assigns, and all other persons entitled to claim
through them; all unknown persons with any right, title
or interest in the real estate described herein; also any
persons who may be in the military service of the
United States of America, being a class designated as
John Doe; and any unknown minors or persons under a
disability being a class designated as Richard Roe;
South Carolina Department of Revenue; Safeway
Finance; Ford Motor Credit Company; White Directory
Holdings Carolina, Inc. d/b/a The Talking Phone Book;
Monogram Credit Card Bank of Georgia; Michael

IN THE COURT OF COMMON PLEAS

DOCKET NO. 06-CP-10-2359

SECOND AMENDED COMPLAINT
(NON-JURY)

QUIET TITLE; EQUITABLE SUBROGATION;
ENCROACHMENT; FORECLOSURE OF REAL
ESTATE MORTGAGE; PARTITION
Deficiency Judgment Demanded

Twitty, Deborah Twitty; the United States of America,
by and through its agency, the Internal Revenue
Service; and John C. Bigler;

Defendants.

(010378-00062 SMF)

Plaintiff Deutsche Bank National Trust Company, as Trustee of Amerquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse ("Plaintiff"), brings this action against Defendant Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards ("Vandora M. Huggins-Edwards ") and the other above-named Defendants seeking the foreclosure of a mortgage based on the allegations set forth below:

GENERAL ALLEGATIONS

1. This is an action for the foreclosure of a Mortgage covering certain real property in Charleston County, South Carolina, the current state of the title of which necessitates the inclusion of additional causes of action for quiet title, equitable subrogation, encroachment, and (alternatively) partition.
2. Pursuant to S.C. Code Ann. § 33-15-101, Plaintiff is a corporation or other legal entity doing business in the State of South Carolina.
3. Plaintiff is the owner and holder of the Note and Mortgage described hereafter and the subject of this action.
4. The property covered and affected by the Mortgage and by the foreclosure thereof ("subject property") is described as follows:

ALL those two (2) lots of land, together with the buildings thereon, situate, lying and being on the public road or street known formerly as Seventh Avenue, but now known as Gunn Avenue, in the portion of Hillsboro called Maryville, in St. Andrews Parish, in the County of Charleston, State of South Carolina, and known and designated as Lot Nos. 322 and 323 on a plat of Hillsboro called Maryville, which plat is recorded in Plat Book "F", at Page 188 of Charleston County. Reference is hereby craved to said plat for a more complete and accurate metes and bounds description.

This being the identical property conveyed to Vandora H. Edwards a/k/a Vandora M. Huggins-Edwards by deed of Lucille Huggins, dated November 15, 2004 and recorded December 2, 2004 in Deed Book Y517 at Page 835.

Property Address: 1218 Gunn Avenue
Charleston, SC 29407

TMS# 418-05-00-279

5. Some lien on or interest in the subject property may be claimed by the Defendant(s) herein.

6. The Defendant(s) herein described as judgment creditors have by filing said judgments designated their attorney entering the judgment as their agent for service of process under the provisions of S.C. Code Ann. § 15-35-840.

7. The hereinafter named Defendant(s) may have some interest in or lien upon the property covered by the Mortgage, or some part thereof as set forth below; however such interests or liens are junior to or subsequent to the lien of the Plaintiff's Mortgage. Said liens or interests are of record in the Office of the RMC or Clerk of Court of the aforesaid county and are described as follows:

A. Sylvia Anne Lawrence a/k/a Sylviatte Anne Lawrence, Glenn M. Huggins, Michael Huggins, Donnell Huggins, Samuel Huggins, Ira Huggins a/k/a Ira S. Huggins, Derwin Huggins, Andrean Huggins Cotton a/k/a Adrianne Huggins Cotton, Sharon H. Smack, Dewayne Dixon, Kimberly Nelms, Timothy Nelms, Jennifer Nelms, Michael A. Brown, Demetrius Huggins Nelms, a minor, Darius Simmons, a minor, Dondre Simmons, a minor, Reginald Huggins, Joseph Huggins, Heather Huggins, and Barbara Huggins, by virtue of the allegations contained in the Plaintiff's First Cause of Action. Together with Vandora M. Huggins-Edwards (the parties identified in this paragraph are collectively identified as the "Cotenants").

B. South Carolina Department of Revenue by virtue of the following tax liens:

1. Tax lien number 3-50531421-0 filed on November 24, 2003, against Sylviatte

A. Lawrence;

2. Tax lien number 3-50690369-9 filed on February 15, 2006, against Michael Brown;
 3. Tax lien number 3-50725140-7 filed on August 2, 2006, against Michael Brown;
 4. Tax lien number 3-50780184-0 filed on February 13, 2007, against Michael Brown; and
 5. Tax lien number 3-50691442-2 filed on February 15, 2006, against Michael Brown.
- C. Safeway Finance by virtue of a judgment 2000-JG-10-121 in the amount of \$1,644.61 filed against Sharon R. Smack;
 - D. Ford Motor Credit Company by virtue of a judgment in the amount of \$10,470.75 filed in civil action number 2000-CP-10-4695 against Michael A. Brown and Demetricia K. Brown.
 - E. White Directory Holdings Carolina, Inc. dba The Talking Phone Book by virtue of a judgment filed in civil action number 2005-CP-10-2035 on September 21, 2005, against Ira Huggins dba X-treme Detailing;
 - F. Monogram Credit Card Bank of Georgia by virtue of a judgment in the amount of \$2,412.16 filed in civil action number 2002-CP-10-3506 on March 19, 2003, against Ira S. Huggins;
 - G. Michael Twitty and Deborah Twitty by virtue of a judgment number 2003-JG-10-629 in the amount of \$3,173.50 filed on March 18, 2003, against Ira Huggins dba X-treme Detailing;
 - H. The United States of America, by and through its agency, the Internal Revenue Service by virtue of federal tax lien #3-50572690-5 filed on September 10, 2004, against Ira S. Huggins;
 - I. All unknown persons with any right, title or interest in the real estate described

herein;

- J. Any persons who may be in the military service of the United States of America, being a class designated as John Doe;
- K. Any unknown minors or persons under a disability being a class designated as Richard Roe.

FOR A FIRST CAUSE OF ACTION
(Quiet Title)

8. Plaintiff realleges and incorporates the allegations of the preceding paragraphs as if fully contained herein.

9. The subject property was conveyed from Henry Graves and Sarah Heyward to Buster Huggins, Sr. by deed dated November 4, 1954, and recorded on November 4, 1954, in Book A59, Page 471, in the RMC Office of Charleston County, South Carolina.

10. Buster Huggins, Sr. conveyed an undivided 1/2 interest in the subject property to his wife, Lucille Huggins, by deed dated November 17, 2003, and recorded on November 25, 2003, in Book U476, Page 699, in the RMC Office of Charleston County, South Carolina. (Exhibit 1.)

11. On April 14, 2004, Buster Huggins, Sr. died intestate, leaving his 1/2 interest in the subject property to his heirs, namely his wife, Lucille Huggins (1/4 interest, which, combined with her 1/2 interest, gave her an undivided 3/4 interest in the subject property), Vandora M. Huggins-Edwards (1/36 interest), Sylvia Lawrence (1/36 interest), Glenn Huggins (1/36 interest), Michael Huggins (1/36 interest), Donnell Huggins (1/36 interest), Ira Huggins (1/36 interest) and Samuel Huggins (1/36 interest). (Exhibit 2.)

12. Two of Buster Huggins, Sr.'s children, Rickey Henry Huggins and Henry Buster Huggins, Jr., predeceased him. Both predeceased children left issue surviving Buster Huggins, Sr.

13. Ricky Henry Huggins left the following four children: Reginald Huggins, Joseph Huggins, Heather Huggins, and Barbara Huggins. Upon information and belief all of these children were living at the time of Buster Huggins, Sr.'s death, and were entitled to a share of Ricky Henry Huggins's

1/36 interest in the subject property. Therefore, each was entitled to a 1/144 share of the subject property. (Exhibit 2.)

14. Henry Buster Huggins, Jr., who was adjudicated as deceased as of December 1, 1981, left the following children who survived Buster Huggins, Sr.: Andrean Huggins Cotton, Sharon H. Smack, Dewayne Dixon, and Derwin Huggins. The four children of Henry Buster Huggins, Jr., who were living at the time of Buster Huggins, Sr.'s death, were entitled to a 1/180 share each of the subject property. (Exhibit 2.)

15. Henry Buster Huggins, Jr. also had a child named Michelle Huggins who predeceased Buster Huggins, Sr., but who left the following seven children living at the time of Buster Huggins, Sr.'s death: Kimberly Nelms, Timothy Nelms, Jennifer Nelms, Michael A. Brown, Demetrius Huggins Nelms, Darius Simmons, and Dondre Simmons. The seven living children of Michelle Huggins, who were living at the time of Buster Huggins, Sr.'s death, were entitled to a 1/1260 share each of the subject property. (Exhibit 2.)

16. Lucille Huggins later conveyed her 3/4 interest in the subject property to Vandora M. Huggins-Edwards by deed dated November 15, 2004, and recorded December 2, 2004, in Deed Book Y517 at Page 835. (Exhibit 3.) By virtue of this conveyance and through the Estate of Buster Huggins, Sr., Vandora M. Huggins-Edwards now holds a 7/9 interest in the subject property.

17. On April 6, 2005, Vandora M. Huggins-Edwards executed and gave an Adjustable Rate Note ("Note") to Ameriquist Mortgage Company, Plaintiff's predecessor-in-interest, in the principal sum of \$120,800.00.

18. In order to secure the payment of the Note according to the terms and conditions thereof, Vandora M. Huggins-Edwards gave to Ameriquist Mortgage Company a certain real estate mortgage ("Mortgage") covering the subject property.

19. The Mortgage was signed, witnessed and probated, thereafter, the Mortgage was recorded in the office of the RMC/ROD for Charleston County on April 27, 2005, in Mortgage Book R534 at Page 330. This Mortgage was subsequently assigned to the Plaintiff herein by Assignment of

Mortgage dated July 26, 2006, and recorded on August 21, 2006, in Book C598 at Page 671.

20. The legal description of the subject property within the Mortgage contained the following statement: "This being the identical property conveyed to Vandora H. Edwards a/k/a Vandora M. Huggins-Edwards by deed of Lucille Huggins, dated November 15, 2004 and recorded December 2, 2004 in Deed Book Y517 at Page 835." The property conveyed to Vandora M. Huggins-Edwards by Lucille Huggins measured "in front, together, on hundred (100') feet, and the same on the back line, by one hundred (100') feet in depth butting and bounding to the north on lots 308 and 309 and said plat; to the east on lot no ____; to the south on seventh avenue (now known as Gunn Avenue); and to the west on lot no 324 on said plat." (Exhibit 3.) The Mortgage on the subject property was clearly intended to encumber the entire 100 foot by 100 foot area.

21. Plaintiff is informed and believes that the Cotenants are the only persons who may claim any right or title to the subject property.

22. Pursuant to S.C. Code Ann. § 15-67-10, Plaintiff seeks an order from the Court quieting title to the subject property in the Cotenants, but subject to the mortgage lien of the Plaintiff pursuant to Plaintiff's equitable subrogation cause of action stated below.

FOR A SECOND CAUSE OF ACTION
(Equitable Subrogation)

23. Plaintiff realleges and incorporates the allegations of the preceding paragraphs as if fully contained herein.

24. On November 17, 2003, Buster Huggins, Sr. and Lucille Huggins borrowed \$90,250.00 from NovaStar Mortgage, Inc. ("NovaStar") and secured their obligation of repayment with a mortgage on the subject property. The NovaStar Mortgage was subsequently recorded in the office of the RMC/ROD for Charleston County on November 25, 2003, in Book W476 at Page 168.

25. The interests of the Cotenants, which did not arise until Buster Huggins, Sr.'s death on April 14, 2004, were subordinate to the NovaStar Mortgage.

26. On or about April 6, 2005, Vandora M. Huggins-Edwards borrowed \$120,800.00

from Ameriquest Mortgage Company, the repayment of which was secured by a Mortgage to Ameriquest Mortgage Company on the subject property. This Mortgage was subsequently assigned to the Plaintiff herein by Assignment of Mortgage dated July 26, 2006, and recorded on August 21, 2006, in Book C598 at Page 671.

27. This Mortgage was intended to be a first mortgage on the entire subject property.

28. The Plaintiff advanced funds to Vandora M. Huggins-Edwards with the requirement that any liens of record against the subject property would be satisfied and that the Plaintiff would hold a first lien on the entirety of the subject property.

29. The majority of the proceeds of the Plaintiff's Mortgage were used to satisfy the NovaStar Mortgage. (Exhibit 4.)

30. The Plaintiff had a direct interest in the discharge of the debt and was not a volunteer with respect to the payment of the NovaStar Mortgage.

31. The Plaintiff was secondarily liable for the discharge of the prior mortgage debt to NovaStar.

32. But for the Plaintiff's Mortgage, the interests of the Cotenants would still be encumbered by the NovaStar Mortgage.

33. Thus, the Plaintiff should be allowed to step into the first lien priority position previously held by NovaStar.

34. No injustice would be done by equitably subrogating Plaintiff to the rights of the prior mortgage holder, NovaStar.

35. By reason of the above, Plaintiff is informed and believes that it is entitled to an order of this Court equitably subrogating Plaintiff to the rights of the prior mortgage holder, NovaStar, including the lien rights, securities and remedies, declaring the Plaintiff's Mortgage a first priority lien upon the entire subject property, and allowing Plaintiff to foreclose on its Mortgage.

FOR A THIRD CAUSE OF ACTION
(Encroachment)

36. Plaintiff realleges and incorporates the allegations of the preceding paragraphs as if fully contained herein.

37. The subject property is adjoined on its west side by the following property ("adjoining property"):

ALL that certain lot, piece or parcel of land, with the building and improvements thereon, situate, lying and being in the Town of Maryville, St. Andrew's Parish, in Charleston County, State aforesaid, and known as Lot 324; it being a portion of Lots #54 and #55 on a plat of Hillsboro made by Guerard in November, 1885, said lot being approximately fifty (50) feet by one hundred (100) feet.

BUTTING AND ABOUNDING to the North on the property now or formerly of J.S. and Eva Washington, to the East on property of Buster Huggins, to the South on Gunn Avenue and to the West on Diana Street. Reference should be has to a deed to Henry B. Huggins dated July 3, 1974, and recorded in Book U-104 at Page 134, RMC Office for Charleston County.

TMS# 418-05-00-280

38. Defendant John C. Bigler is the current owner of the adjoining property by virtue of his successful high bid at a County of Charleston Delinquent Tax Sale held October 1, 2007, and by virtue of the subsequent Tax Deed given by Mary M. Scarborough, Delinquent Tax Collector for Charleston County, to Defendant John C. Bigler on July 10, 2009, and recorded in the Office of the RMC/ROD for Charleston County on July 13, 2009, in Book 67 at Page 755.

39. A dwelling is situated upon the adjoining property that, according to the legal descriptions of both the subject property and the adjoining property, extends across its property boundary line and encroaches onto the subject property.

40. The dwelling on the adjoining property continues to encroach onto the subject property. The encroachment of the dwelling upon the subject property has directly and proximately caused the subject property to diminish in market value, and will continue to render it less valuable and less useful.

41. Plaintiff has been, and will continue to be, prejudiced in its efforts to foreclose on

the subject property and will suffer considerable damages because of this encroachment.

42. Plaintiff has no adequate remedy at law and will suffer irreparable injury and damage unless the court grants injunctive relief against Defendant John C. Bigler by ordering the removal of the dwelling from the subject property.

FOR A FOURTH CAUSE OF ACTION
(Foreclosure of Mortgage)

43. Plaintiff realleges and incorporates the allegations of the preceding paragraphs as if fully contained herein.

44. This cause of action is for the foreclosure of the Mortgage described above.

45. On April 6, 2005, Vandora M. Huggins-Edwards executed and gave an Adjustable Rate Note ("Note") to Ameriquest Mortgage Company, Plaintiff's predecessor-in-interest, in the principal sum of \$120,800.00, payable in monthly installments of principal and interest of \$954.66, commencing on June 1, 2005.

46. In order to secure the payment of the Note according to the terms and conditions thereof, Vandora M. Huggins-Edwards gave to Ameriquest Mortgage Company a certain real estate mortgage ("Mortgage") covering the subject property and any and all improvements to the property, including but not limited to a mobile/manufactured home.

47. The Mortgage was signed, witnessed and probated; thereafter, the Mortgage was recorded in the office of the RMC/ROD for Charleston County on April 27, 2005, in Mortgage Book R534 at Page 330. This Mortgage was subsequently assigned to the Plaintiff herein by Assignment of Mortgage dated July 26, 2006, and recorded on August 21, 2006, in Book C598 at Page 671.

48. The Mortgage evidences and secures the repayment of money advanced by Plaintiff or its predecessor in interest to, or on behalf of, Vandora M. Huggins-Edwards and constitutes a first lien on the mortgaged premises.

49. Any notice required by the terms of the Mortgage or by state or federal statutes has been given to the applicable Defendants prior to the commencement of this action.

50. After all payments received by Plaintiff have been credited to the subject loan, the loan is in default and due for January 1, 2006, and the conditions of the Note and Mortgage have been broken. Plaintiff elects to and does declare the entire balance of said indebtedness due and payable, and that there is due on the Note and Mortgage as of January 1, 2006, the sum of \$120,307.72, with interest at the rate of 8.80% per annum from December 1, 2005, and also for the costs and disbursements of this action, including reasonable attorney's fees.

51. Pursuant to the terms of the Mortgage, Plaintiff has employed counsel to prosecute this action and a reasonable value of services of counsel in this action is such sum as the Court may find appropriate.

52. Plaintiff may be forced to pay sums for taxes and insurance and costs for securing the property, which sums, according to the terms of the Mortgage, should be added to the amount of the debt.

53. Plaintiff's right to a personal or deficiency judgment pursuant to South Carolina Code §§ 29-3-650 and 29-3-660 is expressly demanded.

FOR A FIFTH CAUSE OF ACTION
(Partition in the alternative)

54. Plaintiff realleges and incorporates the allegations of the preceding paragraphs as if fully contained herein.

55. Plaintiff is informed and believes that the Cotenants are the only persons who may claim any right or title to the subject property.

56. In the event the Court does not equitably subrogate Plaintiff to the rights of the prior mortgage holder, NovaStar, and declare Plaintiff's Mortgage a first priority lien upon the entire subject property pursuant to Plaintiff's Second Cause of Action, Plaintiff is informed and believes that, as a potential purchaser of the subject property at a foreclosure sale, Plaintiff would be entitled to a partition of the property.

57. Plaintiff is informed and believes that as a purchaser of the subject property at a

foreclosure sale, Plaintiff would not be able to obtain a partition in kind of the subject property as it is neither practicable nor expedient to partition the premises in kind among the parties.

58. The value of the interest of each of the Cotenants is so small that to bring a separate action for partition is cost prohibitive and would consume most, if not all, of the value of their interest.

59. Because the subject property cannot be partitioned in kind without injury to the parties or without materially decreasing the value of each party's interest in the whole, Plaintiff, as a potential purchaser at foreclosure sale, is therefore entitled to a partition of the proceeds of the sale.

60. Plaintiff is informed and believes that this Court, exercising its equity jurisdiction and broad discretion in matters relating to partition, has the jurisdiction and ability to effect a partition of the proceeds of the sale of the subject property in the within action in such a manner that the interest of the Cotenants will be adequately protected and the cost of partitioning the Cotenants' interest will be minimized.

61. Plaintiff is informed and believes that the issuing of a writ of partition in this instance would involve unnecessary expense, and requests that the Court dispense with such a requirement pursuant to S.C. Code Ann. § 15-61-100 and Rule 71(f)(5), SCRPC.

62. Plaintiff is informed and believes that this Court, exercising its equity jurisdiction and broad discretion in matters relating to partition, has the jurisdiction and ability to determine and declare a value, based on the sale proceeds, of each of the fractional interests of the Cotenants in the subject property.

63. Upon such a declaration of the value of the fractional interests, the Plaintiff requests that it be allowed to deposit with the Court the sum total of the values, as determined by the Court, from the proceeds of the foreclosure sale for distribution to the Cotenants.

64. Plaintiff is further informed and believes that such a partition of sale proceeds is for the common benefit of the Plaintiff and the Cotenants, and Plaintiff has incurred or will incur reasonable attorney's fees, appraisal fees, and other costs in the prosecution thereof which should be

equitably apportioned among the parties in proportion to their respective interests by the Court.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters and set forth herein and:

- (1) Direct the RMC/ROD to annotate the public records to reflect ownership of the Mortgage in the Plaintiff;
- (2) Issue an order quieting title to the subject property in the Cotenants;
- (3) Equitably subrogate Plaintiff to the rights of the prior mortgage holder, NovaStar, including the lien rights, securities and remedies NovaStar then held;
- (4) Issue an order that title in the Cotenants to the subject property is subject to the Plaintiff's mortgage lien;
- (5) Grant injunctive relief against Defendant John C. Bigler by ordering the removal of the encroaching dwelling from the subject property;
- (6) Ascertain and determine the amount due upon the Note and Mortgage held by Plaintiff together with attorney's fees and costs of this action;
- (7) Declare Plaintiff's Mortgage a first lien and render judgment of foreclosure for the amount so found to be due and owing thereon, together with any ad valorem taxes or insurance premiums which may be due and have been advanced by the Plaintiff, with reasonable attorney's fees, and for the costs of this action;
- (8) Order the reimbursement of all costs for inspecting and securing the property incurred by the Plaintiff as a result of the delinquency;
- (9) Appoint a Receiver to collect the rents, issues, profits or designated sums from the mortgagor(s), and/or the grantee(s) of the mortgagor(s), and/or tenant(s) occupying or exercising control over the mortgaged premises and hold the same subject to the further order of this Court;
- (10) Under the direction of this Court, sell the mortgaged premises, bar any equity of redemption, and apply the proceeds of sale as follows:
 - a. First, to the costs and expenses of the within action and sale;

b. Second, to the payment and discharge of the amount due on Plaintiff's Note and Mortgage, together with attorney's fees as aforesaid; and

c. Third, to the distribution of any surplus pursuant to Rule 71, SCRPC;

(11) Issue an order directing the Sheriff of Charleston County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property should the same become necessary;

(12) Alternatively and in the event the Court does not subordinate the entire interest of the Cotenants to the Plaintiff's Mortgage, and rather than having a separate action for partition,

a. Order the partition of the proceeds from the sale of the subject property,

b. Dispense with any requirement for a writ of partition,

c. Determine and declare a value, based on the sale proceeds, of each of the fractional interests of the Cotenants in the subject property,

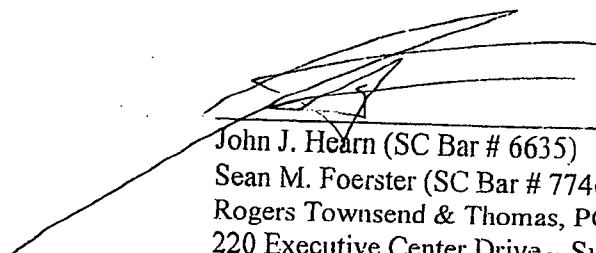
d. Permit the Plaintiff to deposit with the Court the sum total of the values of the Cotenants' respective interests in the subject property, as determined by the Court, from the proceeds of the sale for distribution to the above mentioned interest holders, and

e. Equitably apportion among the Cotenants, in proportion to their respective interests in the subject property, reasonable attorney's fees, appraisal fees, and other costs Plaintiff has incurred or will incur in the prosecution of foreclosure and partition;

(13) Order such other and further relief as may be just and proper.

[signature on the following page]

Second Amended Complaint
06-CP-10-2859



John J. Hearn (SC Bar # 6635)
Sean M. Foerster (SC Bar # 77466)
Rogers Townsend & Thomas, PC
220 Executive Center Drive – Suite 109 (29210)
Post Office Box 100200
Columbia, SC 29202-3200
(803) 771-7900 tel. #
(803) 343-7107 fax #

Attorneys for the Plaintiff, Deutsche Bank National
Trust Company, as Trustee of Ameriquest Mortgage
Securities, Inc., Asset Backed Pass Through Certificates,
Series 2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without recourse

February 10, 2010

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

CASE NO: 1006 - CP-16 - 2559

Deborah Bank

Plaintiff(s),)

SCHEDULING ORDER

-VS-

Vanessa Higgins - Stroud

Defendant(s),)

Pursuant to Rule 16 of the South Carolina Rules of Civil Procedure, the following schedule is established in this case based upon an in court and/or telephone conference.

1. All motions to amend the pleadings and to join additional parties shall be filed on or before

Dec 15, 2010

2. The plaintiff(s) must identify any experts on or before _____.

3. The defendant(s) must identify any experts on or before _____.

Discovery shall be completed on or before April 15, 2011.

All discovery requests must be served in time for the response thereto to be served within this deadline.

5. All dispositive motions shall be filed on or before April 30, 2011.

a. otherwise the parties agree any untimely motions shall be waived.

6. The parties shall mediate this case with N/A on or before _____.

The mediator shall submit his written report to the court within 10 days of mediation.

7. ☒ This case is set for pre-trial hearing and all outstanding motions on Aug 16, 2011 at 2:00 PM.

8. The party shall come to the pre-trial hearing with a pre-trial brief to be exchanged, a list of witnesses and a good faith estimate of time for trial.

9. Upon completion of all steps noted above, the matter shall be set for a day certain trial. (usually 30-60 days)

10. This order may not be amended except by order of the Honorable Mikell R. Scarborough, Master-In-Equity for Charleston County.

IT IS SO ORDERED.

11/23 2010
Charleston, SC

Mikell R. Scarborough
Mikell R. Scarborough
Master-In-Equity

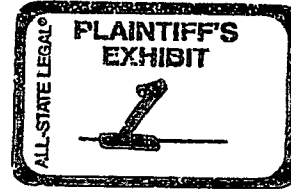
JB X 77 to 6-2011 and the with copy of court's findings in the Charleston County

**NOTICE REQUIRED BY THE FAIR DEBT
COLLECTION PRACTICES ACT
15 U.S.C. Section 1601, As Amended**

1. The amount of the debt as of January 1, 2006, is the sum of \$120,307.72, with interest at the rate of 8.8% per annum from December 1, 2005, and the costs and disbursements of this action, including attorney's fees.
2. Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse is the Creditor to whom the debt is owed.
3. The debt described in this notice will be assumed to be valid by the Creditor's law firm unless you, the Debtor, within thirty (30) days after the receipt of this notice, dispute, in writing, the validity of the debt or some portion thereof.
4. If you, the Debtor, notify the Creditor's law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain a verification of the debt, and a copy of the verification will be mailed to the Debtor by the Creditor's law firm.
5. If the Creditor named in this notice is not the original Creditor, and if you make a request to the Creditor's law firm within the thirty (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.
6. Written requests should be addressed to Rogers Townsend and Thomas, PC, Post Office Box 100200, Columbia, South Carolina 29202-3200.
7. This notice should not be construed as a thirty (30) grace period. Creditor may pursue collection efforts immediately and not wait thirty (30) days.

THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

U476PG99



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS THAT, I/WE, Buster Huggins, hereinafter referred to as Grantor(s), in consideration of the sum of Five and 00/100 (\$5.00) Dollars the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents does grant, sell and release one-half undivided interest unto Lucille Huggins, her heirs and assigns, forever, undivided one-half right, title, and interest in and in the following described real property. to-wit:

SEE ATTACHED EXHIBIT "A" FOR A COMPLETE LEGAL DESCRIPTION.

Grantee's Address: 1218 Gunn Avenue
Charleston, SC 29407

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee(s), and the Grantee's(s)' heirs or successors and assigns, forever. And the grantor does hereby bind the Grantor and the Grantor's heirs or successors, and administrators to warrant and forever defend all and singular said premises unto the Grantee and the Grantee's heirs or successors and assigns, against Grantor(s) and every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the grantor's(s)' hand(s) and seal(s) this 17th day of November, 2003.

SIGNED, sealed and delivered
in the presence of:

[Signature]
Witness #1
[Signature]
Witness #2 (Can be the notary)

[Signature]
Buster Huggins

BX U475P6700

STATE OF SOUTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF CHARLESTON

I, Levi Wright Robert, a Notary, do hereby certify that Buster Huggins, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness by hand and seal this 17th day of November, 2003.

Levi Wright Robert (SEAL)
Notary Public for South Carolina
My Commission Expires: 5-11-09

U475P6701

EXHIBIT "A"

ALL THOSE TWO (2) LOTS OF LAND, WITH THE BUILDINGS THEREIN, SITUATE, LYING AND BEING ON THE PUBLIC ROAD OR STREET KNOWN AS SEVENTH AVENUE (N/K/A GUNN AVENUE), IN THAT PORTION OF HILLSBORO CALLED MARYVILLE IN ST. ANDREWS PARISH, IN THE COUNTY AND STATE AFORESAID, AND KNOWN AND DESIGNATED AS LOTS NOS. 322 AND 323 ON PLAT OF PART OF HILLSBORO CALLED MARYVILLE, WHICH PLAT IS RECORDED IN PLAT BOOK "F", PAGE 188, IN THE RMC OFFICE FOR CHARLESTON COUNTY.

MEASURING AND CONTAINING IN FRONT, TOGETHER, ONE HUNDRED (100) FEET, AND THE SAME ON THE BACK LINE, BY ONE HUNDRED (100) FEET IN DEPTH.

BUTTING AND BOUNDING TO THE NORTH ON LOTS 308 AND 309 ON SAID PLAT; TO THE EAST ON LOT NO. __; TO THE SOUTH ON SEVENTH AVENUE (N/K/A GUNN AVENUE); AND TO THE WEST ON LOT NO. 324 ON SAID PLAT.

TMS# 418-05-00-279

BEING THE SAME PROPERTY CONVEYED TO BUSTER HUGGINS BY DEED OF HENRY GRAVES AND SARAH HEYWARD (FORMERLY SARAH HEYWARD) GRAVES DATED NOVEMBER 4, 1954 AND RECORDED NOVEMBER 4, 1954 IN BOOK A59, PAGE 471, THE RMC OFFICE FOR CHARLESTON COUNTY, SOUTH CAROLINA.

AFFIDAVIT

Date of Transfer or Title:
(Closing date) November 17, 2003

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BA U476PC702

PERSONALLY appeared before me the undersigned, when being duly sworn, depose and say:

1. I have read the information on this Affidavit and I understand such information.

2. The property is being transferred BY Buster Hoggins
TO Lucille Hoggins ON November 17, 2003

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, an estate, or a trust;
(c) ☒ EXEMPT from the deed recording fee because (explain) from husband to wife
(If exempt, please fill in item 4, and go to item 7 of this affidavit.)

4. Check one of the following: If either item 3(a) or item 3(b) above has been checked:

- (a) ☐ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ 5
(b) ☐ The fee is computed on the fair market value of the realty which is \$ 5
(c) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ 5

5. Check YES or NO to the following: Have any encumbrances existed on this land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If YES, the amount of the outstanding balance of this lien in encumbrance is _____

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 plus zero)
(c) ☐ Subject Line 6(b) from Line 6(a) and place the result.

7. As required by Code Section 12-24-70, I am that I am a responsible person who was connected with the transaction as: Owner

8. Check if Property other than Real Property is being transferred on this Deed.

- (a) ☐ Mobile Home
(b) ☐ Other

9. DEED OF DISTRIBUTION-ATTORNEY'S AFFIDAVIT: Estate of _____

deceased CASE NUMBER _____ Personally appeared before me an undersigned attorney who, being duly sworn, certified that (a) he is licensed to practice law in the State of South Carolina; that (b) he has prepared the Deed of Distribution for the Personal Rep. in the Estate of _____ deceased and that the grantor(s) therein are correct and conform to the state file for the above named decedent.

10. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is 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.

Sworn to before this _____ day of November, 2003.

David J. Raper
Notary Public for South Carolina
My Commission Expires 11-17-2006

Lucille Hoggins
Owner, Grantee, or Legal Representative
connected with this transaction

Buster Hoggins or Lucille Hoggins
Print or Type Name here

RECORDER'S PAGE

This page Must remain with
the original document.



Don Dugan

OK U476PG703

Recording

Fee 10.00

State

Fee EXEMPT

County

Fee EXEMPT

Postage

TOTAL 10.00

A

FILED

U476-699
2003 NOV 25 AM 8:46

CHARLIE LYERLAND
REGISTER
CHARLESTON COUNTY SC

**PID VERIFIED
BY ASSESSOR**

REP LMG

DATE 12/29/03

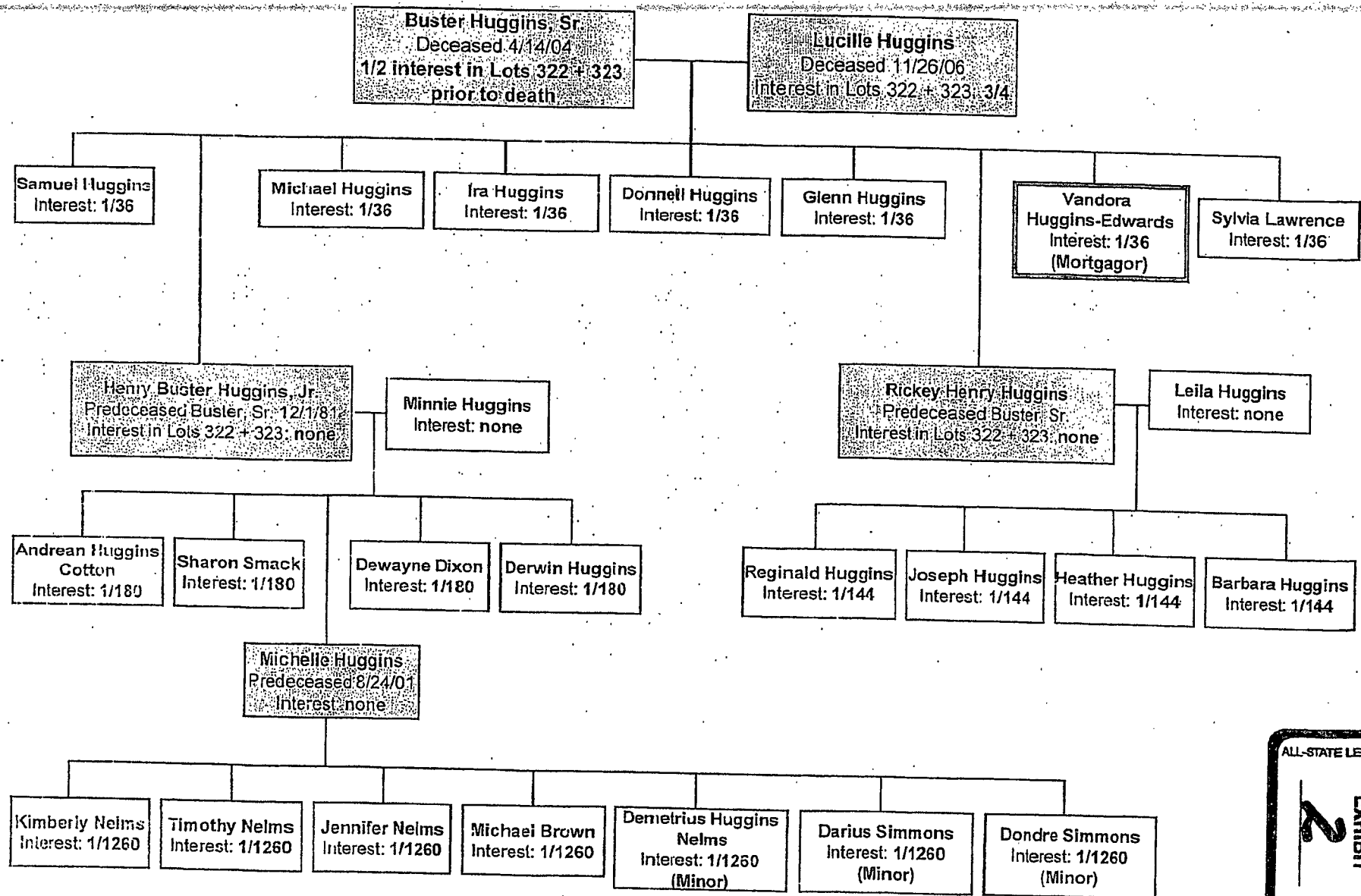
RECEIVED

DEC 22 2003

RECEIVED BY
CHARLESTON COUNTY

Fractional Interests in Lots 322 and 323

Upon the 2004 Intestate Distribution of the Estate of Buster Huggins, Sr.



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

N. Y517PG835

TITLE TO REAL ESTATE



KNOW ALL MEN BY THESE PRESENTS THAT I, Lucille Huggins, hereinafter referred to as Grantor in consideration of the sum of Five and 00/100 (\$5.00) dollars the receipt of which is hereby acknowledged from Vandora H. Edwards, and the assumption of the mortgage on the property 1218 Gunn Avenue, Charleston, SC 29407 hereinafter described and existing mortgage to Novastar Mortgage Inc, 6200 Oak Tree Blvd., Cleveland, OH. On November 15, 2004 transferring current balance of \$89,777.52 as of December 1, 2004, beginning balance of \$90,250.00 as of November 17, 2003. The beginning balance, book number H476 Pg 188, any other existing lien thereon by the said Vandora M. Huggins-Edwards, I have granted, bargained, sold and released, and by the present do grant, bargain, sell and release unto the said Vandora M. Huggins-Edwards, her heirs and assigns, absolutely and forever, all of my rights title and interest in, of and to the following described real property 1218 Gunn Avenue, Charleston, SC 29407 to wit:

ALL THOSE TWO (2) LOTS OF LAND, TOGETHER WITH THE BUILDINGS THEREON, SITUATE, LYING AND BEING ON THE PUBLIC ROAD OR STREET KNOWN FORMERLY AS SEVENTH AVENUE, BUT NOW KNOWN AS GUNN AVENUE, IN THE PORTION OF HILLSBORO CALLED MARYVILLE, IN ST. ANDREWS PARISH, IN THE COUNTY AND STATE AFORESAID, AND KNOWN AND DESIGNATED AS LOTS NOS. 322 AND 323 ON A PLAT OF PART OF HILLSBORO CALLED MARYVILLE, WHICH PLAT IS RECORDED IN PLAT BOOK "F", AT PAGE 188 OF CHARLESTON COUNTY.

MEASURING AND CONTAINING IN FRONT, TOGETHER, ONE HUNDRED (100') FEET, AND THE SAME ON THE BACK LINE, BY ONE HUNDRED (100') FEET IN DEPTH BUTTING AND BOUNDING TO THE NORTH ON LOTS 309 AND 309 AND SAID PLAT; TO THE EAST ON LOT NO TO THE SOUTH ON SEVENTH AVENUE (NOW KNOWN AS GUNN AVENUE); AND TO THE WEST ON LOT NO 324 ON SAID PLAT.

BEING THE SAME PROPERTY CONVEYED BY BUSTER HUGGINS BY DEED DATED NOVEMBER 17, 2003, AND RECORDED NOVEMBER 25, 2003, IN BOOK H476, AT PAGE 659, IN THE RMC OFFICE FOR CHARLESTON COUNTY, SOUTH CAROLINA, CONVEYING HIS UNDIVIDED ON-HALF RIGHT, TITLE AND INTEREST THERE TO LUCILLE HUGGINS.

TMS # 419-05-00-279

TOGETHER with all singular the rights, members, hereditaments and appurtenance to said premises belonging or in any wise incident or appertaining.

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee and the Grantee's heirs, successors and assigns, forever. And the grantor does hereby bind herself and heirs, successors, and personal representative to warrant and forever defend all and singular said premises unto the Grantee and to the Grantees heirs or successor and assigns, against Grantor and every person whomsoever lawfully claiming or to claim the same or any part thereof.

sat
1/5/07/296

Y517PE836

WITNESS the grantor's hand and seal this 5th day of November, 2004, at Charleston, SC

SIGNED, sealed and delivered
in the presence of

Ms. [Signature]

Witness #1

Lucille Huggins (SEAL)
Lucille Huggins

[Signature]

Witness #2

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

ACKNOWLEDGMENT

I, Jane McL Baker, a Notary Public for South Carolina, do hereby certify that Lucille Huggins personally appeared before me this day and acknowledged her due execution of the foregoing instrument or deed

Witness my hand and seal this 5th day of November 2004

Jane M. Baker (SEAL)
Notary Public for South Carolina
My Commission Expires: 11-10-2013

This title not examined by Brockinton & Brockinton

Grantor's Address: 1418 Gunn Ave.
Charleston, SC 29407.

RECORDER'S PAGE

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the original document.

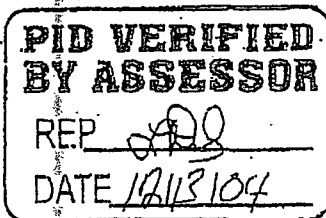
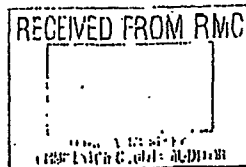


Vandora H Edwards
1218 Gunn Ave
Charleston SC 29407
792-344
(call to pick up)

M. Y517PG838

Recording
Fee 10.00
State
Fee
County
Fee
Postage
TOTAL 10.00

FILED
Y517-835
2004 DEC-2 PM 4:22
REGISTER
CHARLESTON COUNTY SC



Y517PG837

STATE OF SOUTH CAROLINA
(COUNTY OF CHARLESTON)

AFFIDAVIT

Date of Transfer of Title

(Closing Date)

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

I have read the information on this Affidavit and I understand such information.

The property is being transferred by Lillian Huggins

TO Vandora M. Huggins-Edwards

ON November 15, 2004

1. The DEED is (check one of the following):

- (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 in distribution to a trust beneficiary.
- (C) ☐ EXEMPT from the deed recording fee because (Exemption # _____)
(If exempt, please ship items 4-6, and go to item 7 or this affidavit.)

2. Check one of the following if either item 3(a) or item 3(b) above has been checked.

- (A) ☒ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ 60,702.62
- (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 \$ _____

3. Check YES ☒ or NO ☐ 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. If "YES," the amount of the outstanding balance of this lien or encumbrance is \$ 60,702.62

4. The DEED Recording Fee is computed as follows:

- (A) \$60,702.62 the amount listed in item 4 above
- (B) \$60,702.62 the amount listed in item 4 above (no amount plus zero)
- (C) \$5.00 Subtract Line 6(b) from Line 6(a) and place the result.

5. As required by Code Section 12-24-71, I state that I am a reasonable person who was connected with the transaction in Oranise

6. Check if Property other than Real Property is being transferred on this Deed.

- (A) ☐ Mobile Home
- (B) ☐ Other

7. DEED OF DISTRIBUTION - ATTORNEY'S AFFIDAVIT: Estate of _____

Subscribed CASE NUMBER _____ Personally appeared before me the undersigned attorney who, being duly sworn, certified that (s)he is licensed to practice law in the State of South Carolina; that (s)he has prepared the Deed of Distribution for the Personal Rep. in the Estate of deceased and that the grantee(s) therein are correct and confirm to the estate file for the above named decedent.

8. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit in 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.

Signed this 2nd day of November

20 04

at _____

County of _____, South Carolina

My Commission Expires _____

Signed Vandora M. Huggins-Edwards

Operator, Grantor, or Attorney the prepared this form

Vandora M. Huggins-Edwards

Print or Type Name Here

**A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT
SETTLEMENT STATEMENT**
Official Form HUD-1A, Rev. 10-1-97
NAME AND ADDRESS OF BORROWER:

Vandara M. Huggins-Edwards and
Luvella Huggins
1218 Gunn Ave.
Charleston, SC 29407

NAME AND ADDRESS OF LENDER:

American Mortgage Company
1 Poston Road, Suite 140
Charleston, SC 29407

PROPERTY LOCATION:

1218 Gunn Ave.
Charleston, SC 29407
Charleston County, South Carolina

SETTLEMENT AGENT:

Ferraro Law Firm, PLLC

PLACE OF SETTLEMENT:

100 S. Main Street, Suite M

Charleston, S.C. 29403

SETTLEMENT DATE:

May 8, 2005

Printed: 05/13/05

LOAN NUMBER:

011471120-7300

I. SETTLEMENT CHARGES**200. CHARGES PAID BY BORROWER WITH LOAN**

201. Loan Origination Fee to \$100.00 to American Mortgage Company 3,619.70

202. Appraisal Fee to American Mortgage Company 350.00

203. Credit Report Fee to 160.00

204. Lender's Inspection Fee to 160.00

205. Mortgage Int. Orig. Fee to 160.00

206. Mortgage Broker Fee to 160.00

207. Tax Related Service Fee to American Mortgage Company 70.00

208. Flood Search Fee to American Mortgage Company 0.00

209. Lender's Preparation Fee to American Mortgage Company 0.00

210. Administrative Fee to American Mortgage Company 250.00

211. Application Fee to American Mortgage Company 160.00

212. Application Fee to American Mortgage Company 150.00

213. Application Fee to American Mortgage Company 150.00

214. Application Fee to American Mortgage Company 150.00

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270. Application Fee to American Mortgage Company 150.00

II. DISBURSEMENT TO OTHERS

1601. Disbursement to Other Party 12,600.00

1602. Disbursement to Other Party 160.00

1603. Disbursement to Other Party 160.00

1604. Disbursement to Other Party 160.00

1605. Disbursement to Other Party 160.00

1606. Disbursement to Other Party 160.00

1607. Disbursement to Other Party 160.00

1608. Disbursement to Other Party 160.00

1609. Disbursement to Other Party 160.00

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1611. Disbursement to Other Party 160.00

1612. Disbursement to Other Party 160.00

1613. Disbursement to Other Party 160.00

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1616. Disbursement to Other Party 160.00

1617. Disbursement to Other Party 160.00

1618. Disbursement to Other Party 160.00

1619. Disbursement to Other Party 160.00

1620. Disbursement to Other Party 160.00

1621. Disbursement to Other Party 160.00

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The undersigned hereby certifies that the above is a true and correct copy of the settlement statement as required by law.

Settlement Agent

[Signature]

Vandara M. Huggins-Edwards

Settlement Agent

[Signature]

Luvella Huggins

Settlement Agent

[Signature]

John B. Ferraro, II

Settlement Agent

ALL-STATE LEGAL

PLAINTIFF'S
EXHIBIT

4

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT (Optional Form for Transactions Involving a Mortgage)			
NAME AND ADDRESS OF BORROWER:		NAME AND ADDRESS OF LENDER:	
Vandam M. Huggins, Edwards and Lucia Huggins 1218 Gunn Ave. Charleston, SC 29407		Ameriquest Mortgage Company 1 Postum Road, Suite 140 Charleston, SC 29407	
PROPERTY LOCATION:		SETTLEMENT AGENT:	
1218 Gunn Ave. Charleston, SC 29407 Charleston County, South Carolina		Farman Law Firm, PLLC	
		PLACE OF SETTLEMENT:	
		100 S. Main Street, Suite M Kimmardinia, S.C. 29403	
		SETTLEMENT DATE:	
		May 10, 2005 Disbursement 05/19/05	
		LOAN NUMBER:	
		0114711120-7380	
1. SETTLEMENT CHARGES		2. DISBURSEMENT TO OTHERS	
100. ITEMS CHARGED TO BORROWER		1001. Disbursement to Charleston Financial	
101. Loan Origination Fee \$2.00		1002.	
102. Loan Discount 3.1025% to Ameriquest Mortgage Company		1003.	
103. Appraisal Fee to Ameriquest Mortgage Company		1004.	
104. Credit Report to		1005.	
105. Lender's Inspection Fee to		1006.	
106. Mortgage Insurance App. Fee to		1007.	
107. Mortgage Broker Fee to		1008.	
108.		1009.	
109.		1010.	
110. Tax Reflector Service Fee to Ameriquest Mortgage Company		1011.	
111. Flood Search Fee to Ameriquest Mortgage Company		1012.	
112. Lender's Processing Fee to Ameriquest Mortgage Company		1013.	
113. Administrative Fee to Ameriquest Mortgage Company		1014.	
114.		1015.	
115.		1016.	
116.		1017.	
117. Application Fee to Ameriquest Mortgage Company		1018.	
118.		1019.	
119.		1020.	
120.		1021.	
121. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE		1022.	
122. Interest on 05/19/05 to 05/01/05 @ 5.28.125000/day		1023.	
123. Mortgage Insurance Premium months to		1024.	
124. Hazard Insurance Premium 1.0 yr to		1025.	
125.		1026.	
126. RESERVES DEPOSITED WITH LENDER		1027.	
127. Hazard Insurance months @ \$ per month		1028.	
128. Mortgage Insurance months @ \$ per month		1029.	
129. City/Town Taxes months @ \$ per month		1030.	
130. County Taxes months @ \$ per month		1031.	
131. Assessments months @ \$ per month		1032.	
132. Months @ \$ per month		1033.	
133. Months @ \$ per month		1034.	
134. Months @ \$ per month		1035.	
135.		1036.	
136. TITLE CHARGES		1037.	
137. Substantial Fee to		1038.	
138. Title Search to Nations Title		1039.	
139. Title Examination to Farman Law Firm, PLLC		1040.	
140. Title Insurance to Nations Title		1041.	
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CERTIFICATE OF SERVICE BY MAIL
CIVIL ACTION NUMBER: 2006-CP-10-2859

I, the undersigned attorney, of the law firm of Rogers Townsend & Thomas, PC, do hereby certify that I have served a copy of the foregoing document upon counsel of record and defendants by U.S. Mail, postage prepaid, on February 10, 2010, at the following addresses:

Document:

Plaintiff's Notice of Motion and Second Motion to Amend Complaint

Counsel and Defendants Served:

Vandora Huggins-Edwards
1218 Gunn Avenue
Charleston, SC 29407
Pro se defendant

Glenn M. Huggins
109 Spring Avenue
Watertown, NY 13601
Pro se defendant

Ira Huggins
P.O. Box 1008-Lee Hall
Reg. No. 12531-171
LSCI Petersburg
Petersburg, VA 23804-1000
Pro se defendant

Ronald W. Urban, Esq.
Office of General Counsel for Litigation
P.O. Box 12265
Columbia, SC 29211
Attorney for Defendant SC Dept. of Revenue

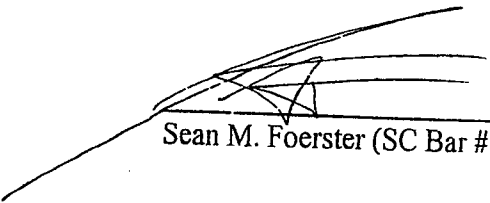
Roy Boggs, Esq.
Korn Law Firm
P.O. Box 12369
Columbia, SC 29211-2369
**Attorney for Defendant Ford Motor Credit Co. and
Defendant Monogram Credit Card Bank of Georgia**

Leo A. Dryer, Jr., Esq.
Dryer Law Offices
P.O. Box 11567
Columbia, SC 29211
**Attorney for Defendant White Directory Holdings Carolina, Inc. d/b/a The Talking Phone
Book**

Lee E. Berlinsky, Esq.
Assistant U.S. Attorney
151 Meeting Street, Ste. 200
Charleston, SC 29401

Attorney for Defendant United States of America, by and through its agency, the Internal Revenue Service

John C. Bigler
15 Leeann Lane
Mt. Pleasant, SC 29464



Sean M. Foerster (SC Bar #77466)

ROGERS TOWNSEND
ATTORNEYS AT LAW

January 23, 2012

VIA FEDERAL EXPRESS

Ms. Tamara McDonald
Professional Process Servers
914 Melrose Drive
Charleston, SC 29414

Re: *Deutsche Bank National Trust Company, etc. v. Vandora M. Huggins Edwards, et al.*
Civil Action # 2006-CP-10-2859
Our file # 010378-00062

Dear Ms. McDonald:

Enclosed is a trial subpoena that I need to have served on the following defendant for a trial on February 28-29, 2012:

Sharon H. Smack
1957 Boeing Avenue
Charleston, SC 29407

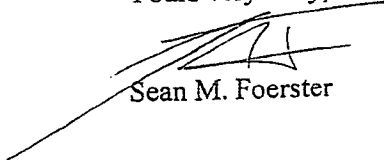
Also enclosed are a trial subpoena and a check for witness and mileage fees that I need to have served on the following individual for a trial on February 28-29, 2012:

Paul B. Ferrara, III, Esquire
2300 Otranto Road
North Charleston, SC 29406

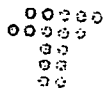
Once service is completed, please send me the original affidavits of service and your invoice.

Thank you for your assistance in this matter.

Yours very truly,


Sean M. Foerster

/slj
Enclosures



ROGERS TOWNSEND
ATTORNEYS AT LAW

January 23, 2012

TO BE PERSONALLY DELIVERED

Paul B. Ferrara, III, Esquire
2300 Otranto Road
North Charleston, SC 29406

Re: *Deutsche Bank National Trust Company, etc. v. Vandora M. Huggins Edwards, et al.*
Civil Action # 2006-CP-10-2859
Our file # 010378-00062

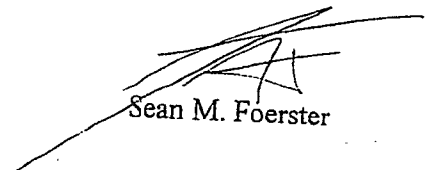
Dear Mr. Ferrara:

A trial of this matter is scheduled for February 28-29, 2012, at 9:30 a.m. before Judge Scarborough. As your testimony is needed at the trial, I am sending you the enclosed subpoena for your attendance at the trial, as well as a check for the witness and mileage fees.

If you have any questions about the subpoena or this matter, please do not hesitate to call me. My direct telephone number is (803) 744-1855. My firm's toll-free number is (866) 771-7900, x3054.

Thank you for your assistance in this matter.

Yours very truly,


Sean M. Foerster

/slj

Enclosures

cc:
Arthur C. McFarland, Esquire
The Law Office of Arthur C. McFarland
1847 Ashley River Road
Charleston, SC 29407

Glenn M. Huggins
109 Spring Avenue
Watertown, NY 13601

This firm collects debts for mortgage lenders and other creditors. Any information obtained will be used for that purpose. However, if you have previously received a discharge in bankruptcy, this message is not and should not be construed as an attempt to collect a debt, but only an enforcement of the lien against the property.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset Backed
Pass Through Certificates, Series 2005-R4CGM under
the Pooling and Servicing Agreement dated as of May 1,
2005, without recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards; Sylvia Anne Lawrence a/k/a Sylviette Anne
Lawrence; Glenn M. Huggins; Michael Huggins;
Donnell Huggins; Samuel Huggins; Ira Huggins a/k/a Ira
S. Huggins; Derwin Huggins; Andrean Huggins Cotton
a/k/a Adrienne Huggins Cotton; Sharon H. Smack,
Dewayne Dixon; Kimberly Nelms; Timothy Nelms;
Jennifer Nelms; Michael A. Brown; Demetrius Huggins
Nelms, a minor; Darius Simmons, a minor; Dondre
Simmons, a minor; Reginald Huggins; Joseph Huggins;
Heather Huggins; Barbara Huggins; any other Heirs-at-
Law or Devisees of Ricky Henry Huggins, Deceased,
their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled to
claim through them; any other Heirs-at-Law or Devisees
of Henry Buster Huggins, Jr, Deceased, their heirs,
Personal Representatives, Administrators, Successors
and Assigns, and all other persons entitled to claim
through them; any other Heirs-at-Law or Devisees of
Michelle Huggins, Deceased, their heirs, Personal
Representatives, Administrators, Successors and
Assigns, and all other persons entitled to claim through
them; any other Heirs-at-Law or Devisees of Buster
Huggins, Sr., Deceased, their heirs, Personal
Representatives, Administrators, Successors and
Assigns, and all other persons entitled to claim through
them; all unknown persons with any right, title or
interest in the real estate described herein; also any
persons who may be in the military service of the United
States of America, being a class designated as John Doe;
and any unknown minors or persons under a disability
being a class designated as Richard Roe; South Carolina
Department of Revenue; Safeway Finance; Ford Motor
Credit Company; General Motors Acceptance
Corporation; White Directory Holdings Carolina, Inc.
d/b/a The Talking Phone Book; Monogram Credit Card
Bank of Georgia; Michael Twitty; Deborah Twitty; the
United States of America, by and through its agency, the
Internal Revenue Service; and John C. Bigler,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2006-CP-10-2859

FILED
2012 APR -5 AM 9:24
JULIE J. ARMSTRONG
CLERK OF COURT
BY 

FINAL ORDER

This matter came before the Court at a trial on February 28, 2012. Sean M. Foerster, Esquire, appeared on behalf of Plaintiff Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under the Pooling and Servicing Agreement dated as of May 1, 2005, without recourse ("Plaintiff"). Arthur C. McFarland, Esquire, appeared on behalf of Defendant Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards ("Vandora Huggins-Edwards"). Eben Cockley, Esquire, appeared in his capacity as Guardian ad Litem for Defendant Dondre Simmons, Defendant Darius Simmons, Defendant Demetrius Huggins Nelms, Defendant Ira Huggins a/k/a Ira S. Huggins, any persons who may be in the military service of the United States of America being a class designated as John Doe, and any unknown minors or persons under a disability being a class designated as Richard Roe. Defendant John C. Bigler ("Bigler"), *pro se*, appeared on behalf of himself.

Having considered the pleadings, testimony at trial, exhibits admitted into evidence, and arguments of the parties, the Court orders 1) title to TMS # 418-05-00-279 a/k/a Lots 322 and 323 ("Subject Property") quieted in the persons specified below in this Order; 2) title to TMS # 418-05-00-280 a/k/a Lot 324 ("Adjoining Property") quieted in Bigler; 3) the boundary line dividing the Subject Property from the Adjoining Property be redrawn as set forth below and be subject to the conditions imposed on Bigler by this Order; and 4) a judgment of foreclosure in the amount of \$306,066.94 be entered in favor of Plaintiff, the Subject Property be sold at the first available June 2012 foreclosure sale date, and a judgment for the deficiency, if any, being entered against Vandora Huggins-Edwards.

I. Background and Procedural History

1. This case originated as an action for the foreclosure of a Mortgage covering the Subject Property, which is described as:

ALL those two (2) lots of land, together with the buildings thereon, situate, lying and being on the public road or street known formerly as Seventh Avenue, but now known as Gunn Avenue, in the portion of Hillsboro called Maryville, in St. Andrews Parish, in the County of Charleston, State of South Carolina, and known and designated as Lot Nos. 322 and 323 on a plat of Hillsboro called Maryville, which plat is recorded in Plat Book "F", at Page 188 of Charleston County. Reference is hereby craved to said plat for a more complete and accurate metes and bounds description.

This being the identical property conveyed to Vandora H. Edwards a/k/a Vandora M. Huggins-Edwards by deed of Lucille Huggins, dated November 15, 2004 and recorded December 2, 2004, in Deed Book Y517 at Page 835.

Property Address: 1218 Gunn Avenue
Charleston, SC 29407

TMS# 418-05-00-279

2. After filing the action, Plaintiff discovered the following two issues affecting title to the Subject Property: 1) the mortgagor, Vandora Huggins-Edwards, owned less than a 100% interest in the Subject Property, with the Subject Property also being partly owned by the intestate heirs of her father, Buster Huggins Sr.; and 2) several improvements to the Adjoining Lot, including the portion of the house thereon, the back porch, patio, walkway, and driveway, encroached upon the Subject Property.

3. On December 9, 2010, Plaintiff filed a Second Amended Lis Pendens, Second Amended Summons and Notices, and Second Amended Complaint¹ ("Second Amended Complaint"), which included causes of action for 1) quiet title to the Subject Property; 2) encroachment; 3) equitable subrogation; 4) foreclosure of the Mortgage on the Subject Property; and 5) if necessary, partition. /

4. The following seven (7) parties appeared and filed Answers:

- South Carolina Department of Revenue
- Vandora H. Huggins-Edwards
- White Directory Holdings Carolina, Inc. d/b/a The Talking Phone Book
- John C. Bigler
- Glenn Huggins
- Guardian Ad Litem
- Attorney Appointed for Defendants in Military Service

✓ 5. Defendant John C. Bigler asserted counterclaims and crossclaims seeking the reformation of the deeds in his chain of title to the Adjoining Property to give him an ownership interest in half of Lot 323 of the Subject Property. In the alternative, Bigler asserted a claim for an easement implied by prior use as to the portion of the improvements encroaching upon the Subject Property. Finally, Bigler asserted a cause of action to quiet title in his name to the Adjoining Property.

✓ 6. In its Order entered on February 15, 2012, the Court found that the following fifteen (15) defendants were properly served with the Second Amended Complaint, but failed to respond to that pleading:

- Michael Twitty
- Deborah Twitty
- Barbara Huggins
- Sylvia Anne Lawrence a/k/a Sylviette Anne Lawrence
- Heather Huggins
- Joseph Huggins
- Reginald Huggins
- Sharon H. Smack
- Samuel Huggins
- Donnell Huggins
- Michael A. Brown
- Timothy Nelms
- Jennifer Nelms
- Dewayne Dixon

¹ Plaintiff filed the original Complaint on July 24, 2006, and the First Amended Complaint on September 2, 2008.

- Derwin Huggins

7. In its Order entered on February 15, 2012, the Court found that the following eight (8) defendants were properly served with the Second Amended Complaint by publication pursuant to S.C. Code Ann. § 15-9-710 *et seq.*, but failed to respond to that pleading:²

- Kimberly Nelms
- Michael Huggins
- Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton
- Any other Heirs-at-Law or Devisees of Ricky Henry Huggins, Deceased, their heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them
- Any other Heirs-at-Law or Devisees of Henry Buster Huggins, Jr., Deceased, their heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them
- Any other Heirs-at-Law or Devisees of Michelle Huggins, Deceased, their heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them
- All unknown persons with any right, title or interest in the real estate described herein
- Any other Heirs-at-Law or Devisees of Buster Huggins, Sr., Deceased, their heirs, Personal Representatives, Administrators, Successors and Assigns, and all other persons entitled to claim through them

8. In its Order entered on February 15, 2012, the Court found that the following two (2) junior lienholder defendants were properly served with the Second Amended Complaint, but failed to respond to that pleading:

- Ford Motor Credit Company
- Monogram Credit Card Bank of Georgia

9. Accordingly, in its Order entered on February 15, 2012, the Court found that the twenty-five (25) defendants identified above were in default for failure to respond to the Second Amended Complaint, had admitted the allegations set forth in the Second Amended Complaint, and were therefore subject to the amount and nature of the judgment described herein.

10. On January 5, 2012, Plaintiff filed a Motion for Partial Summary Judgment on its cause of action to be equitably subrogated to the rights of the NovaStar Mortgage that its predecessor paid off as part of the closing of the subject loan. The Court granted the motion by Order entered on February 15, 2012. In granting the motion, the Court held that the interests of the "Cotenants"³ in the Subject Property

² By Order entered on December 13, 2010, I permitted Plaintiff to serve these eight (8) defendants by publication. As shown by the Affidavit of Publication filed herein, service by publication on these eight (8) defendants was completed through The Post and Courier, and as of April 12, 2011, these defendants failed to plead or otherwise respond to the Second Amended Complaint.

³ "Cotenants" hereinafter refers to those persons who took an interest in the Subject Property by virtue of Buster Huggins Sr. passing away intestate: Vandora Huggins-Edwards; Samuel Huggins, Michael Huggins; Ira Huggins

were subordinate and subject to the NovaStar Mortgage, that Plaintiff was entitled to be equitably subrogated to the rights of NovaStar, and that Plaintiff's Mortgage constituted a first priority lien that encumbered the interests of all the Cotenants in the Subject Property to the extent of the \$92,490.22 NovaStar debt that was satisfied.

11. The Court held a trial in this matter on February 28, 2012. All Defendants and attorneys of record were notified of the time, date, and place of the hearing by Notice of Trial filed herein on December 22, 2011.

12. In light of the Order entered on February 15, 2012, only the following causes of action remained for trial: 1) quiet title as to the Subject Property; 2) quiet title as to the Adjoining Property; 3) encroachment, including Bigler's claims for reformation and easement implied by prior use; and 4) foreclosure of the Mortgage on the Subject Property.

II. Quiet Title to the Subject Property (Lots 322 and 323)

The Court quiets title to the Subject Property in the Cotenants for the reasons set forth below.

FINDINGS OF FACT

1. Henry Graves and Sarah Heyward conveyed the Subject Property to Buster Huggins, Sr. by deed dated November 4, 1954, and recorded on November 4, 1954, in the Office of Register Mesne Conveyance of Charleston County in Book A59 at Page 471.

2. Buster Huggins, Sr. conveyed an undivided one-half (1/2) interest in the Subject Property to his wife, Lucille Huggins, by deed dated November 17, 2003, and recorded on November 25, 2003, in the Office of Register Mesne Conveyance of Charleston County in Book U476 at Page 699.

3. On April 25, 2004, Buster Huggins, Sr. died intestate, leaving an undivided one-half (1/2) interest in the Subject Property to be distributed among his heirs pursuant to intestate succession scheme set forth in S.C. Code Ann. § 62-2-101 *et seq.*

4. Upon the death of Buster Huggins, Sr., his wife, Lucille Huggins, took an undivided one-fourth (1/4) interest in the Subject Property, which, combined with her previous undivided one-half (1/2) interest, gave her an undivided three-fourths (3/4) interest in the Subject Property.

5. The other undivided one-fourth (1/4) interest in the Subject Property passed to his seven living children and the issue of his two predeceased children.

6. The seven living children of Buster Huggins Sr.—Vandora Huggins-Edwards, Sylvia Lawrence, Glenn Huggins, Michael Huggins, Donnell Huggins, Ira Huggins and Samuel Huggins—each took an undivided one thirty-sixths (1/36) interest in the Subject Property.

a/k/a Ira S. Huggins; Donnell Huggins; Glenn M. Huggins; Sylvia Anne Lawrence a/k/a Sylvianne Anne Lawrence; Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton; Sharon H. Smack; Dwayne Dixon; Derwin Huggins; Reginald Huggins; Joseph Huggins; Heather Huggins; Barbara Huggins; Kimberly Nelms; Timothy Nelms; Jennifer Nelms; Michael A. Brown; Demetrius Huggins Nelms; Darius Simmons, and Dondre Simmons

7. The two predeceased children of Buster Huggins, Sr., Ricky Henry Huggins a/k/a Henry Ricky Huggins and Henry Buster Huggins, Jr., both left issue surviving Buster Huggins, Sr.

8. The undivided one thirty-sixths (1/36) interest in the Subject Property of Ricky Henry Huggins a/k/a Henry Ricky Huggins passed to his four children: Reginald Huggins, Joseph Huggins, Heather Huggins, and Barbara Huggins. Each took an undivided one one-hundred and forty-fourths (1/144) interest in the Subject Property.

9. The undivided one thirty-sixths (1/36) interest in the Subject Property of Henry Buster Huggins, Jr., who was adjudicated as deceased as of December 1, 1981, passed to his four living children—Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton, Sharon H. Smack, Dewayne Dixon, and Derwin Huggins—and the issue of his daughter, Michelle Huggins, who predeceased Buster Huggins, Sr. The four living children of Henry Buster Huggins, Jr. each took an undivided one one-hundred and eightieths (1/180) interest in the Subject Property.

10. The undivided one-one hundred and eightieths (1/180) interest in the Subject Property of Michelle Huggins passed to her seven children: Kimberly Nelms, Timothy Nelms, Jennifer Nelms, Michael A. Brown, Demetrius Huggins Nelms, Darius Simmons, and Dondre Simmons. Each of the seven children of Michelle Huggins took an undivided one one-thousand two-hundred and sixtieths (1/1260) interest in the Subject Property.

11. Lucille Huggins later conveyed her three-fourths (3/4) interest in the Subject Property to Vandora Huggins-Edwards by deed dated November 15, 2004, and recorded December 2, 2004, in Deed Book Y517 at Page 835. This conveyance combined with her intestate share gave Vandora Huggins-Edwards a twenty eight-thirty sixths (28/36), or seven-ninths (7/9), interest in the Subject Property.

CONCLUSIONS ON LAW

"In foreclosure or partition actions when title to real property is at issue the court or master to whom the action is referred shall take testimony and receive evidence as to the title and interest in the premises of the several parties." Rule 71(c), SCRCP. "In all such actions the judge or master shall ascertain the rights and interests of the several parties and set forth in the report or order of judgment the conveyances or probate estates, if any, through which the rights or interests were acquired." *Id.*

Having considered the testimony of Sharon H. Smack, the granddaughter of Buster Huggins Sr., and the deeds and probate records admitted into evidence without objection, the Court orders title to the Subject Property quieted in the following persons and in the following fractional interests:

- Vandora Huggins-Edwards (28/36th or 7/9th undivided interest)
- Samuel Huggins (1/36th undivided interest)
- Michael Huggins (1/36th undivided interest)
- Ira Huggins a/k/a Ira S. Huggins (1/36th undivided interest)

- Donnell Huggins (1/36th undivided interest)
- Glenn M. Huggins (1/36th undivided interest)
- Sylvia Anne Lawrence a/k/a Sylviette Anne Lawrence (1/36th undivided interest)
- Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton (1/180th undivided interest)
- Sharon H. Smack (1/180th undivided interest)
- Dewayne Dixon (1/180th undivided interest)
- Derwin Huggins (1/180th undivided interest)
- Reginald Huggins (1/144th undivided interest)
- Joseph Huggins (1/144th undivided interest)
- Heather Huggins (1/144th undivided interest)
- Barbara Huggins (1/144th undivided interest)
- Kimberly Nelms (1/1260th undivided interest)
- Timothy Nelms (1/1260th undivided interest)
- Jennifer Nelms (1/1260th undivided interest)
- Michael Brown (1/1260th undivided interest)
- Demetrius Huggins Nelms (1/1260th undivided interest)
- Darius Simmons (1/1260th undivided interest)
- Dondre Simmons (1/1260th undivided interest)

Pursuant to this Court's Order filed February 15, 2012, equitably subrogating Plaintiff to the rights of NovaStar Mortgage Inc., the Mortgage that Plaintiff seeks to foreclose in this action constitutes a first priority lien that encumbers the interests of all of the above listed persons. However, as to its lien on the fractional interests of the Cotenants other than Vandora Huggins-Edwards, Plaintiff is secured only to the extent of the amount of the loan proceeds used to satisfy the NovaStar debt, which was \$92,490.22.

III. Quiet Title to the Adjoining Property (Lot 324)

The Court quiets title in Bigler to the Adjoining Property, which is described as:

ALL that certain lot, piece or parcel of land, with the building and improvements thereon, situate, lying and being in the Town of Maryville, St. Andrew's Parish, in Charleston County, State aforesaid, and known as Lot 324; it being a portion of Lots #54 and #55 on a plat of Hillsboro made by Guerard in November, 1885, said lot being approximately fifty (50) feet by one hundred (100) feet.

BUTTING AND ABOUNDING to the North on the property now or formerly of J.S. and Eva Washington, to the East on property of Buster Huggins, to the South on Gunn Avenue and to the West on Diana Street. Reference should be had to a deed to Henry B. Huggins dated July 3, 1974, and recorded in Book U-104 at Page 134, RMC Office for Charleston County.

TMS# 418-05-00-280

Plat
F188

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FINDINGS OF FACT

1. Dorothy Dublin conveyed the Adjoining Property to Henry Buster Huggins, Sr. by deed dated July 3, 1974, and recorded on July 3, 1974, in the Office of the Register Mesne Conveyance for Charleston County in Book U104 at Page 134.
2. Buster Huggins Sr. conveyed the Adjoining Property to John Kachmarsky (40% undivided interest), Minnie Huggins (30% undivided interest), Sharon H. Smack (6% undivided interest), Michelle Huggins (6% undivided interest), Derwin Huggins (6% undivided interest), Dewayne Dixon (6% undivided interest), and Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton (6% undivided interest) by Deed of Distribution dated March 1, 2001, and recorded on March 20, 2002, in the Office of the Register Mesne Conveyance for Charleston County in Book M400 at Page 505. This deed is hereinafter referred to as the "Deed of Distribution."
3. John Kachmarsky, Minnie Huggins, Sharon H. Smack, Michelle Huggins, Derwin Huggins, Dewayne Dixon, and Adrienne Huggins Cotton conveyed a life estate in the Adjoining Property to Buster Huggins Sr. and Lucille Huggins, with the remainder interest to John Kachmarsky (40% undivided interest), Minnie Huggins (30% undivided interest), Sharon H. Smack (6% undivided interest), Michelle Huggins (6% undivided interest), Derwin Huggins (6% undivided interest), Dewayne Dixon (6% undivided interest), and Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton (6% undivided interest) by Quit Claim Deed recorded on November 20, 2001, in the Office of the Register Mesne Conveyance for Charleston County in Book K388 at Page 300. This deed is hereinafter referred to as the "Quit Claim Deed."
4. Buster Huggins Sr. passed away on April 25, 2004, and Lucille Huggins passed away on November 20, 2006.
5. Upon the deaths of Buster Huggins Sr. and Lucille Huggins, fee simple title to their respective interests in the Adjoining Property passed back to John Kachmarsky (40% undivided interest), Minnie Huggins (30% undivided interest), Sharon H. Smack (6% undivided interest), Michelle Huggins (6% undivided interest), Derwin Huggins (6% undivided interest), Dewayne Dixon (6% undivided interest), and Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton (6% undivided interest).
6. The Charleston County Treasurer issued an execution commanding the Charleston County Delinquent Tax Collector ("Tax Collector") to levy by distress and then sell the Adjoining Property for unpaid real estate taxes for the tax year of 2006.
7. On October 1, 2007, the Tax Collector sold the Adjoining Property at a tax sale to Bigler for the sum of thirty thousand (\$30,000) dollars, which Bigler wired to the Charleston County Delinquent Tax Department.

✓ 8. The Tax Collector conveyed the Adjoining Property to Bigler by Tax Deed dated July 10, 2009, and recorded on July 13, 2009, in the Office of the Register Mesne Conveyance for Charleston County in Book 0067 at Page 755. This deed is hereinafter referred to as the "Tax Deed."

✓ 9. No party to this action asserted a claim challenging the tax sale of the Adjoining Property within two years of the date of the tax sale.

CONCLUSIONS ON LAW

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"In all cases of tax sale the deed of conveyance, whether executed to a private person, a corporation, or a forfeited land commission, is prima facie evidence of a good title in the holder, that all proceedings have been regular and that all legal requirements have been complied with." S.C. Code Ann. § 12-51-160.

"If the defaulting taxpayer, grantee from the owner, or mortgage or judgment creditor fails to redeem the item of real estate sold at the delinquent tax sale within the twelve months provided in subsection (A) and after the passing of an additional twelve months, the tax deed issued is incontestable on procedural or other grounds." S.C. Code Ann. § 12-51-90(C). "An action for the recovery of land sold pursuant to this chapter or for the recovery of the possession must not be maintained unless brought within two years from the date of sale as provided in Section 12-51-90(C)." S.C. Code Ann. § 12-51-160.

+ According to the testimony of Mary M. Scarborough, Delinquent Tax Collector for Charleston County, which the Court finds credible and convincing, her office conducted the tax sale of the Adjoining Property in strict compliance with the requirements of the South Carolina tax sale statutes, S.C. Code Ann. § 12-51-40 *et seq.* No party to this action asserted a claim challenging Bigler's tax title to the Adjoining Property within two years of the date of the tax sale, and the Court is unaware of any other challenge to the tax sale or tax title outside of this lawsuit.

The Court therefore orders title to the Adjoining Property quieted in Bigler.

IV. Encroachment

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To resolve the encroachment of the Adjoining Property's improvements onto the Subject Property, the Court orders the boundary line dividing the Adjoining Property and the Subject Property moved ten (10) feet toward the east to give the Adjoining Property an additional ten (10) foot by one-hundred (100) foot strip of land. The Court further grants Bigler the option of purchasing an additional fifteen (15) feet toward the east, for a total of twenty-five (25) extra feet (or one half of Lot 323).

FINDINGS OF FACT

1. The Subject Property contains two lots—Lots 322 and 323. Each lot is approximately 44/1 fifty (50) feet by one hundred (100) feet, with an area of approximately five thousand (5000) square feet each. The Subject Property altogether is approximately one hundred (100) feet by one hundred (100) feet, with an area of approximately ten thousand (10,000) square feet. The Subject Property is bounded on the

south by Gunn Avenue, on the west by the Adjoining Property (Lot 324), on the north by Lots 308 and 309, and on the east by Lot 321.

2. According to the deeds in its chain of title, including the Deed of Distribution, the Quit Claim Deed, and the Tax Deed, the Adjoining Property contains a single lot—Lot 324—that is approximately fifty (50) feet by one hundred (100) feet, with an area of approximately five thousand (5000) square feet. The Adjoining Property is bounded on the south by Gunn Avenue, on the west by Diana Street, on the north by Lot 307, and on the east by Lot 323 of the Subject Property.

3. The Adjoining Property contains a one-story, rectangular brick house that is approximately twenty-six (26) feet wide on the northern and southern sides of the house and sixty-two (62) feet long on the eastern and western sides of the house. The front of the house faces west toward Diana Street and the back of the house faces east toward Lot 323. A small concrete back porch extends from the back door of the house. The steps from the back porch lead to a concrete landing that covers a portion of the backyard and branches into two concrete walkways—one extending east and one extending south. The concrete walkway extending south from the landing leads to a gravel area used as a driveway for the Adjoining Property.

4. A portion of the back of the brick house, the back porch and stairs, the concrete landing, the concrete walkways, and the gravel driveway all encroach across the boundary line dividing the Adjoining Property from Lot 323 of the Subject Property.

5. In its Complaint, Plaintiff sought an injunction requiring the removal of the improvements from the Subject Property. At the trial, however, Plaintiff acknowledged that an adequate remedy at law existed only if Bigler were required to purchase additional land from the Subject Property sufficient to remove the encroachments.

6. After explaining the local zoning regulations applicable to the Adjoining Property and Subject Property, Plaintiff's expert land surveyor, Charles F. Dawley, Jr., R.L.S. ("Dawley"), testified as to one potential option for redrawing the boundary line between the Adjoining Property and the Subject Property that would both resolve the encroachment issue and comply with the applicable zoning regulations. Under the Dawley proposal, the boundary line would be redrawn to give the Adjoining Property an additional sixteen and four-tenths (16.4) feet eastward into Lot 323, or approximately an additional 1,690 square feet. The proposal eliminated all encroachments caused by the improvements to the Adjoining Property except for a few feet at the end of the walkway extending eastward into Lot 323, which the Dawley proposal showed as having to be abandoned.

7. Plaintiff's expert residential real estate appraiser, Jennifer C. Perry of Sass, Herrin & Associates, then testified that, under the Dawley proposal, the diminution in value to the Subject Property would be five thousand (\$5,000) dollars, or approximately three (\$3.00) dollars per square foot.

8. On the other hand, Bigler sought to pay nothing for the additional land necessary to remove the encroachments on the ground that it was allegedly the intent of Buster Huggins Sr., who built the brick house on the Adjoining Property in 1978 and who owned Lot 323 at that time, to divide Lot 323 evenly between Lot 322 and Lot 324 so as to remove the encroaching improvements. Based on this allegation, Bigler asserted counterclaims seeking to reform the legal descriptions in the deeds in the chain of title to the Adjoining Property to include one-half of Lot 323, or approximately an extra twenty-five (25) foot by one-hundred (100) foot strip of land.

✓ 9. To support this allegation, Bigler and Vandora Huggins-Edwards offered into evidence, and the Court admitted over Plaintiff's objection, a "Plat of Resubdivision of Lots 322-323 and 324" ("Resubdivision Plat") prepared for "Buster Huggins" by W.L. Gaillard from a survey conducted on April 30, 1976, and recorded in the Office of the Register Mesne Conveyance for Charleston County on January 24, 1978, in Plat Book X at Page 132.

10. The Resubdivision Plat, however, only showed the boundary line between the Adjoining Property and Subject Property being moved ten (10) feet toward the east, not twenty-five (25) feet as Bigler argued was the intention.

X 11. In the alternative, Bigler asserted a counterclaim seeking an easement implied by prior use as to the portion of the improvements to the Adjoining Property that encroach upon Lot 323.

CONCLUSIONS ON LAW

✓ This Court has jurisdiction to redraw the boundary line to resolve the encroachment issue in this case. *Knox v. Bogan*, 322 S.C. 64, 67, 472 S.E.2d 43, 45 (Ct. App. 1996) ("[D]isputed boundary lines may either be directly or indirectly judicially settled in actions to quiet title..."). While the Court finds that Bigler is not entitled to an easement implied by prior use as to the Subject Property, the Court finds that it was the intention of Buster Huggins Sr. to redraw the boundary line to conform to the 1976 Resubdivision Plat and therefore reforms the legal descriptions in the deeds in the chain of title to the Adjoining Property after that date to reflect the additional ten (10) feet of land.

a. Easement Implied by Prior Use

Bigler is not entitled to an easement implied by prior use because he has failed to meet the burden of proof required for such an easement. A party asserting the right to an easement implied by prior use must establish the following seven elements:

- (1) unity of title;
- (2) severance of title;
- (3) the prior use was in existence at the time of unity of title;
- (4) the prior use was not merely temporary or casual;
- (5) the prior use was apparent or known to the parties;

- (6) the prior use was necessary in that there could be no other reasonable mode of enjoying the dominant tenement without the prior use; and
- (7) the common grantor indicated an intent to continue the prior use after severance of title.

Pendarvis v. Cook, 391 S.C. 528, 532-33, 706 S.E.2d 520, 522-23 (Cl. App. 2011) (citing *Boyd v. BellSouth Telephone Telegraph Co.*, 369 S.C. 410, 633 S.E.2d 136 (2006)).

More importantly, there is no evidence that unity of title ever existed between the Adjoining Property and the Subject Property. "For the necessary unity of ownership for an implied easement to exist, the adjoining lots must be owned as a unit, not under separate deeds treated as separate properties." 25 Am. Jur. 2d *Easements and Licenses* § 2. Buster Huggins Sr. purchased the Subject Property from Henry Graves and Sarah Heyward on November 4, 1954. Buster Huggins Sr. purchased the Adjoining Property from Dorothy Dublin twenty years later on July 3, 1974. There is no evidence that the Adjoining Property and the Subject Property were ever part of a single tract of land at the time they were owned by Buster Huggins Sr. Having failed to establish unity of title, Bigler failed to satisfy elements one, two, three, or seven necessary to prove his right to an easement implied by prior use.

As to elements four and five, the Court finds that while the use of the back of the brick house, the back porch and stairs, the concrete landing, the concrete walkways, and the gravel driveway would have been apparent or known to the tenants of the Subject Property, Bigler put forth no evidence that the use was anything more than temporary and casual.

As to element six, the Court finds that the prior use was not necessary in that there could be no other reasonable mode of enjoying the dominant tenement without it because the Adjoining Property is a corner lot with easy access on its western and southern sides.

The Court therefore finds that Bigler is not entitled to an easement over the Subject Property implied by prior use.

b. Reformation of Deed

The Court finds that Bigler is entitled to reformation of the legal descriptions in the Deed of Distribution, the Quit Claim Deed, and the Tax Deed to reflect the dimensions of the Adjoining Property as shown on the Resubdivision Plat.

Normally, "[t]he intention of the grantor must be found within the four corners of the deed." *Gardner v. Mazingo*, 293 S.C. 23, 25, 358 S.E.2d 390, 392 (1987). "The terms of an unambiguous deed may not be varied or contradicted by evidence drawn from sources other than the deed itself." *Id.*

The legal descriptions in the deeds in the chain of title to the Adjoining Property after 1978—the Deed of Distribution, the Quit Claim Deed, and the Tax Deed—unambiguously describe it as being approximately fifty (50) feet by one hundred (100) feet.

However, "[w]hen intention is not expressed accurately in the deed evidence *aliunde* may be admitted to supply or explain it." *Mozingo*, 293 S.C. at 25, 358 S.E.2d at 392. "Parol evidence is admissible to show mistake." *Southern Realty and Const. Co., Inc. v. Bryan*, 290 S.C. 302, 309, 350 S.E.2d 194, 198 (Cl. App. 1986).

The Court finds that the commissioning and recording of the Resubdivision Plat right around the time that Buster Huggins Sr. constructed the brick house evidences the intent of Buster Huggins Sr., who owned Lot 323 at the time, to grant the Adjoining Property the additional ten (10) feet of land as shown on that plat.

"Where a written contract does not conform to the intentions of the parties, a court may reform the contract." *Crewe v. Blackmon*, 289 S.C. 229, 234, 345 S.E.2d 754, 757 (Cl. App. 1986). "Reformation is the remedy by which writings are rectified to conform to the actual agreement of the parties.... [it] is available on the ground of mistake or misunderstanding as well as duress and related misconduct." *Id.*

The Court finds that the legal description in the Deed of Distribution was the result of mistake by Buster Huggins Sr., who intended to add additional land to the Adjoining Property from the Subject Property as shown on the Resubdivision Plat. As such, the Court reforms the legal descriptions in the Deed of Distribution, the Quit Claim Deed, and the Tax Deed to reflect the dimensions of the Adjoining Property as shown on the Resubdivision Plat. Specifically, the deeds should have described the Adjoining Property as being approximately sixty (60) feet by one hundred (100) feet, with an area of approximately six thousand (6000) square feet each.

The Court acknowledges that the addition of ten (10) feet to the Adjoining Property will be insufficient to remove all of the encroachments. Therefore, Bigler shall have the option to purchase an additional fifteen (15) feet, for a total of twenty-five (25) additional feet, for five thousand (\$5,000) dollars, a price which the Court finds is equitable in light of the expert testimony of Jennifer C. Perry at trial. Such funds shall be paid into the Court to be held pending conclusion of the foreclosure sale of the Subject Property and shall be distributed as set forth below in this Order.

V. Foreclosure of the Subject Property

Plaintiff is entitled to a judgment of foreclosure in the amount of \$306,066.94, to have the Subject Property sold at a foreclosure sale, and to a deficiency judgment against Vandora Huggins-Edwards in the event that the foreclosure sale proceeds are insufficient to satisfy the Total Debt owed to it.

FINDINGS OF FACT

1. On April 6, 2005, Vandora Huggins-Edwards and Lucille Huggins executed and gave an Adjustable Rate Note ("Note") to Ameriquest Mortgage Company, Plaintiff's predecessor-in-interest, in the principal sum of \$120,800.00, payable in monthly installments commencing on June 1, 2005.

2. In order to secure the payment of the Note according to the terms and conditions thereof, Vandora Huggins-Edwards gave to Ameriquest Mortgage Company a certain real estate mortgage ("Mortgage") covering the Subject Property and its improvements. The Mortgage was signed, witnessed, and probated; thereafter, the Mortgage was recorded in the Office of the Register Mesne Conveyance for Charleston County on April 27, 2005, in Mortgage Book R534 at Page 330.

3. The Mortgage was subsequently assigned to Plaintiff by Assignment of Mortgage dated July 26, 2006, and recorded on August 21, 2006, in Book C598 at Page 671.

4. At the trial, Plaintiff produced the original Note, Mortgage, and Assignment of Mortgage, and the Court admitted these originals into evidence. Based on Plaintiff's possession of these original documents and the testimony put forth from David Merrill, an employee of Plaintiff's servicing agent, American Home Mortgage Servicing Inc., the Court finds that Plaintiff is the holder and owner of the original Note and Mortgage.

5. Pursuant to this Court's Order filed February 15, 2012, Plaintiff's Mortgage constitutes a first priority lien that encumbers the seven-ninths (7/9ths) undivided interest of Vandora Huggins-Edwards to the full extent of the Total Debt set forth below, and a first priority lien that encumbers the combined two-ninths (2/9ths) undivided interest of the remaining Cotenants in the Subject Property to the extent of the \$92,490.22 NovaStar debt that Plaintiff's predecessor-in-interest satisfied. Plaintiff's first priority lien is subject only to ad valorem taxes or other liens given priority by statute.

6. Payment due on the Note was not made as provided for therein, and Plaintiff, as the holder of the Note, elected to require immediate payment of the entire amount due thereon and placed the Note and Mortgage in the hands of its attorney to commence this foreclosure action.

7. At the trial, Plaintiff produced letters evidencing that the notice required by the terms of the Mortgage⁴ was given to Vandora Huggins-Edwards prior to the commencement of this action.

8. Plaintiff seeks to recover a reasonable attorney's fee of \$83,043 pursuant to its rights under the Note and Mortgage for amounts it has paid its counsel for services performed and anticipated to be performed until final adjudication of this action.

9. According to Plaintiff's accounting, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing on the Note, with interest at the rate provided in

⁴ Mortgage ¶ 22: "Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument ... [t]he notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure."

the Note, advances made by Plaintiff, and other costs and expenses of the action, including a reasonable attorney's fee, all secured by the Note and Mortgage, is as follows:

(a)	Principal	\$120,307.72
(b)	Interest through February 28, 2012, at 8.8% per annum	\$70,891.50
(c)	Escrow Advances (Taxes and Insurance).....	\$14,280.43
(d)	Property Inspection Fees	\$532.00
(e)	Broker Price Opinions	\$1,095.00
(f)	Credit Report Fee	\$14.00
(g)	NSF Fees	\$25.00
(h)	Late Charge	\$30.00
(i)	Suspense Balance	(\$425.09)
(j)	Costs of collection and this action.....	\$16,273.38
(k)	Attorney fee.....	\$83,043.00

TOTAL DEBT secured by Note and Mortgage,
including interest to date shown \$306,066.94

10. The per diem rate of interest is \$29.01.

11. Pursuant to the South Carolina Supreme Court Administrative Order 2009-05-20-01, Plaintiff filed an Affidavit of Non-Eligibility on June 23, 2009, stating that the mortgage loan which is the subject of this foreclosure action was not eligible for modification pursuant to the terms of the Home Affordable Modification Program (HAMP). Plaintiff's attorney received no counter affidavits from any Defendants.

12. Pursuant to South Carolina Supreme Court Administrative Order 2011-05-02-01, Plaintiff served a Notice of Foreclosure Intervention on Vandora Huggins-Edwards on May 17, 2011, but she elected not to participate in any foreclosure intervention process.⁵

13. Plaintiff seeks the usual foreclosure of the Mortgage and has demanded the right to a personal or deficiency judgment against Vandora Huggins-Edwards only pursuant to S.C. Code Ann. § 29-3-660.

⁵ At a status conference held before me on December 19, 2011, Vandora Huggins-Edwards' attorney indicated that she was not interested in foreclosure intervention.

14. The following Defendants may claim a subordinate lien upon or subordinate legal interest in the Subject Property and in the event there is a surplus from the sale of the Subject Property, these Defendants may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c), SCRPC. The Defendants and such liens or legal interests are as follows:

- a. The Cotenants of the Subject Property whose interest is foreclosed out by this Order: Samuel Huggins; Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards; Michael Huggins; Ira Huggins a/k/a Ira S. Huggins; Donnell Huggins; Glenn M. Huggins; Sylvia Anne Lawrence a/k/a Sylviette Anne Lawrence; Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton; Sharon H. Smack; Dewayne Dixon; Derwin Huggins; Reginald Huggins; Joseph Huggins; Heather Huggins; Barbara Huggins; Kimberly Nelms; Timothy Nelms; Jennifer Nelms; Michael A. Brown; Demetrius Huggins Nelms; Darius Simmons; and Dondre Simmons.
- b. South Carolina Department of Revenue by virtue of the following tax liens:
 - i. Tax lien number 3-50531421-0 filed on November 24, 2003, against Sylviette A. Lawrence;
 - ii. Tax lien number 3-50690369-9 filed on February 15, 2006, against Michael Brown;
 - iii. Tax lien number 3-50725140-7 filed on August 2, 2006, against Michael Brown;
 - iv. Tax lien number 3-50780184-0 filed on February 13, 2007, against Michael Brown; and
 - v. Tax lien number 3-50691442-2 filed on February 15, 2006, against Michael Brown.
- c. Safeway Finance by virtue of a judgment 2000-JG-10-121 in the amount of \$1,644.61 filed against Sharon R. Smack;
- d. Ford Motor Credit Company by virtue of a judgment in the amount of \$10,470.75 filed in civil action number 2000-CP-10-4695 against Michael A. Brown and Demetricia K. Brown.
- e. White Directory Holdings Carolina, Inc. d/b/a The Talking Phone Book by virtue of a judgment filed in civil action number 2005-CP-10-2035 on September 21, 2005, against Ira Huggins dba X-treme Detailing;
- f. Monogram Credit Card Bank of Georgia by virtue of a judgment in the amount of \$2,412.16 filed in civil action number 2002-CP-10-3506 on March 19, 2003, against Ira S. Huggins;

373, 378 (Bankr. D.S.C. 2008) ("The transfer of the note ... by endorsement in blank, 'vests in the transferee such rights as the transferor [possessed].").

Even though the Mortgage automatically followed the Note⁶, Plaintiff submitted into evidence an Assignment of Mortgage confirming its right to enforce the Mortgage. No party objected to the authenticity or admissibility of the Note, Mortgage, and Assignment, or otherwise objected to Plaintiff's standing to prosecute this foreclosure action.

Arthur
McFarland

Based on the testimony from Plaintiff's servicing agent and the original loan documents submitted into evidence at trial, the Court finds that a valid debt obligation existed between Plaintiff and Vandora Huggins-Edwards, that the Mortgage on the Subject Property was given to secure the repayment of that debt obligation, and that Plaintiff, as the holder and owner of the original Note and Mortgage with the right to enforce those instruments, is the real party in interest to prosecute this foreclosure action.

The Court further finds that Vandora Huggins-Edwards breached the terms of the Note and Mortgage as of January 1, 2006, by defaulting on the repayment of the debt owed to Plaintiff, and that her default entitled Plaintiff to accelerate the debt. The notices sent to Vandora Huggins-Edwards prior to acceleration complied with the requirements under the Mortgage.

Plaintiff fully complied with its obligations under South Carolina Supreme Court Administrative Orders 2009-05-20-01 and 2011-05-02-01.

"Once the debt and default have been established, the mortgagor has the burden of establishing a defense to foreclosure such as lack of consideration, payment, or accord and satisfaction." *Bell*, 385 S.C. at 375, 684 S.E.2d at 205. At trial, Vandora Huggins-Edwards offered no defenses to Plaintiff's cause of action for foreclosure and did not dispute the amount of the Total Debt.

2001
Defense

Plaintiff is therefore entitled to a judgment of foreclosure in the amount of \$306,066.94, to have the Subject Property sold at a foreclosure sale, and to a deficiency judgment against Vandora Huggins-Edwards in the event that the foreclosure sale proceeds are insufficient to satisfy the Total Debt. Interest shall accrue to the Total Debt after the date of judgment at the rate of 8.8% per annum (pursuant to the terms of the Note and Mortgage). Accrued interest shall be added to the Total Debt and shall comprise the amount of the Plaintiff's debt secured by the Mortgage through the date to which such interest is computed.

The Court finds that the attorney's fee portion of the Total Debt, which is \$83,043, is a reasonable fee under the terms of the Note and Mortgage to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action. This fee is likewise reasonable based on

⁶ *Union Nat'l Bank v. Cook*, 110 S.C. 99, 96 S.E. 484 (1918) ("The note is the principal and the mortgage is the incident and follows the note in its delivery from one person to another.").

✓

the time necessarily devoted to representation of Plaintiff during the almost six year course of these proceedings. The services that counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and that law firm's experience in handling foreclosure and title insurance matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a foreclosure of a Mortgage plagued by severe title issues. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.

IT IS THEREFORE ORDERED that

1. Title to the Adjoining Property is quieted in Defendant John C. Bigler.
2. Title to the Subject Property is quieted in the following Cotenants and in the following fractional interests:

- Vandora Huggins-Edwards (28/36th or 7/9th undivided interest)
- Samuel Huggins (1/36th undivided interest)
- Michael Huggins (1/36th undivided interest)
- Ira Huggins a/k/a Ira S. Huggins (1/36th undivided interest)
- Donnell Huggins (1/36th undivided interest)
- Glenn M. Huggins (1/36th undivided interest)
- Sylvia Anne Lawrence a/k/a Sylviane Anne Lawrence (1/36th undivided interest)
- Andean Huggins Cotton a/k/a Adrienne Huggins Cotton (1/180th undivided interest)
- Sharon H. Smack (1/180th undivided interest)
- Dwayne Dixon (1/180th undivided interest)
- Derwin Huggins (1/180th undivided interest)
- Reginald Huggins (1/144th undivided interest)
- Joseph Huggins (1/144th undivided interest)
- Heather Huggins (1/144th undivided interest)
- Barbara Huggins (1/144th undivided interest)
- Kimberly Nelms (1/1260th undivided interest)
- Timothy Nelms (1/1260th undivided interest)
- Jennifer Nelms (1/1260th undivided interest)
- Michael Brown (1/1260th undivided interest)
- Demetrius Huggins Nelms (1/1260th undivided interest)
- Darius Simmons (1/1260th undivided interest)
- Dondre Simmons (1/1260th undivided interest)

3. Pursuant to this Court's Order filed February 15, 2012, the Mortgage constitutes a first priority lien that encumbers the interests of all of the Cotenants. However, as to its lien on the combined

2/9ths fractional interest in the Subject Property of the Cotenants other than Vandora Huggins-Edwards, Plaintiff is secured only to the extent of the \$92,490.22 in loan proceeds used to satisfy the NovaStar debt.

4. The legal descriptions in the Deed of Distribution, the Quit Claim Deed, and the Tax Deed are hereby reformed to the following:

ALL that certain lot, piece or parcel of land, with the building and improvements thereon, situate, lying and being in the Town of Maryville, St. Andrew's Parish, in Charleston County, State aforesaid, and known as Lot 324. This being the same property shown as Lot "A" on the "Plat of Resubdivision of Lots 322-323 and 324, Maryville - St. Andrews Parish, Charleston County, So. Carolina owned by Buster Huggins" prepared by W.L. Gaillard dated April 30, 1976, and recorded in the Office of the Register Mesne Conveyance for Charleston County on January 24, 1978, in Plat Book X at Page 132, said lot being approximately sixty (60) feet by one hundred (100) feet.

BUTTING AND ABOUNDING to the North on the property now or formerly of J.S. and Eva Washington, to the East on property of Buster Huggins, to the South on Gunn Avenue and to the West on Diana Street.

TMS# 418-05-00-280

5. Bigler shall have the option to purchase an additional fifteen (15) foot by one hundred (100) strip of land, or fifteen hundred (1500) square feet, from the Subject Property and have the boundary line dividing the Adjoining Property and the Subject Property moved fifteen (15) feet toward the east for five thousand (\$5,000) dollars ("Encroachment Funds").

+ 6. In order to exercise this option, Bigler shall complete all of the following at his own expense no later than May 15, 2012:

- a. Pay the Encroachment Funds into the Clerk of Court for Charleston County no later than May 15, 2012, where they will be held pending conclusion of the foreclosure sale of the Subject Property;
- b. Commission a South Carolina registered land surveyor to re-survey the Adjoining Lot and Subject Property and draw up a new plat showing the final new boundary line;
- c. Submit a copy of the new plat to Plaintiff's counsel before seeking city and/or county approval;
- d. Obtain approval for the new boundary line and lot sizes from the appropriate city and/or county regulatory bodies;
- e. Have the new plat recorded in the appropriate public office; and
- f. Conduct all other actions necessary to finalize and effectuate the new boundary line and property dimensions of the Adjoining Property and the Subject Property.

X 7. Upon completion of the above conditions, Bigler is entitled to possession of the additional land purchased pursuant to the option.

✓ 8. Upon receipt of the Encroachment Funds, the Clerk of Court for Charleston County is hereby directed pursuant to Rule 67, SCRPC, to deposit the funds in an interest-bearing account of a bank or institution authorized to receive public funds until such time as directed by the Court to distribute them.

9. Nothing in this Order shall prohibit or limit Bigler from negotiating with Plaintiff to purchase a lesser amount of additional land from Lot 323 at a price agreed upon by them.

10. There is due on the Note and Mortgage set forth in the Complaint the sum of \$306,066.94 ("Total Debt"), together with interest at the rate provided therein on the balance of principal from February 28, 2012, to the date of this Order.

11. The Total Debt shall accrue interest at the per annum rate set forth in the Note and together with such interest shall constitute the total judgment debt due Plaintiff.

12. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. § 14-11-310. It may also increase to include supplemental compensation for attorneys' services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions, and expenses may be established by affidavit and shall be adjudicated by the Court without further hearing.

13. The Defendant liable for the aforesaid judgment debt of the Note and Mortgage including interest at the rate of 8.8% per annum, Vandora Huggins-Edwards, shall pay on or before the date of sale of the Subject Property hereinafter described to Plaintiff or Plaintiff's attorney the amount of Plaintiff's debt, along with the costs and disbursements of this action.

14. On default of payment at or before the time of the foreclosure sale, the Subject Property shall be sold by the below-signed Master in Equity or other court-appointed or designated agent or auctioneer at public auction at the Charleston County Courthouse, in the City of Charleston, and State of South Carolina on the first available sales date in June 2012 or a sales day determined by the below signed Master in Equity or Special Referee, on the following terms:

- a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to costs and expense of the action and then to Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or

refuse either to make the required deposit at time of bid or to comply with the other terms of the bid within 30 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.

- b. The sale shall be subject to taxes and assessments, existing easements and restrictions, and any other senior encumbrances.
- c. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.
- d. Purchaser shall pay for deed preparation, costs of recording the deed and the satisfaction of mortgage, and transfer taxes on the deed.
- e. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity.

15. A deficiency judgment having been demanded against Vandora Huggins-Edwards, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. § 15-39-720.

16. Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

17. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the Purchaser a deed to the property sold. Plaintiff or any other party to this action may become a purchaser at such sale. If, upon such sale being made, the Purchaser should fail to comply with the terms thereof within 30 days after the date of sale, then the Master in Equity may advertise the Subject Property 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.

18. In the event an agent of Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the same terms and conditions as set forth in this Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.

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

20. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this sale and to any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest (including a reasonable attorney fee) up to \$92,490.22 or so much thereof as the purchase money will pay on the same. In the event that the proceeds from the foreclosure sale of the Subject Property exceed \$92,490.22, but fail to satisfy the Total Debt owed to Plaintiff by Vandora Huggins-Edwards, the Court may, at its option, either hold further hearing(s) as necessary to determine who shall be entitled to the portion of the foreclosure sale proceeds exceeding \$92,490.22 or apportion the remainder of the foreclosure sale proceeds as follows:

- Plaintiff will receive \$92,490.22 (minus the costs and expenses of sale) plus $\frac{7}{9}$ th of the remaining proceeds (i.e., the share that would have gone to Vandora Huggins-Edwards) up to the amount of Total Debt with any leftover funds being treated as surplus and distributed pursuant to Rule 71(c), SCRCPP;
- Samuel Huggins will receive $\frac{1}{36}$ th of the proceeds;
- Michael Huggins will receive $\frac{1}{36}$ th of the proceeds;
- Ira Huggins a/k/a Ira S. Huggins will receive $\frac{1}{36}$ th of the proceeds, but subject to any claim to the surplus proceeds of White Directory Holdings Carolina, Inc. dba The Talking Phone Book by virtue of a judgment filed in civil action number 2005-CP-10-2035 on September 21, 2005, and of Monogram Credit Card Bank of Georgia by virtue of a judgment in the amount of \$2,412.16 filed in civil action number 2002-CP-10-3506 on March 19, 2003, and of Michael Twitty and Deborah Twitty by virtue of a judgment number 2003-JG-10-629 in the amount of \$3,173.50 filed on March 18, 2003, and of The United States of America, by and through its agency, the Internal Revenue Service by virtue of federal tax lien #3-50572690-5 filed on September 10, 2004;
- Donnell Huggins will receive $\frac{1}{36}$ th of the proceeds;
- Glenn M. Huggins will receive $\frac{1}{36}$ th of the proceeds;
- Sylvia Anne Lawrence a/k/a Sylviette Anne Lawrence will receive $\frac{1}{36}$ th of the proceeds, but subject to any claim to the surplus proceeds of the South Carolina Department of Revenue by virtue of Tax lien number 3-50531421-0 filed on November 24, 2003;
- Andrean Huggins Cotton a/k/a Adrienne Huggins Cotton will receive $\frac{1}{180}$ th of the proceeds;
- Sharon H. Smack will receive $\frac{1}{180}$ th of the proceeds, but subject to any claim to the surplus proceeds of Safeway Finance

by virtue of a judgment 2000-JG-10-121 in the amount of \$1,644.61;

- Dewayne Dixon will receive 1/180th of the proceeds;
- Derwin Huggins will receive 1/180th of the proceeds;
- Reginald Huggins will receive 1/144th of the proceeds;
- Joseph Huggins will receive 1/144th of the proceeds;
- Heather Huggins will receive 1/144th of the proceeds;
- Barbara Huggins will receive 1/144th of the proceeds;
- Kimberly Nelms will receive 1/1260th of the proceeds;
- Timothy Nelms will receive 1/1260th of the proceeds;
- Jennifer Nelms will receive 1/1260th of the proceeds;
- Michael Brown will receive 1/1260th of the proceeds, but subject to any claim to the surplus proceeds of Ford Motor Credit Company by virtue of a judgment in the amount of \$10,470.75 filed in civil action number 2000-CP-10-4695 and the South Carolina Department of Revenue by virtue of Tax lien number 3-50690369-9 filed on February 15, 2006; Tax lien number 3-50725140-7 filed on August 2, 2006; Tax lien number 3-50780184-0 filed on February 13, 2007; and Tax lien number 3-50691442-2 filed on February 15, 2006;
- Demetrius Huggins Nelms will receive 1/1260th of the proceeds;
- Darius Simmons will receive 1/1260th of the proceeds;
- Dondre Simmons will receive 1/1260th of the proceeds;

NEXT: Any surplus remaining after the first two steps above shall be held pending further Order of this court.

21. After crediting the proceeds of the sale, net of any commission on sale, an Order for Deficiency Judgment against Vandora Huggins-Edwards shall be entered without further notice of hearing.

22. In the event the successful bidder is someone other than the Defendants in possession of the Subject Property, and title by deed from the Court is vested in such purchaser, the Sheriff of Charleston County, upon issuance of a writ of assistance by the Court, is ordered and directed to eject and remove from the property the occupants of the property sold, together with all personal property located

thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said property without delay, and to keep said successful bidder or his assigns in such peaceable possession.

23. In the event the successful bidder is other than the Defendants in possession of the Subject Property and the occupants have voluntarily vacated the property or have been ejected from the property leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage in said property, and title by deed from the Court is vested in such purchaser, upon receipt of title from the Court, the Purchaser is authorized to remove from the property all furnishings, fixtures and items not subject to the lien of Plaintiff's Mortgage. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the Subject Property by placing said personal property on the public street or highway or by any other means.

24. The Defendants named herein, and all persons whosoever claiming under Defendants, are forever barred and foreclosed of all right, title, interest, equity of redemption or lien in the said Subject Property so sold, or any part thereof.

25. In accordance with Rule 77(d), SCRCP, the Clerk of Court shall serve a notice of entry of this Order upon all parties not in default for failure to appear in this action.

26. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendants, the Defendants who were the titleholders of the Subject Property at the time of the filing of the notice of pendency of the within action, and the name of the grantee. The Register Mesne Conveyance Office is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

27. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

28. The following is a description of the property herein ordered to be sold:

ALL those two (2) lots of land, together with the buildings thereon, situate, lying and being on the public road or street known formerly as Seventh Avenue, but now known as Gunn Avenue, in the portion of Hillsboro called Maryville, in St. Andrews Parish, in the County of Charleston, State of South Carolina, and known and designated as Lot Nos. 322 and 323 on a plat of Hillsboro called Maryville, which plat is recorded in Plat Book "F", at Page 188 of Charleston County. Reference is hereby craved to said plat for a more complete and accurate metes and bounds description.

This being the identical property conveyed to Vandora H. Edwards a/k/a Vandora M. Huggins-Edwards by deed of Lucille Huggins, dated November 15, 2004 and recorded December 2, 2004 in Deed Book Y517 at Page 835.

LESS the portions of the land known as Lot 323 designated as Lot Nos. 322 and 323 on a plat of Hillsboro called Maryville, which plat is recorded in Plat Book "F", at Page 188 of Charleston County, to be acquired by John C. Bigler pursuant to the terms of the Final Order entered in civil action # 2006-CP-10-2859 in Charleston County.

Property Address: 1218 Gunn Avenue
Charleston, SC 29407

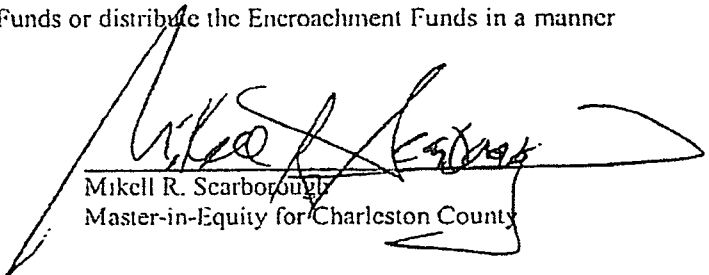
TMS# 418-05-00-279

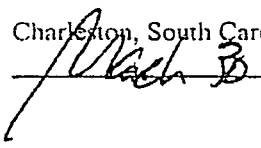
29. Upon Bigler exercising the option to acquire additional land from Lot 323 and satisfying the conditions imposed by this Order for exercising the option, the Court shall supplement this Order to establish the new legal description of the property to be sold at the foreclosure sale and shall thereafter issue the Notice of Sale with the new legal description.

30. In the event that the proceeds from the foreclosure sale of the Subject Property are less than \$92,490.22, Plaintiff shall be permitted, without a further hearing, to apply for and receive all or a portion of the Encroachment Funds up to the amount necessary to reach \$92,490.22.

31. In the event that proceeds from the foreclosure sale of the Subject Property exceed \$92,490.22, the Court may, at its option, either hold further hearing(s) as necessary to determine who shall be entitled to the remaining Encroachment Funds or distribute the Encroachment Funds in a manner it determines equitable without further hearing.

AND IT IS SO ORDERED!


Mikell R. Scarborough
Master-in-Equity for Charleston County

Charleston, South Carolina
, 2012

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.

Master in Equity

3062

Judge Code

3/30/12

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: _____

February 16, 2009

The Honorable Mikell R. Scarborough
Master in Equity for Charleston County
100 Broad Street, Suite 266
Charleston, SC 29401

Re: *JK Properties, LLC v. Minnie Huggins, et al.*
Civil Action # 2007-CP-10-2596
Our file # 10378-62

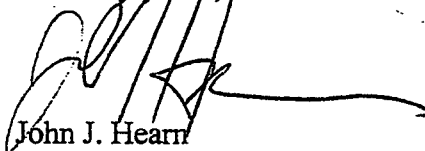
Dear Judge Scarborough:

Pursuant to the Scheduling Order filed herein on September 10, 2008, this case is set for a day certain trial on Monday, March 16, 2009, at 10:00 a.m. I am writing to inform you that the subject property was sold at a tax sale in October 2007, and to my knowledge, it has not been redeemed. On January 27, 2009, I filed Deutsche Bank National Trust Company's (Deutsche Bank's) Motion for Partial Summary Judgment (Motion) as the Plaintiff no longer has an interest in this property. This partition case filed by JK Properties is one of two pending matters involving side-by-side lots in West Ashley; the second action is a pending foreclosure of the adjacent lot filed by Deutsche Bank and pending as 2006-CP-10-2859.

Mr. Kachmarsky (the sole member of JK Properties, LLC) and I discussed the tax sale and he elected not to redeem the property prior to the end of the redemption period. I understand that he does not oppose our Motion, and that he does not intend to contest that motion whenever it is heard.

As of the date the Motion was filed, no tax sale deed had passed to the successful tax sale purchaser. Once tax title has passed, Deutsche Bank will move to amend its counterclaim to add the tax purchaser as an additional party to this action. I would therefore respectfully request that the court use the March 16, 2009 date for a hearing on the pending Motion. In the interim, I will follow up on the status of the tax sale deed and be ready to file any additional motions when I appear for the summary judgment motion next month.

Cordially yours,



John J. Hearn

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as
Trustee of Ameriquest Mortgage Securities, Inc.,
Asset Backed Pass Through Certificates, Series
2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without
recourse,

Plaintiff,

v.

Vandora M. Huggins-Edwards a/k/a Vandora H.
Edwards, et al.;

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2006-CP-10-2859

AFFIDAVIT OF ATTORNEY'S FEES AND
COSTS

Deficiency Judgment Demanded
Against Vandora M. Huggins-Edwards a/k/a
Vandora H. Edwards

(010378-00062 SMF)

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

I am one of the attorneys for Plaintiff in the above-captioned action.

Background of Representation and Nature, Extent and Difficulty of the Representation

Plaintiff engaged my law firm, Rogers Townsend & Thomas, PC, to foreclose the mortgage that is the subject of this action. Plaintiff instructed our firm to handle this action as expeditiously as possible. Moving foreclosure cases along quickly is important to our clients because almost always our client's equity position deteriorates with time as the borrower fails to pay interest on his or her loan. Furthermore, in foreclosure cases, our clients face the increased risk that borrowers will not preserve the value of their homes as well as those borrowers who are not in default. Finally, there is a risk that they will allow their insurance to lapse or will not be able to pay their real property taxes.

When it referred this case to us, our client also provided us with an extensive list of instructions, including compliance with investor requirements and/or government or private insuring agreements and federal and state consumer protection laws.

Foreclosure cases typically involve multiple defendants, defendants with competing interests, and, frequently, third-party bidders. Unlike many other cases involving litigation, they require a title abstract to be performed. Foreclosure cases are governed by state statutes, specific rules of civil

procedure, and an ever-growing body of common law. They also involve consumer rights protected by both federal and state statutes and case law. Frequently, homeowners will file petitions in the United States Bankruptcy Court to forestall the loss of their homes. Foreclosure cases usually involve pro se litigants who often contact our firm by telephone or in person (at the office or in court just before the hearing) to learn about the process, to learn how to reach our client directly, to try to bring their loan current, to pay off their loan, or to have their loan modified. At the time we accept a case, we do not know the full extent of the challenges we will run into and have to deal with for the fees we have agreed to handle the case for.

When RTT assumed the representation of Plaintiff in this foreclosure action, we assumed a number of risks. Those risks include the possibility that any of the parties involved (the plaintiff, the court, our own staff, a third-party bidder, or some other third party) could make an error at any stage of the process. Errors made in the process of a foreclosure case can be expensive to remediate, largely because of the value of real property, but also because our client's instruction that we complete cases as expeditiously as possible requires us to presume that, for the most part, the legal process will run smoothly and without unnecessary errors or delays. We also incurred the risk that the borrower might try to mislead us about a loss mitigation resolution or that he or she might file a bankruptcy petition just before a critical event in the case.

I am informed and believe that Plaintiff selected RTT to handle this foreclosure because we have a large staff of attorneys and other skilled non-attorney professionals who are highly trained in a legal system that enables RTT to comply with Plaintiff's instructions. RTT also has expensive computer systems, and RTT creates and maintains data about our clients and the court system in the state that enable us to move cases quickly, to comply with the law, and to deal with borrowers. RTT also has sufficient capital to allow it to advance the litigation expenses required for cases to move quickly and efficiently. RTT has a proven track record with Plaintiff for accomplishing its work expeditiously and inexpensively.

We received this file and entered data about this case into our system to enable the rest of the foreclosure process to run smoothly. We then updated that data as we learned more about the case. We examined the title to identify all parties having or claiming any interest in the subject real estate. Ultimately, my fellow counsel, our staff, and I have been responsible for the preparation of the following pleadings and other documents in this case:

1. Lis Pendens and any amendment thereto
2. Summons and Complaint and any amendment thereto
3. Affidavits and proposed Orders for publication
4. Affidavit of Default
5. Consent(s) to Order of Reference
6. Order of Reference

7. Notices of Hearing

Additionally, we have been responsible for preparing and serving the pleadings upon each defendant personally or by statutory/substitute service; obtaining reinstatement and payoff figures and payment histories (if requested or required); and scheduling and attending the hearing in this matter.

Our responsibilities after today include sending copies of the notice of the entry of judgment to appearing defendants, obtaining bidding instructions from Plaintiff or its designee, representing Plaintiff at the sale or arranging for such representation, preparing an Order of Sale or Report on Sale and Disbursements and Order Confirming Sale, and preparing the Foreclosure Deed and any other documents necessary in this particular action.

I am informed and believe that all litigation expenses were reasonably and necessarily incurred.

Time Necessarily Devoted to the Case

We do not keep up with the time we spend on each case. To do so would create unnecessary costs for both our client and for the borrower. After today, however, I estimate that, in addition to the time and effort we have expended to date in prosecuting this action, our firm will spend a minimum of four more hours working on the case. Moreover, depending upon the interest shown by defendants, third parties, or counsel for either and the inherent negotiations required thereby, other time may also be committed to the completion of the case. In that regard, I reserve the right to re-visit the question of attorney's fees should the action proceed in an unexpected way.

Professional Standing of Counsel

The attorneys at RTT who primarily work on foreclosure cases in South Carolina are Samuel C. Waters, Cheryl H. Fisher, Reginald P. Corley, Jennifer W. Rubin, Ellie C. Floyd, Michael P. Morris, Eve M. Stacey, Mary R. Powers, Robert P. Davis, William S. Koehler, John P. Fetner, Kelsey K. Lipscomb, Vance L. Brabham, III, and Andrew W. Montgomery. Some or all of them worked on this case. We occasionally call on other lawyers in the firm to help us out.

I. Mr. Waters concentrates his practice in the areas of foreclosure, bankruptcy and real estate. He was formerly counsel for eight years to the Loan Guaranty Division, Department of Veterans Affairs for the District of South Carolina. Mr. Waters regularly participates as faculty for continuing legal education programs sponsored by the South Carolina Bar and by private organizations. Since 1984, Mr. Waters has been in the private practice of law with an emphasis on foreclosures of residential mortgage loans insured by the Department of Housing and Urban Development, the Department of Veterans Affairs, Federal National Mortgage Association and Federal Home Loan Mortgage Corporation as well as commercial private mortgage insurers. He was the RTT attorney who first designed the systems used to enable us to handle foreclosure cases expeditiously and inexpensively.

He continues to make sure that those systems are updated and that our practice runs properly. Mr. Waters regularly meets with clients and others to learn their most current requirements. He serves as chairman of the board of directors of Rogers Townsend & Thomas, PC.

II. Since 1991, Ms. Fisher has concentrated her practice in the areas of foreclosure and real estate. She has presented multiple C.L.E.'s including one entitled "Focusing on Liens Which Affect Real Property". She, too, has been involved in keeping our case management system running smoothly and accurately. She is a shareholder and serves as the Department Head for the Default Services Department at Rogers Townsend & Thomas.

III. Mr. Corley concentrates his practice in the areas of foreclosure, bankruptcy and real estate. Since his admission to the bar in 2001, Mr. Corley has represented lenders or servicers in foreclosure and other related actions throughout the state of South Carolina. Mr. Corley is responsible for managing our non-attorney foreclosure staff. He also helps improve our system and collaborates with other attorneys in the firm in doing so. He is a shareholder in the firm.

IV. Ms. Rubin was admitted to the South Carolina Bar in 1999, and served as a law clerk for the Honorable H. Dean Hall for one year following her graduation from law school. She has been employed with Rogers Townsend & Thomas since 2000, and is a shareholder with the firm. Ms. Rubin concentrates her practice in the areas of mortgage, collection, title, and real estate law. She is a frequent speaker at local and national seminars, and was named the South Carolina Bar Young Lawyers Division "Young Lawyer of the Year for 2005-2006."

V. Ms. Floyd has concentrated her practice in the areas of foreclosure and real estate since her admission to the bar in 2001. Since 2002, she has represented lenders and servicers in thousands of foreclosure actions throughout South Carolina. She is personally familiar with the requirements of individual masters-in-equity and special referees in South Carolina.

VI. Mr. Morris concentrates his practice in the areas of foreclosure, real estate, bankruptcy and title curative litigation. Since his admission to the South Carolina Bar in 2005, Mr. Morris has represented lenders or servicers in foreclosure, creditors in bankruptcy and other related actions throughout the state of South Carolina. He has attended thousands of foreclosure hearings in South Carolina and has reviewed thousands of reports on sale for accuracy.

VII. Ms. Stacey was admitted to the South Carolina Bar in 1979. She has spent most of the ensuing years in government relations. She has experience in handling real estate title issues. Since coming to Rogers Townsend & Thomas she has focused exclusively on representation of lenders and servicers in foreclosure actions throughout South Carolina. She has reviewed thousands of foreclosure complaints for accuracy.

- g. Michael Twitty and Deborah Twitty by virtue of a judgment number 2003-JG-10-629 in the amount of \$3,173.50 filed on March 18, 2003, against Ira Huggins d/b/a X-treme Detailing;
- h. The United States of America, by and through its agency, the Internal Revenue Service by virtue of federal tax lien #3-50572690-5 filed on September 10, 2004, against Ira S. Huggins;
- i. All unknown persons with any right, title or interest in the real estate described herein;
- j. Any persons who may be in the military service of the United States of America, being a class designated as John Doe;
- k. Any unknown minors or persons under a disability being a class designated as Richard Roe.

CONCLUSIONS ON LAW

"Generally, the party seeking foreclosure has the burden of establishing the existence of the debt and the mortgagor's default on that debt." *U.S. Bank Trust Nat. Ass'n v. Bell*, 385 S.C. 364, 374-75, 684 S.E.2d 199, 205 (Cl. App. 2009) (citing *Franklin Credit Mgmt. Corp. v. Nicholas*, 812 A.2d 51, 57-58 (2002)) ("In a mortgage foreclosure action, to make out its prima facie case, the foreclosing party had to prove by a preponderance of the evidence that it was the owner of the note and mortgage and that the [defendant] had defaulted on the note."); *Campaign v. Barba*, 23 A.D.3d 327 (N.Y. App. Div. 2005) ("To establish a prima facie case in an action to foreclose a mortgage, the plaintiff must establish the existence of the mortgage and mortgage note, ownership of the mortgage, and the defendant's default in payment."); *In re Foreclosure of Real Prop. for \$143,600.00*, 577 S.E.2d 398, 406 (N.C. Ct. App. 2003) ("In a foreclosure proceeding, the lender bears the burden of proving that there was a valid debt, default, right to foreclose under power of sale, and notice."); 55 Am. Jur. 2d *Mortgages* § 604 ("[T]he burden of proof of any particular issue rests upon the party asserting the affirmative of that issue under the pleadings.")).

*Never
sum the
mortgage*

Plaintiff had the right to enforce the Note and foreclose the Mortgage. A mortgagee is entitled to enforce a promissory note if it is "the holder of the instrument." S.C. Code Ann. § 36-3-301(i). A party becomes the "holder" of an instrument through "negotiation." § 36-3-201(a). "[N]egotiation requires transfer of possession of the instrument and its indorsement by the holder." § 36-3-201(b).

✓ In this case, Plaintiff had possession of the original Note. The Note contained an endorsement in blank from Ameriquest Mortgage Company, which allowed for the Note to be negotiated to Plaintiff by delivery alone. S.C. Code Ann. § 36-3-205(b) ("When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone..."); see also *In re Woodberry*, 383 B.R.

✓

VIII. Ms. Powers was admitted to the South Carolina Bar in 2001. After about a year with the SC Employment Security Commission, she began representing creditors in bankruptcy and handling foreclosure cases and general collections. She also spent a brief period representing debtors in bankruptcy, but she now concentrates her practice on representing creditors in foreclosure and bankruptcy matters.

IX. Mr. Davis has concentrated his practice in the areas of real estate and foreclosure since his admission to the bar in 2005. His experience includes closing mortgage loan transactions and representing lenders and servicers in foreclosure actions throughout South Carolina.

X. Mr. Koehler was admitted to the South Carolina Bar in 2006. He concentrates his practice in the areas of foreclosures, bankruptcy and real estate. Since being admitted to the bar, Mr. Koehler has represented lenders and servicers in foreclosures and related bankruptcies throughout South Carolina.

XI. Ms. Goings was admitted to the South Carolina Bar in 2008, and served as law clerk to the Honorable William P. Keesley for one year following her graduation from law school. Since that time, she has concentrated her practice in the areas of real estate, banking law and foreclosure. She now represents lenders and servicers in foreclosure and related actions throughout South Carolina.

XII. Mr. Fetner was admitted to the South Carolina Bar in 2008. He concentrates his practice in the areas of foreclosures and real estate. Since 2008, Mr. Fetner has represented lenders and servicers in foreclosure and other related actions throughout South Carolina.

XIII. Ms. Lipscomb was admitted to the South Carolina Bar in 2008. She is currently working in foreclosure, and represents lenders and servicers in foreclosures and other related actions throughout South Carolina.

XIV. Mr. Brabham was admitted to the South Carolina Bar in 2003. After serving as the law clerk to the Honorable Diane S. Goodstein for one year, he practiced general litigation with an emphasis in construction and real estate litigation. He now represents creditors in foreclosure and real estate actions throughout South Carolina.

XV. Mr. Montgomery was admitted to the South Carolina Bar in 2010. He concentrates his practice in the areas of foreclosures and real estate. Since 2010, Mr. Montgomery has represented lenders and servicers in foreclosure and other related actions throughout South Carolina.

In addition, we have available to us other attorneys in the firm who handle non-routine or contested litigation matters, including John Hearn and myself. Mr. Hearn concentrates his practice in the areas of foreclosure and real estate. Since 2002, Mr. Hearn has represented lenders or servicers in foreclosure and other related actions throughout the state of South Carolina.

I was admitted to the South Carolina Bar in 2008. I concentrate my practice in real estate litigation, mortgage foreclosure litigation, title insurance litigation, and tax sale litigation.

Finally, we are able to provide legal services inexpensively because we use a staff of highly trained and efficient non-attorney professionals, all of whom are supervised by some or all of the attorneys listed above.

Contingency of Compensation

We work on a flat-fee basis for uncontested cases. When a case becomes contested, we are sometimes paid an additional flat sum for specific tasks, or we are paid by the hour.

In any event, in almost all of our cases our clients do not pay us until long after it has referred the case to us. Because of the long delay between the work we perform and when we are paid, we run the risk that our client will go into insolvency proceedings or transfer a loan to another entity during the foreclosure proceeding and never pay us. Our experience has confirmed the reality of such risk of non-payment.

Beneficial Results Obtained

I have submitted this affidavit because I believe the Court will enter a judgment of foreclosure and sale consistent with the relief we requested in the pleadings. Therefore, if the court is considering this affidavit, it is only because my law firm has obtained a beneficial result for my client.

Litigation Costs

Early on in this case, our firm discovered in reviewing the title work of the subject property that the mortgagor, Vandora M. Huggins-Edwards, did not actually own 100% interest in the property. We also discovered that one of the owners of the adjoining property, JK Properties, LLC, had filed a lawsuit for a quiet title and partition action involving the subject property (civil action # 2007-CP-10-2596). We filed a title claim with Ticor Title Insurance Company of Florida, which retained our firm on behalf of the insured to defend the insured's interest in the partition action. From that point on, our litigation section handled this matter on an hourly basis. Responsibilities related to the litigated portion of this case included:

1. Defended insured in related lawsuit – civil action # 2007-CP-10-2596
 - Filed Answer on behalf of Deutsche Bank National Trust Company;
 - Attended hearing on 1/24/08;
 - Agreed to a consent order consolidating the two actions;
2. Filed and served foreclosure complaint on mortgagor;
3. Reviewed mortgagor's motion to set aside entry of default;
4. Reviewed title work on the subject property and the adjoining property;
5. Reviewed closing attorney's file;

6. Identified mortgagor's relatives with an interest in the subject property to be named as defendants;
7. Filed Plaintiff's Motion to Vacate and Motion to Amend Scheduling Order; Attended hearing and drafted a proposed order;
8. Filed First Amended Lis Pendens, First Amended Summons and First Amended Complaint to add 30+ defendants; Served these pleadings on the defendants via regular mail, personal service or publication;
9. Reviewed numerous responses to the amended pleadings;
10. Complied with HAMP;
11. Filed Plaintiff's Second Motion to Amend Complaint, and Plaintiff's Motion to Strike Frivolous Pleadings and Motions of Defendant Vandora M. Huggins-Edwards; Attended 11/23/10 hearing and drafted a proposed order;
12. Filed Second Amended Lis Pendens, Second Amended Summons and Second Amended Complaint in order to add tax sale purchaser of the adjoining parcel as a defendant; Served these pleadings on defendants via regular mail, personal service and publication;
13. Reviewed numerous responses to the second amended pleadings;
14. Consented to Appointment of a Guardian ad Litem;
15. Communications with the title insurance company, the insured, defendants' counsel, pro se defendants, the guardian ad litem and the tax sale purchaser;
16. Filed Notice of Motion and Motion for Default Judgment Upon Hearing;
17. Attended multiple hearings and status conferences;
18. Served discovery requests;
19. Monitored tax sale of adjoining property;
20. Complied with the SC Supreme Court's Administrative Order re Foreclosure intervention;
21. Reviewed probate files;
22. Attended pre-trial conference;
23. Filed Plaintiff's Motion for Partial Summary Judgment and attended hearing on this motion; Drafted proposed order;
24. Subpoenaed trial witnesses;
25. Attended mediation;
26. Prepared for trial;
27. Prepared trial witnesses.

In addition to the time expended to date in handling the litigated aspects of this action, I anticipate a minimum additional 15 hours of attorney time and 5 hours of paralegal time will be spent in resolving the title issues in this case. I would respectfully reserve the right to re-visit the question of attorney's fees for the litigated portion of the case should the action proceed in an unexpected way.

My law firm had spent untold amounts of time handling the routine aspects of this case and has spent, so far, over 570 hours of attorney time and paralegal time dealing with the litigated aspects of this case. I charge \$175 per hour for my time. Our paralegals charge \$100 per hour for their time. With respect to attorney's fees for the litigated portion of this case, in view of the potential liabilities inherent in a real property matter, the attendant responsibilities, and the size of the mortgage debt, I think that a reasonable attorney's fee for the litigated portion of this case would be \$83,043.00.

Customary Legal Fees for Similar Services

Under the foregoing recitals, I have found that courts generally award attorney's fees of \$83,043.00 or more for similar residential foreclosure cases in South Carolina. The fee I am requesting in this case is in line with the amount that courts generally award for attorney's fees for similar litigated residential foreclosure cases in South Carolina. This sum is contemplated in language contained in the mortgage previously offered into evidence in this action.

Costs and Expenses

The following costs, which are secured by the mortgage being foreclosed, have been incurred to date and not reflected as a portion of the corporate advances:

a) Filing fees (Lis Pendens, Complaint, etc)	\$150.00
b) Service of process	\$135.00
c) Recording fee for assignment of mortgage	\$6.00
d) Motion fees (5)	\$125.00
e) Reference fee	\$125.00
f) Appraisal fees (4 x \$325)	\$1,300.00
g) GAL fees	\$4,900.00
h) Auto mileage reimbursement	\$625.66
i) DHEC fee for death certificate	\$17.00
j) Out of town travel	\$398.01
k) Arbitrators/Mediators	\$1,718.38
l) Motion fees	\$275.00
m) Parking	\$17.50
n) Service of Process by Publication	\$2,791.96
o) Service of Process	\$2,195.00
p) Surveying Services	\$1,450.00
q) Witness fee	\$43.87
TOTAL COSTS OF COLLECTION TO DATE	\$16,273.38

Conclusion

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

FOR THE NINTH JUDICIAL CIRCUIT

DEUTSCHE BANK NATIONAL TRUST CO.,)

Plaintiff,)

VS.)

VANDORA M. HUGGINS-EDWARDS, ET AL.,)

Defendants.)



COPY

) CASE NO.: 2006-CP-10-2859

Trial before the

Honorable Mikell R. Scarborough, reported by Bernadette A.
Cali, CSR and Notary Public, at 10:00 a.m. on February 28,
2012 at 100 Broad Street, Charleston, South Carolina.

A P P E A R A N C E S

For the Plaintiff: Rogers Townsend & Thomas, PC.
Sean M. Foerster, Esq.
PO Box 100200
Columbia, S.C. 29202

For the Defendant: Arthur C. McFarland, Esq.
1847 Ashley River Road nSuite 200
Charleston, S.C. 29417

Guardian: Eben Cockley, Esq.
56 Broad St.
Charleston, S.C. 29401

Pro se' John C. Bigler

Bernadette A. Cali, CSR
Notary Public

STATE OF SOUTH CAROLINA)

)

C E R T I F I C A T E

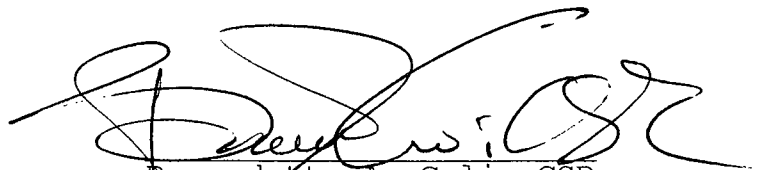
COUNTY OF CHARLESTON)

I, Bernadette A. Cali, Notary Public, do

hereby certify that the within hearing was taken and transcribed by me; and that the foregoing pages are a true and accurate transcript of the within proceedings. I further certify that the persons were present as stated.

I further certify that I am not of counsel or kin to any of the parties to this action, nor am I interested in the result of the said action.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this August 22, 2011.



Bernadette A. Cali, CSR
Notary Public
My Commission Expires
April 5, 2020

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EXHIBITS LIST

Plf. No.	Marked	Description of Exhibits and Witnesses	Admitted / Objected
Title to Insured Parcel – Lots 322 & 323			
1		Deed from Henry Graves/Sarah Heyward to Buster Huggins Sr – Bk A59 Pg 417 – 11/4/1954	
2		Deed from Buster Huggins Sr. to Lucille Huggins of only ½ undivided interest – Bk U476 Pg 699 – 11/17/2003	
3		Certificate of Death – Buster Huggins Sr. – 4/25/2004	2004
4		Deed from Lucille Huggins to Vandora Huggins Edwards – Bk Y517 Pg 835 – 11/15/2004	
5		Miscellaneous Probate Documents showing family	
Buster Huggins Sr.'s Defunct Probate Proceeding			
6		Renunciation of Right to Administer by Lucille Huggins – 11/15/2004	
7		Fiduciary Letters – appointing Vandora as PR – 11/15/2004	
8		1 st Rule 4 Order closing the estate – 5/17/2005	
9		Order Appoint a Successor Personal Representative – Samuel Huggins – 1/30/2007	
10		2 nd Rule 4 Order closing the estate – 1/7/2008	
Death Certificates			
11		Certificate of Death – Lucille Huggins – 11/20/2006	
12		Order declaring Buster Huggins Jr. deceased – 11/3/1994	
13		Certificate of Death – Buster Huggins Jr. – 12/1/1981	
14		Certificate of Death – Michelle Huggins – 8/24/2001	
15		Certificate of Death – Henry Ricky Huggins – 7/26/94	
Diagram of Intestacy Scheme			
16		Diagram – “Fractional Interests in Lots 322 and 323”	
Foreclosure			
17		(Original) Note – Vandora to Ameriquist	
18		(Original) Mortgage – Vandora to Ameriquist – 8/6/2005	2005
19		Original Assignment – Ameriquist to Deutsche Bank	
20		Breach Letters	
21		Affidavit of Attorney's Fees and Costs	
22		Title Policy	
Equitable Subrogation Documents			
23		NovaStar Mortgage – Bk W476 Pg 168 – 11/17/2003	
24		HUD-1 Settlement Statement – Ameriquist refinancing of NovaStar Mortgage	
25		“Items to be Paid Off from Loan Proceeds”	
26	✓	Satisfaction of NovaStar Mortgage – Bk Y539 Pg 306	

Miscellaneous			
27		Title Affidavit of Vandora Huggins Edwards – 4/6/2005	
28		(Original) Signature/Name and Identification Affidavit – 4/6/2005	
29		Ameriquet Multistate Settlement Release Form – signed by Vandora – 7/19/2007 ✓	
Encroachment - Plats and Appraisal			
30		Plat Book F Pg 188 – reference plat – 7/1944 EVR ✓	
31		Chuck Dawley Plats	
32		Appraisal Reports	
33		Pictures of Bigler's Driveway	
Encroachment - Title to Adjoining Parcel - Lot 324			
34		Deed from Dorothy Dublin to Henry B. Huggins Jr. – Bk U104 Pg 134 – 7/3/1974	Buster Sr
35		Deed of Distribution – Henry Buster Huggins Sr. as PR to: Minnie Huggins (30%), Michelle Huggins (6%), Andrianne Huggins Cotton (6%), Sharon H. Smack (6%), Dewayne Dixon (6%), Derwin Huggins (6%), JK (40%) – 3/1/2001	
36		Quit Claim Deed of Life Estate to Buster Sr. and Lucille from the Cotenants of Lot 324 – 8/7/2001	
37		Quit Claim Deed from JK to JK Properties LLC – Bk 391 Pg 159 – 12/17/2001	
38		Deed of Distribution from Michelle Huggins' Estate – Sharon Smack as PR to JK of Michelle's 6% interest in Lot 324	
39		Tax Deed to John C. Bigler – Bk 67 Pg 755	
40		General Power of Attorney – Lucille to Sylvia – 9/3/2003	
41		Inventory and Appraisement – Buster Huggins Jr. Probate file – showing Buster Sr.'s intent to build house	
42		Plat (unrecorded) showing proposed new boundary - 1976	

1 (Hearing commenced.)

2 THE COURT: I've got some timing issues that I
3 need to work around today. Ms. Cali said you had some
4 experts that you wanted to bring in. I see Ms.
5 Scarborough sitting out there. I have no problem
6 either calling witnesses out of turn or whatever.

7 (Discussion off the record.)

8 THE COURT: Just for record, you're for the
9 Plaintiff, Deutsch Bank?

10 MR. FOERSTER: Yes, Your Honor.

11 THE COURT: Let me refresh my memory. Then Mr.
12 McFarland -- Ira Huggins and then the three minor
13 children, you're the guardian for them?

14 MR. COCKLEY: Yes.

15 THE COURT: Ira is incapacitated? ^

16 MR. COCKLEY: Incarcerated up in Virginia.

17 THE COURT: Mr. Bigler is here pro se'.

18 MR. BIGLER: Yes, Your Honor.

19 THE COURT: Then Mr. McFarland for --

20 MR. MCFARLAND: I represent Ms. Huggins, Vandora
21 Huggins.

22 THE COURT: I've got this case scheduled for the
23 next three days.

24 (Discussion off the record.)

25 THE COURT: Any matters I need to take up before

1 we start?

2 MR. FOERSTER: Your Honor, as to my witnesses,
3 I've got two of my witnesses here. Another two are
4 experts; the appraiser and land surveyor. I called
5 them and told them to come over. The surveyor can't
6 get here until eleven. He can be here the rest of the
7 day. The appraiser is coming on right now. She has an
8 obligation from 11:30 until about 1 o'clock. That
9 should match up with our lunch period. She can be here
10 before and after.

11 THE COURT: That will be fine. So from that
12 standpoint we'll do them in that order.

13 Mr. McFarland, any limitations?

14 MR. MCFARLAND: Not from the Defendant.

15 THE COURT: Mr. Bigler?

16 MR. BIGLER: No, Your Honor. I've prepared a
17 trial brief that I would like to submit.

18 THE COURT: I'll be glad to take it.

19 (Hands up document.)

20 THE COURT: Thank you, sir. Anything?

21 MR. COCKLEY: Nothing.

22 THE COURT: Okay. All right. Mr. Foerster.

23 MR. FOERSTER: May it please the Court. My name
24 is Sean Foerster here on behalf of Plaintiff Deutsch
25 Bank. This is in way of background.

1 This is a foreclosure action concerning property
2 located at 1218 Gun Avenue here in Charleston. The TMS
3 number of the property is TMS 418-05-00-279. This
4 property consists of two lots. It's lots 322 and 323.
5 That's how I refer to them. Mr. Bigler's lot is next
6 door to us. That's Lot 324. That's the corner lot.

7 What happened, after we initiated this foreclosure
8 back in 2006, is that we discovered two major title
9 issues with my property, Lot 323 and 322. First was
10 ownership.

11 Vandora Huggins Edwards took out a loan from
12 Ameriquet Mortgage back in 2005. At the time she made
13 representations to the closing attorney and the lender
14 that she owned 100% interest in the property. She
15 signed the affidavits to that effect at the closing.

16 It turns out at the time of that closing she
17 actually only owned 7/9ths interest. The other 2/9ths
18 interest were owned by twenty one of her relatives,
19 because her father, Buster Huggins, Senior, who was the
20 prior owner of Lots 322 and Lots 323, died intestate. ✓
21 He left seven living children. Nine children total.
22 Two predeceased him. Those predeceased children had
23 children of their own as well. So we have an intestacy
24 issue here.

25 This whole issue came about through a combination

1 of human error by the closing attorney at the closing,
2 missing this in the title, and Ms. Huggins making
3 representation that she owned full title to the
4 property.

5 The second major title issue that was discovered
6 after the initiation of the foreclosure is an
7 encroachment by the house that is mostly located on Mr.
8 Bigler's Lot 324. A back little piece of the house,
9 the back portion, patio and he calls it a driveway -- I
10 don't think it's a driveway, just a place where there
11 is no grass; that part is on my lot, 323, on the lot
12 that is the subject of this foreclosure action.

13 Plaintiff's portion of the case, I believe -- we
14 have three major components to deal with at this trial,
15 Your Honor.

16 First, Plaintiff is seeking an order quieting
17 title as to lots 322 and 323. Plaintiff plans to offer
18 testimony and various documents that are of public
19 record to establish the identities of those who were
20 the heirs of Buster Huggins, Senior and who would have
21 an ownership interest in lots 323 and 322.

22 Plaintiff next seeks to foreclose on its mortgage,
23 on the entire of lots 322 and 323, and obtain a
24 judgment of foreclosure and sale as to that property.

25 Plaintiff has a witness from the mortgage company

1 today to establish the existence of the debt, the
2 amount of that debt and the breach of the loan
3 documents -- loan agreement.

4 *l* In light of the Court's Order from the January
5 partial summary judgment motion, Plaintiff believes if
6 the Court was to grant a judgment of foreclosure and
7 sale it would be entitled to foreclose on and sell 100%
8 interest in lots 322 and 323 under the doctrine of
9 equitable subrogation.

10 ✓ Finally, the third phase that Plaintiff is
11 concerned with, involves -- in our pleadings we ask for
12 an injunction demanding the removal of the
13 encroachment. But our position today is that --
14 entitled to an injunction unless somehow the Court was
15 to order Mr. Bigler to pay for a strip of land out of
16 Lot 323 sufficient to remove that encroachment; just
17 enough to get rid of that encroachment.

18 To that effect Plaintiff has commissioned a land
19 surveyor, a local land surveyor, Chuck Dawley. He's
20 come up with a proposed redrawing of the boundary line
21 that would eliminate this encroachment, and that also
22 complies with the local zoning requirements.

23 Now, Plaintiff has also commissioned an appraiser
24 who came in and, after Chuck Dawley did his proposed
25 plat, did two appraisals. One is the before-value of

1 lots 322 and 323 before the redrawing of this proposed
2 boundary line, and the second is a hypothetical
3 appraisal of what the value would be in the event that
4 property line were redrawn and shows the diminution of
5 value to 322 and 323 by giving Mr. Bigler's lot that
6 additional land.

7 Plaintiff plans to offer up the testimony of those
8 witnesses and their reports.

9 As to that encroachment issue phase of the trial,
10 I believe Mr. Bigler also has counterclaims. In
11 essence, he's going to ask the Court to rewrite all the
12 deeds in his chain of title, change the legal
13 descriptions under some theory. I don't know what that
14 is.

15 In the alternative he's going to ask the Court to
16 at least give him an easement implied by prior use. He
17 has to put up evidence for that.

18 I think those are the three portions concerning
19 Plaintiff's Complaint.

20 Now, Mr. Bigler, I believe, has a quiet title
21 cause of action himself for his lot. That would be a
22 fourth phase of the trial, quieting title from the tax
23 sale where he took title in 2007.

24 So to summarize, Plaintiff is here today seeking
25 an order quieting title to the property to lots 322,

1 323, then allowing it to foreclose after interest of
2 the co-tenants and sell the property at the next
3 available sale date. Plaintiff further seeks some kind
4 of equitable resolution to this encroachment issue.

5 That's Plaintiffs position, Your Honor.

6 THE COURT: All right.

7 ✓ MR. FOERSTER: As to which order we go in as to
8 those phases, we're ready to proceed in any manner you
9 would like.

10 THE COURT: Okay. Your witness is here to
11 establish debt?

12 MR. FOERSTER: Yes. I also have a witness here to
13 establish the quiet title as well, if you would like to
14 proceed with that first. I'm ready for those two
15 phases. Then the experts are coming.

16 THE COURT: Ms. Scarborough is here for that
17 reason?

18 E/16/ MR. BIGLER: She's here to establish the validity
19 of the tax deed.

20 THE COURT: Who is your witness for the quiet
21 title aspect?

22 MR. FOERSTER: Ms. Sharon Smack, member of the
23 Huggins family.

24 THE COURT: Let me call Ms. Scarborough out of
25 order. Mr. Bigler, that's going to put the onus on

1 you. Are you prepared to go forward?

2 MR. BIGLER: I am.

3 THE COURT: Let's do that.

4 { (Mary Scarborough, 35 Indigo Point Drive, Charleston, S.C.
5 29407, duly sworn, testifies as follows:)

6 DIRECT EXAMINATION BY MR. BIGLER:

7 THE COURT: We're starting with point number four
8 as we were going through Mr. Foerster's points, the
9 quiet title aspect of the tax sale.

10 MR. BIGLER: If I may make a bit of a preliminary
11 statement here?

12 I've submitted a brief which lists facts that are
13 established primarily by documents. It may be that Ms.
14 Scarborough can help establish those documents, but the
15 main reason that she is here is to establish the
16 validity of the tax deed by going through the procedure
17 of the delinquent tax sale and giving anyone an
18 opportunity to challenge any of that, that may be the
19 case. *All New York State*

20 THE COURT: All right, sir.

21 MR. BIGLER: A little bit out of order here since
22 a lot of my documents that I need to rely on --

23 THE COURT: Let me ask a question, because
24 normally I try to get the documents marked first. I've
25 got a list of 26 Plaintiff's exhibits.

1 MR. BIGLER: I have, I believe, about ten
2 exhibits, and I've left them with the numbers that they
3 had as part of my Complaint -- my Answer and
4 Counterclaims. So they are still marked with those
5 numbers that were 1 through 6 at that time, then I've
6 added another four on top.

7 THE COURT: Why don't -- you have duplicate
8 copies? Let's go ahead and mark them 1 through 10.
9 (Whereupon Defendant's Exhibits 1 through 10 are marked.)

10 MR. BIGLER: If I may list them as I pass them
11 out?

12 THE COURT: Go ahead.

13 MR. BIGLER: The first one is the Deed.

14 Second one is the Deed of Distribution.

15 Third one, Quit Claim Deed.

16 The fourth one relates to Ms. Scarborough. It's a
17 tax sale receipt.

18 The fifth one is the tax deed.

19 The sixth one is a letter from Ms. Scarborough.

20 Seventh one is a timeline that I prepared myself.

21 Eighth one is a collection of documents that were
22 received from county records offices, which I may want
23 Ms. Scarborough to review briefly.

24 The ninth one is a marked up copy of the
25 Plaintiff's engineering report.

1 The tenth one is a photograph of portions of lots
2 323 and 324, which I took myself which should be --
3 which I would like to have reviewed by the surveyor
4 while he's here.

5 With Ms. Scarborough, I would like her to review
6 those three documents that refer to her; 4, 5 and 6,
7 and also make other comments about the tax sale
8 process.

9 THE COURT: All right. Let me hand those over.

10 Q Four, 5 and 6.

11 A Okay.

12 Q You have the documents 4, 5 and 6?

13 A Yes.

14 Q I would like you to comment on those, and as you
15 do that, describe the delinquent tax sale process and --

16 THE COURT: Let's do this. I'll help you a little
17 bit. Have her identify her -- I'll do that. If you
18 would give us your name and your address for the record
19 then what you do, if you would, please?

20 A I'm Mary Scarborough. My address is 35 Indigo
21 Point Drive, Charleston, South Carolina. I am the Tax
22 Collector for Charleston County. If ad valorem taxes are
23 not paid on time to the County Treasurer they are sent to me
24 for collection. If they are not subsequently paid then I
25 proceed to a property tax sale to collect the taxes.

1 THE COURT: Okay. In this instance we're
2 referring particularly to what's referred to as Lot
3 324. Is that right?

4 MR. BIGLER: Yes.

5 THE COURT: Give me that tax map number, if you
6 would. Take me through the process and whether or not
7 that was done.

8 A The tax sale -- I mean the parcel number is
9 418-05-00-280. This is for Maryville Lot 324. The 2006
10 taxes were not paid on time and they were sent to the
11 Delinquent -- they were not paid by March 16, 2007;
12 therefore, they were sent to the Delinquent Tax Department
13 for collection. On April 2nd, 2007 a Notice Of Execution
14 was mailed to Lucille Huggins, et al, at 1218 Gun Avenue,
15 Charleston, South Carolina 29407.

16 On May 31st, 2007 a certified letter was
17 mailed to Lucille Huggins at 1218 Gun Avenue, Charleston,
18 South Carolina 29407. This is called an Official Notice Of
19 Levy, which stated that if the property taxes were not paid
20 by 5 o'clock on September 28, 2007 the property would be
21 sold for taxes on October 1st, 2007.

22 This was returned unclaimed with a forwarding
23 address of 8752 East Fairway Woods Drive. Subsequently the
24 property was posted on August 29, 2007. A sign was put on
25 the property stating that it would be sold on October 1st,

1 2007 if the taxes were not paid.

2 The property was sold to John C. Bigler for
3 \$30,000 at the October 1, 2007 taxes and the tax sale
4 receipt is Exhibit 4.

5 After that final notices were mailed to
6 numerous people; Lucille Huggins at 8752 East Fairway Woods
7 Drive, North Charleston 29420. It was returned unclaimed.
8 J.K. Properties, LLC at 171 Church Street, Suite 140,
9 Charleston, South Carolina 29401, and it was returned unable
10 to forward.

11 Another notice was mailed to Lucille Huggins
12 at 1218 Gun Avenue, 29407 with the forwarding address of
13 8752 East Fairway Woods, but we also had already mailed one
14 to that. One was mailed to a Derwin Huggins at 47 Saint
15 Nicholas Avenue, PO Box 715, New York, New York 10026, and
16 it was returned unable to forward.

17 Another one was mailed to a Duane Dixon at
18 1534 Selwin Avenue Apartment 6K, the Bronx, New York. It
19 was returned as unclaimed.

20 Another one was mailed to Michelle Huggins at
21 2663 Heath Avenue Apartment 17D Bronx, New York 10463, and
22 it was returned unclaimed.

23 Another one was sent to Sharon Smack at 1957
24 Boeing Avenue, Charleston, South Carolina 29407. It was
25 returned unclaimed.

1 Another was sent to Minnie Huggins at 164
2 Washington Avenue, Building 5 Apartment 1B Poughkeepsie, New
3 York, and it was returned as unable to forward.

4 Another one was sent to Andrea Huggins
5 Cotton, 164 Washington Avenue, Building 5 Apartment 1B
6 Poughkeepsie, New York 12681, and it was attempted, not
7 known.

8 Another one was sent to Duane Dixon at 8752
9 East Fairway Woods Drive, North Charleston 29420, and it was
10 unclaimed.

11 Another was sent to Michelle Huggins 8752
12 East Fairway Woods Drive, North Charleston 29420, and it was
13 returned unclaimed.

14 Another notice was sent to Derwin Huggins at
15 8752 East Fairway Woods Drive, PO Box 715, North Charleston,
16 South Carolina 29420, and it was returned as unclaimed.

17 Another was sent to Andrea Huggins Cotton,
18 8752 East Fairway Woods Drive, North Charleston, South
19 Carolina 29420, and it was returned as unclaimed.

20 One was sent to Minnie Huggins at 8752 East
21 Fairway Woods Drive, North Charleston, South Carolina 29420,
22 and it was returned unclaimed.

23 Another was sent to Sharon Smack at 8752 East
24 Fairway Woods Drive, North Charleston 29420, and it was
25 returned unclaimed.

1 Another was sent to J.K. Properties, LLC at
2 8752 East Fairway Woods Drive, North Charleston, South
3 Carolina 29420, and it was returned unclaimed.

4 Those were all the final notices that were
5 sent before the end of the redemption period. Subsequently,
6 after that the property having not been redeemed, we
7 conveyed it to the successful bidder by a tax deed BP 0067
8 and it was 7 -- Book -- excuse me. Book 67, Page 755. It
9 was recorded on July 13, 2009, which conveyed the property
10 to John C. Bigler, the successful bidder.

11 THE COURT: That's in the record? That's number
12 5?

13 A Exhibit 5.

14 Exhibit 6 is the letter that we sent to Mr.
15 Bigler telling him that the property had not been redeemed.
16 That was done March 2cd, 2009 and asking him to send us the
17 money for the recording fees, so that we could have a deed
18 recorded to him.

19 I think those were the ones I was supposed to
20 comment on.

21 Q Yes. That's correct.

22 A Okay.

23 THE COURT: Those notice of redemptions were
24 dated?

25 A I apologize. They were all dated 9/9/2008.

1 THE COURT: That would have been within 30 days of
2 the --

3 A End of the redemption, yes.

4 THE COURT: Any other questions that you have?

5 Q Just a couple. Is there anything regarding the
6 delinquent tax sale process that would suggest to you that
7 there is a problem with the validity of the tax deed?

8 A No.

9 Q The other thing I would like you to review is my
10 Exhibit Number 8. These are documents that were either
11 downloaded from the county website by me or received from
12 different county offices, and I realize you didn't do that
13 yourself, but I would like you to just leaf through them and
14 see if they appear to be the type of documents that the
15 county has in its public records, and also a couple of
16 things were circled which indicate that there is a building
17 or two on these properties.

18 A Okay. I'm sorry.

19 MR. FOERSTER: Your Honor, I would object. I
20 don't think she has any personal knowledge of anything
21 in these records that were printed off of a website.

22 MR. BIGLER: That's the way I represented it, Your
23 Honor. These are documents that were not downloaded by
24 her or received by her offices, but I believe these are
25 the type of documents that she's familiar with and she

1 can review them to say whether or not they appear to be
2 the type of documents that the county has in its public
3 records.

4 THE COURT: In matters of public record?

5 MR. BIGLER: Yes.

6 THE COURT: Your objection?

7 MR. FOERSTER: I don't see what's the point of
8 asking her. Anybody could sit here and look at this, I
9 think, and make that determination.

10 THE COURT: You acknowledge that?

11 MR. FOERSTER: Yes.

12 THE COURT: All right.

13 MR. BIGLER: As long as it's acknowledged that
14 these are from the public record, I don't have any
15 problem, and I don't have any further questions for Ms.
16 Scarborough.

17 THE COURT: That was the county GIS maps, 8?

18 MR. BIGLER: Yes. They are maps and they refer
19 also to the buildings that are on the property and also
20 the -- either tax or property information on the last
21 couple of pages.

22 THE COURT: All right. Very good.

23 MR. BIGLER: I have no further questions for Ms.
24 Scarborough.

25 THE COURT: Very good. Let me ask -- sir, you've

1 got a question? Your name?

2 VOICE: Earl Huggins. I'm Lucille Huggins' son.
3 She was saying she --

4 THE COURT: You don't get a chance to talk right
5 now. Let me finish with her. Then I'll -- before I'm
6 done with her I'll give you a chance to ask questions;
7 not testify but ask questions. All right?

8 Let me first start with Mr. Foerster. Any inquiry
9 about those? I should probably ask Mr. Bigler. Mr.
10 Bigler you want exhibits 4, 5, 6, and 8 to come into
11 the record?

12 MR. BIGLER: Yes, I do.

13 MR. FOERSTER: No objection.

14 MR. MCFARLAND: No objection.

15 (Whereupon Defendant's Exhibits 4, 5, and 6 are received in
16 evidence.)

17 THE COURT: Any cross examination?

18 MR. COCKLEY: No.

19 CROSS EXAMINATION BY MR. MCFARLAND:

20 MR. MCFARLAND: Ms. Scarborough, with respect to
21 the persons to whom you sent final notices, how did you
22 determine their names? I believe your initial letters
23 only went to Lucille Huggins or did it go to Lucille
24 Huggins and the names that you gave for the final
25 notices?

1 A I'm sorry. I didn't hear the last part.

2 Q Let me go back. You testified that the initial
3 notices in April and May were sent to Lucille Huggins, et
4 al.; is that correct?

5 A Yes.

6 Q Then the final notices, you identified a number of
7 owners to whom that notice was sent?

8 A Yes.

9 Q My question is, how did you determine the names of
10 the persons to which you sent the final notice?

11 ✓ A The county hires an attorney to do a title search
12 before the end of the redemption period, and that's where I
13 came up with that list, from the attorney's title search. ✓

14 ✓ Q These names would have come from an estate record
15 or something during a search?

16 A ✓ Probably probate records, if there were any -- or
17 a deed of distribution.

18 Q Last question is, have the funds been
19 distributed -- proceeds of the sale been distributed, to
20 your knowledge?

21 A Some of them have. \$1,722.73 was distributed to
22 Sharon R. Smack as an heir. \$1,722.73 was distributed to
23 Duane Dixon as an heir. That's all that I have record of
24 being distributed at this point. Hold on just one minute.
25 Those are the only two I have that we've distributed.

1 MR. MCFARLAND: Nothing further, Your Honor.

2 THE COURT: All right. That would be out of
3 approximately 30,000? How much do you all hold?

4 A Let's see. 30,000 and the taxes were -- let's
5 see. Probably about \$700, \$800 a year -- I don't have that
6 information in front of me.

7 THE COURT: Paid '06, '07 taxes?

8 A Yes.

9 THE COURT: All right. All right. Any further
10 questions from counsel?

11 MR. BIGLER: None, Your Honor.

12 THE COURT: I have a number of folks in the back.
13 Who has filed an Answer in the case?

14 MR. FOERSTER: Ms. Vandora Huggins Edwards, Glen
15 Huggins has filed one. Ira Huggins, and Eben Cockley
16 has filed answers on behalf of the folks he represents.
17 Several junior lien holders, joined in the action for
18 the purpose of the foreclosure action, have filed
19 answers. In terms of the family, I think that's it.
20 John Bigler, obviously, filed an Answer and
21 Counterclaim. That's it. Then there is that Order
22 that Your Honor just entered listing off who is --
23 THE COURT: I need the family members to sign ✓
24 that. I need to know who is here.

25 MR. FOERSTER: I believe. Other family -- I

1 Where that leaves us prior to Ms. Smack beginning
2 her testimony is at this time, upon his death, he had a
3 one-half interest in the property. She had one half
4 interest in the property.

5 I would offer these into evidence at this time.

6 MR. MCFARLAND: No objection.

7 (Whereupon Plaintiff's Exhibits 1, 2 and 3 are received in
8 evidence.)

9 MR. FOERSTER: Plaintiff is prepared to call
10 Sharon Smack to the stand.

11 (Sharon R. Huggins Smack, 1957 Boeing Avenue, Charleston,
12 S.C. 29407, duly sworn, testifies as follows:)

13 DIRECT EXAMINATION BY MR. FOERSTER:

14 Q Please state your full name for the record.

15 A Sharon Renee' Huggins Smack.

16 Q You're here in court today because I subpoenaed
17 you; correct?

18 A Yes.

19 Q You're not here of your own free will?

20 A No, I'm not.

21 Q Can you please tell the Court what your
22 relationship was to Buster Huggins, Senior?

23 A Grand daughter.

24 Q When did Buster Huggins, Senior pass away?

25 A In 2004.

1 Q How many children did Buster Huggins, Senior have
2 prior to his death?

3 A Seven.

4 Q Were there any children that predeceased him?

5 A Yes. Ricky and my dad, Buster.

6 Q So there were nine children?

7 A Total.

8 Q Of Lucille and Buster Huggins, Senior?

9 A Yes.

10 Q Can you list all of their names for us?

11 A In order? Samuel Huggins, Glen Huggins, Donnell
12 Huggins.

13 THE COURT: What was that name you just said?

14 A Samuel Huggins.

15 THE COURT: After that?

16 A Donnell -- oh, Glen. Donnell, then Michael,
17 Vandora, Ira and then Sylvia.

18 MR. FOERSTER: I have a diagram.

19 Q Those nine children, they were all related to
20 Buster Huggins, Senior by blood?

21 A Yes, sir.

22 Q You said on the date that Buster Huggins, Senior
23 passed away two of his children had already died?

24 A Yes.

25 Q Can you state the full names of those two children

1 for the record?

2 A Henry Buster Huggins, my dad; and Ricky Henry
3 Huggins.

4 Q Was Henry Buster Huggins referred to as Henry
5 Buster Huggins, Jr.?

6 A Yes, I'm sorry.

7 Q Then you had your uncle, Henry Ricky Huggins?

8 A Ricky Henry Huggins.

9 Q Do you know when Ricky Henry Huggins passed away?

10 A 2000 -- 19 something. 1990? It was in the
11 1990's. I can't quite remember. It was 1997. Thank you.

12 THE COURT: Give her a copy of that.

13 A 1997. Thank you.

14 MR. FOERSTER: I'm showing the witness a copy of
15 Plaintiff's Exhibit Number 14. Let record reflect I'm
16 showing counsel. Your Honor, this is just a document
17 from the public record, Certificate Of Death for Ricky
18 Henry Huggins.

19 Q Can you please take a look at this document for
20 me?

21 A Okay.

22 Q Does that appear to be the same Ricky Henry
23 Huggins that is your uncle?

24 A Yes.

25 Q What is the date of death?

1 A 1994.

2 Q I would offer that Certificate Of Death into
3 evidence at this time.

4 THE COURT: Any objection?

5 MR. MCFARLAND: No objection.

6 MR. BIGLER: No objection.

7 MR. COCKLEY: None.

8 THE COURT: Without objection.

9 (Whereupon Plaintiff's Exhibit 14 is received in evidence.)

10 Q At the time of his death did Ricky Henry Huggins
11 have any children?

12 A Yes, he did.

13 Q Can you please tell the Court the full names of
14 those children?

15 A Reginald Huggins, Joseph Huggins, Heather Huggins,
16 and Barbara Huggins. But I don't know Barbara's -- she has
17 another name. She's married now.

18 Q As of the date that Buster Huggins, Senior passed
19 away in 2004 were all four of Ricky Henry Huggins children
20 still living?

21 A Yes.

22 Q Are they currently still living today?

23 A Yes.

24 Q Now, as to Henry Buster Huggins, Jr., your father,
25 when did he pass away?

1 A 1977. Long time ago. He has a court appointed
2 death date in probate.

3 MR. FOERSTER: Your Honor, I have two exhibits;
4 Plaintiff's Exhibit Number 12, Plaintiff's Exhibit
5 Number 11. And I know we're going out of order here
6 with the exhibits. They were premarked. One is a
7 Certificate Of Death for Henry Buster Huggins, Jr. and
8 another one is an Order from probate court declaring
9 him deceased. Let the record reflect showing I'm it to
10 counsel.

11 Q Ms. Smack, can you please take a look at those
12 documents for a second? Do those documents -- do they
13 concern your father, Buster Huggins, Jr.?

14 A Yes.

15 Q Same person?

16 A Yes, it is.

17 Q According to that death certificate what is his
18 official date of death?

19 A The South Carolina -- it's December 1st, 1981.

20 MR. FOERSTER: Your Honor, at this time I would
21 offer both those exhibits into evidence.

22 THE COURT: Any objection?

23 MR. BIGLER: No.

24 MR. MCFARLAND: None, Your Honor.

25 MR. COCKLEY: None.

1 (Whereupon Plaintiff's Exhibits 11 and 12 are received in
2 evidence.)

3 Q At the time did Buster Huggins, Jr., your father,
4 how many children did he have?

5 A Five.

6 Q Including yourself can you list the names of those
7 children; full names?

8 A Sharon Huggins, Michelle Huggins, Derwin Huggins,
9 Adrian Huggins, and Duane Dixon.

10 Q There were five total children?

11 A Five, yes.

12 Q Now, at the time that Henry Buster Huggins, Senior
13 passed away in 2004 were all of Henry Buster, Jr.'s children
14 still living?

15 A No.

16 Q Which one of those children were not living?

17 A Michelle.

18 Q Do you know, roughly, when Michelle passed away?

19 A August 25th, 2001. Actually August 24 is when
20 it's listed.

21 MR. FOERSTER: Your Honor, Plaintiff's Exhibit
22 Number 13 is a Certificate Of Death for Michelle
23 Huggins, and let the record reflect I'm showing it to
24 counsel.

25 Q Ms. Smack, if you could please take a look at

1 this. Is that the same Michelle Huggins who was your
2 sister?

3 A Yes, it is.

4 Q What is the date of death listed on the
5 certificate?

6 A August 24, 2001.

7 MR. FOERSTER: Your Honor, I would offer this
8 Certificate Of Death into evidence at this time.

9 THE COURT: All right. Without objection, I
10 assume?

11 (Whereupon Plaintiff's Exhibit 13 is received in evidence.)

12 Q Now, did Michelle Huggins, your sister, did she
13 have any children of her own?

14 A She had seven children.

15 Q Could you please state their full names of all
16 seven children for the Court?

17 A Kimberly Nelms, Kim Chartrise Nelms, Jennifer
18 Nelms, Timothy Nelms, Michael A. Brown, Demetrius Nelms,
19 Darius Simmons and Dondre Simmons.

20 Q At the time of Henry Buster Huggins, Senior's
21 death in 2004 were all seven of those children still living?

22 A Yes.

23 Q Are they still living today?

24 A Yes, they are.

25 MR. FOERSTER: Your Honor, based on the foregoing

1 testimony of Ms. Smack I would offer Plaintiff's
2 Exhibit Number 15, which is a diagram charting out all
3 of her relatives. I think it would aid the Court if we
4 were to put this in the record. Let the record reflect
5 I'm showing it to counsel.

6 THE COURT: All right.

7 (Whereupon Plaintiff's Exhibit 15 is received in evidence.)

8 THE COURT: Any objection?

9 MR. MCFARLAND: None, Your Honor.

10 THE COURT: All right.

11 MR. FOERSTER: If I may just have Ms. Smack
12 confirm this chart is accurate?

13 THE COURT: Sure.

14 Q Ms. Smack, can you take a minute to look that
15 over? In light of the testimony you just gave can you
16 confirm whether that is an accurate representation of your
17 family?

18 A Yes, it is.

19 MR. FOERSTER: Your Honor, I have no further
20 questions for Ms. Smack at this time.

21 THE COURT: All right. Let me start -- Mr.
22 McFarland, any questions?

23 MR. MCFARLAND: No questions, Your Honor.

24 MR. COCKLEY: Just very briefly.

25 CROSS EXAMINATION BY MR. COCKLEY:

1 Q Ms. Smack, are you the legal guardian to the three
2 minor children, Demetrius Huggins Nelms, Darius and Dondre?

3 A Yes, I am.

4 Q They reside with you up on Boeing Avenue?

5 A Yes.

6 Q Do they have any knowledge, independent of you, as
7 to the facts, situations, occurrences, events going on today?

8 A No, sir.

9 MR. COCKLEY: Thank you.

10 THE COURT: Mr. Bigler?

11 MR. BIGLER: I have no questions.

12 THE COURT: All right. Ms. Smack, thank you very
13 much. Thank you for coming. Can she be released from
14 the subpoena?

15 MR. FOERSTER: Yes, Your Honor.

16 THE COURT: Ms. Smack, you can certainly stay but
17 you are released from the subpoena. Your attendance is
18 no longer compulsory. Thank you, ma'am.

19 MR. FOERSTER: I do have some further documents.
20 They are records from probate files of these deceased
21 family members, kind of supplementing the record to
22 back up her testimony as to who was in the family and
23 public record. I would like to show these to counsel.

24 First is an application for petition for - this
25 is from The Estate of Michelle Y. Huggins. Looks like

1 it's for the appointment of a PR. And this just
2 outlines -- it lists the heirs just like Ms. Smack, the
3 children of Michelle Huggins --

4 THE COURT: This is confirmatory?

5 MR. FOERSTER: All confirmatory. I can hand these
6 probate documents to counsel, let them look through
7 them.

8 THE COURT: Those are --

9 MR. FOERSTER: Plaintiff's Exhibits 5 through 9.

10 THE COURT: As long as they are not inconsistent
11 with what we've got I think we'll be all right.

12 MR. FOERSTER: They are, Your Honor.

13 Your Honor, I would offer these into evidence at
14 this time.

15 THE COURT: All right. Without objection, I'm
16 assuming?

17 (Whereupon Plaintiff's Exhibits 5 through 9 are received in
18 evidence.)

19 MR. FOERSTER: In light of Ms. Smack's testimony,
20 where this brings us, upon the death of Buster Huggins,
21 Senior in 2004 -- I believe this diagram entered into
22 evidence shows as of that date who would have had
23 ownership interest in this property by virtue of the
24 intestacy statute. We can go through the numbers.
25 Lucille --

1 THE COURT: You don't need to go through that.
2 I'll take it as being -- verify the math. I want to
3 make sure I followed her testimony and that is
4 explicitly what's on the exhibit so --

5 MR. FOERSTER: I have one more exhibit,
6 Plaintiff's Exhibit Number 4, a Deed from Lucille
7 Huggins to Vandora Huggins of all of her interest that
8 she had as of 2000 -- November 15, 2004, looks like.
9 She deeded -- at that time I believe Lucille had 3/4ths
10 interest at that time to pass to Vandora Huggins. Let
11 the record reflect I'm showing this Deed to counsel.

12 Your Honor, I would offer this Deed into
13 evidence at this time.

14 THE COURT: Okay. Any objection?

15 MR. MCFARLAND: None, Your Honor.

16 MR. COCKLEY: None.

17 MR. BIGLER: No.

18 (Whereupon Plaintiff's Exhibit 4 is received in evidence.)

19 MR. FOERSTER: In summary, Your Honor, where this
20 leaves us, I believe, is as of the date of my client's
21 mortgage loan, the date of that closing, Vandora held a
22 7/9ths interest in this property. And the remaining
23 2/9ths was owned by these other co-tenants on this
24 diagram.

25 So Plaintiff would seek an order quieting title in

1 those folks but subject to Plaintiff's mortgage lien in
2 accordance with the partial summary judgment order. ✓

3 That is the Plaintiff's case on the quiet title
4 cause of action, Your Honor.

5 THE COURT: I note that the Deed, looking at
6 Exhibit 4, was conveyed from Lucille to Vandora for \$5
7 and assumption of the mortgage which -- beginning
8 balance of 90,250 and had been reduced somewhat.
9 Roughly 89,752, shows balance due at the time this is
10 being conveyed. Okay.

11 Okay. Now -- so Plaintiff on the quiet title.
12 Any challenge as to the quiet title aspect of the --
13 let me start on the end. Mr. McFarland?

14 MR. MCFARLAND: None, Your Honor.

15 MR. COCKLEY: None, Your Honor.

16 MR. BIGLER: My challenge has to do with the
17 encroachment, which I believe is a cloud on the title
18 of the property at -- we're considering, so that said I
19 would like to reserve my discussion of the encroachment
20 issues.

21 THE COURT: We'll get to that in a minute. For
22 you here, in the family? Samuel Huggins. Stand up
23 please, sir. Mr. Huggins, you are a family member?

24 MR. HUGGINS: Yes.

25 THE COURT: Do you have any objection to or any

1 question with the family tree as presented?

2 MR. HUGGINS: No, I don't have any problems with
3 the family tree.

4 THE COURT: All right. Thank you, sir. Your
5 address is on Bees Ferry?

6 MR. HUGGINS: Right.

7 THE COURT: Then Michael Huggins? If you would,
8 sir? You're out of Charlotte?

9 MR. HUGGINS: Yes.

10 THE COURT: Thank you for coming. Any question
11 about the family tree or you agree with the tree?

12 MR. HUGGINS: I agree.

13 THE COURT: And Donnell Huggins?

14 MR. HUGGINS: Right here.

15 THE COURT: Any question about the family tree as
16 presented?

17 MR. HUGGINS: No, none.

18 THE COURT: You had a question earlier you wanted
19 to ask?

20 MR. HUGGINS: He asked the question -- I wanted to
21 ask the tax lady. My question was, she said she mailed
22 out a tax notice to my mother in 2007 when my mother
23 was deceased in 2006. And I'm pretty sure that's
24 public record as well. Why she do that?

25 THE COURT: I'm not there yet.

1 Sylvia Lawrence?

2 MS. LAWRENCE: Yes.

3 THE COURT: Any question about the family tree?

4 MS. LAWRENCE: No.

5 THE COURT: Ms. Edwards is here. No question

6 about that from her attorney. And on the front row?

7 VOICE: No, sir.

8 THE COURT: Your name?

9 VOICE: (Inaudible)

10 THE COURT: Okay. So as to the family tree and

11 the quiet title aspect of it I will find that the

12 Plaintiff has presented a family tree. We can reverify

13 the numbers, but I'm sure they are probably correct. I

14 haven't run them yet, but they are what they are. All

15 right. Very good.

16 Quiet title. I'll quiet the title in the family

17 as presented. Then that would be, that at the time of

18 his death Buster Huggins, in April of 2004, was

19 possessed with a one-half interest. His half interest,

20 one half to his spouse Lucille and the other half to

21 his children. There were seven surviving him. They

22 all received 1/36th interest. The two that predeceased

23 him, their children would have received that 1/36th

24 interest. That would have been divided down between

25 whoever was then surviving. Buster Huggins, Jr.

1 family, there were five, four surviving, one
2 predeceased him. That was Michelle Huggins. We went
3 into that at some length. That's what Mr. Cockley is
4 representing those minors as guardian. Then under the
5 Henry Ricky Huggins line or the Ricky Henry Huggins
6 line there were then four. So their interest is shown
7 as one 1/44th each. Okay. Very good.

8 I'll make that finding and we can proceed. We'll
9 move into the next phase of the case.

10 MR. FOERSTER: Your Honor, I'm ready to proceed
11 with the foreclosure cause of action or the
12 encroachment, whichever you prefer.

13 THE COURT: Let's go into the foreclosure.

14 MR. FOERSTER: Today Plaintiff is here seeking a
15 judgment of foreclosure and sale as to Lot 322 and Lot
16 323. The total amount is 200 -- well, we're seeking a
17 judgment of \$206,750.56. Mr. David Merrill from the,
18 mortgage servicer is here today to testify to a
19 breakdown of that figure.

20 In addition, I would offer an Affidavit of
21 Attorneys Fees in the amount of \$83,043, plus court
22 costs for these actions in the amount of \$16,273.38,
23 for a total judgment in the amount of \$306,066.94. If
24 I may hand up my Affidavit of Attorneys Fees?

25 THE COURT: All right, sir.

1 (Hands up document.)

2 MR. FOERSTER: Your Honor, Plaintiff is demanding
3 a deficiency judgment as to Vandora Edwards Huggins
4 only in this action. At this time I'm ready to call my
5 witness.

6 THE COURT: All right. You may proceed.

7 MR. FOERSTER: Plaintiff calls David Merrill to
8 the stand.

9 (David John Merrill, 12929 Newport Ave., Apt. D, Tustin,
10 California 92780, duly sworn, testifies as follows:)

11 DIRECT EXAMINATION BY MR. FOERSTER:

12 Q Would you please state your full name for the
13 record?

14 A David John Merrill.

15 Q What is your occupation?

16 A I am Senior Foreclosure Mediation Specialist for
17 American Home Mortgage Servicing, Incorporated.

18 Q How long have you worked for American Home
19 Mortgage?

20 A Since 2007.

21 Q How long have you held your current position with
22 American Home Mortgage?

23 A Since 2009.

24 Q Before your current position what kind of work did
25 you do for them?

1 A At American Home? I worked in the loss mitigation
2 area.

3 Q What kind of business does American Home Mortgage
4 do?

5 A We're the servicer on behalf of the investor and
6 trustee.

7 Q So I think you just said it. Can you clarify what
8 is the relationship between your company and the Plaintiff
9 in this action?

10 A We're the servicer on behalf of them.

11 Q Do you know, roughly, how long has American Home
12 Mortgage serviced this particular loan on behalf of Deutsch
13 Bank?

14 A Well, we've actually been, since 2008, we've been
15 in existence so --

16 Q In your current position, what are your job
17 duties?

18 A I actually go and I work litigating accounts, and
19 I testify on behalf of the company at depositions,
20 mediations, hearings, and trials like this.

21 Q Does your company manage mortgage loan accounts?

22 A Yes, we do.

23 Q Does your company maintain records for each loan
24 account it manages in the ordinary course of business?

25 A Yes, we do.

1 Q Is it important that your company keeps such
2 records in the ordinary course of business?

3 A Yes.

4 Q What kind of records does your company typically
5 maintain for each of the loan accounts in the ordinary
6 course of business?

7 A Well, we keep copies of all the origination docs.
8 Any of the -- anything that's sent in from the borrower or
9 if there was an occasion where a borrower would send
10 anything in, or any efforts for loss mitigation efforts or
11 anything to deal with the loan that would have any sort of
12 docs or anything like that.

13 Q Does your company keep tally of payments made on
14 the loan account?

15 A Yes, we do.

16 Q Do you have any kind of document that those are
17 put in?

18 A It's logged into a system that we do maintain,
19 yes.

20 Q Have you reviewed the documents and records for
21 the loan account of Vandora Huggins Edwards?

22 A I have looked over them, yes.

23 Q Are you familiar with those records and documents?

24 A Yes.

25 Q Were the loan documents and records for Vandora

1 Huggins Edward's account, were those maintained and kept in
2 the ordinary course of business?

3 A Yes, they were.

4 Q According to your records do you know, roughly,
5 when this loan was originated?

6 A Well, I'm thinking the default date was back in
7 2005, so had to have been before then. Probably right
8 before then, because that was in January, so be back in
9 2004.

10 MR. FOERSTER: Your Honor, at this time I would
11 show Plaintiff's Exhibit Number 16 to counsel.

12 (pause)

13  Q I'm showing you what's marked as Plaintiff's
14 Exhibit Number 16. Do you recognize what that document is?

15 A Yes, it is the Note.

16 Q Is it an original?

17 A It is original, yes.

18 Q That's fine. Can you tell me who signed the Note?

19 A Lucille and below it says Vandora. I'm not
20 perfect at the reading -- or the writing, but I'm assuming
21 that's the signature for her, yes.

22 Q Looks like Lucille Huggins and Vandora Huggins
23 Edwards?

24 A Yes.

25 Q What's the date of the Note?

1 A The date of the Note is April 6, 2005.

2 MR. FOERSTER: Your Honor, at this time I would
3 offer the original Note into evidence.

4 THE COURT: All right. Any objection?

5 MR. MCFARLAND: No objection, Your Honor.

6 MR. COCKLEY: None.

7 MR. BIGLER: No objection.

8 THE COURT: Thank you.

9 (Whereupon Plaintiff's Exhibit 16 is received in evidence.)

10 MR. FOERSTER: Your Honor, at this time I'm
11 showing Plaintiff's Exhibit 17 to counsel.

12 (pause)

13 Q Mr. Merrill, I'm showing you Plaintiff's Exhibit
14 Number 17.

15 A Okay.

16 Q Does that document look familiar to you?

17 A Yes, it does.

18 Q Could you tell the Court what that document is?

19 A It's the Mortgage.

20 Q Is it an original?

21 A Yes, it is.

22 Q What is the date on the Mortgage?

23 A The mortgage is dated April 6, 2005.

24 Q Can you tell the Court whose signatures are on
25 that Mortgage?

1 A Vandora Huggins.

2 MR. FOERSTER: Your Honor, at this time I would
3 offer the original Mortgage into evidence.

4 THE COURT: Okay. Without objection, I assume?
5 Okay.

6 MR. MCFARLAND: No objection.

7 MR. COCKLEY: No objection.

8 (Whereupon Plaintiff's Exhibit 17 is received in evidence.)

9 MR. FOERSTER: May the record reflect I'm showing
10 counsel Plaintiff's Exhibit Number 18 at this time.

11 (pause)

12 Q Mr. Merrill, I'm showing you a copy of Plaintiff's
13 Exhibit Number 18. Can you tell the Court what that
14 document is?

15 A Yes. It's the Assignment of Mortgage.

16 Q And who is assigning the mortgage into who? Who
17 is the assignment into?

18 A Ameriquest Mortgage Backed Securities (reading),
19 and then to -- let's see -- Ameriquest

20 Q It's from Ameriquest?

21 A Yes.

22 Q Is it into Deutsch Bank as trustee?

23 A Well, AMC Mortgage Servicing. I don't see -- oh,
24 yes. Sorry. It is. I didn't see up on top.

25 Q The assignment is into Deutsch Bank?

1 A Yes.

2 Q Which is the Plaintiff in this action?

3 A That's correct.

4 Q What is the date of that assignment?

5 A It is dated the 27th of July 2006.

6 Q Does that document appear to be an original?

7 A Yes, it does.

8 MR. FOERSTER: Your Honor, at this time I would
9 offer Plaintiff's Exhibit Number 18 into evidence.

10 THE COURT: Without objection? Thank you.

11 (Whereupon Plaintiff's Exhibit 18 is received in evidence.)

12 Q Mr. Merrill, did Ms. Vandora Huggins Edwards make
13 all her regular monthly payments as required under these
14 loan documents?

15 A No.

16 Q Do you know when she stopped making those
17 payments?

18 A I had the year incorrect, but it was January --
19 the January payment of 2006.

20 Q 2006?

21 A Sorry about that.

22 Q Was her failure to make those regular monthly
23 payments a breach of the Note and Mortgage?

24 A That is correct.

25 Q Now, does your company keep records on how much is

1 owed on each loan account in your ordinary course of
2 business?

3 A We do. It's a consistent -- all the way up to now
4 to the current time.

5 Q Were those kind of records generated for this
6 particular loan account?

7 A Yes.

8 Q Now, according to those records, what is the
9 amount currently due and owing on Ms. Huggins' loan
10 including interest and those other charges, but excluding my
11 firm's attorneys fees and court costs of that action? Can
12 you tell the Court?

13 A Yes I can. I have -- actually have the record
14 right here. \$206,740.56.

15 Q Can you tell us how much principle balance there
16 is today?

17 A \$120,307.72.

18 Q Can you tell the Court how much interest is
19 currently owed through today?

20 A \$70,891.50.

21 Q What about escrow advances?

22 A \$14,280.43.

23 Q Is there is any kind of suspense balance on this
24 account?

25 A There is. There is a suspense balance of \$425 and

1 nine cents.

2 Q That would be a credit?

3 A That is correct.

4 Q What about property inspection fees?

5 A There is. It's \$532.

6 Q What about BPO's?

7 A \$1,095.

8 Q Was there this credit report fee?

9 A There was. Fourteen dollars.

10 Q Were there any NSF fees?

11 A Yes. There is \$25 of NSF fees.

12 Q There is one more charge of \$55. Can you explain
13 that charge to the Court?

14 A Yes. Actually the \$55 is a breakdown of the NSF
15 fees which are the 25 we just mentioned, and it's also \$30
16 of late charges.

17 Q Just to confirm, Mr. Merrill, I find that adds up
18 to \$206,750.56. I think you had said \$206,740.56. Which
19 number is correct?

20 A I'm sorry. You are correct. It's \$206,750.56.

21 Q Now, when a borrower defaults on their loan are
22 they typically informed of their default somehow?

23 A Yes, they are.

24 Q How are they are typically informed of their
25 default?

1 A Notice of Default or Notice of Intent to
2 Foreclose.

3 Q Do you know if any default notices were sent out
4 in this case?

5 A Yes, they were.

6 MR. FOERSTER: Let the record reflect I'm showing
7 counsel Plaintiffs Exhibits Number 19, 20 and 21.
8 (pause)

9 Q Mr. Merrill, I'm showing you Plaintiff's Exhibits
10 19, 20 and 21. Can you please take a look at those? Have
11 you seen those documents before?

12 A Yes, I have.

13 Q Can you tell the Court what those documents are?

14 A Notice of Intent to Foreclose or sometimes called
15 an NOI.

16 Q What are the dates of those letters?

17 A One is October 4, 2005; September 2cd, 2005; and
18 May 8, 2006.

19 Q Are those from your company's records for this
20 loan?

21 A Kept in the records, yes.

22 Q She received multiple notices; correct?

23 A That is correct.

24 MR. FOERSTER: Your Honor, at this time I would
25 offer those three exhibits into evidence.

1 THE COURT: All right. Any objection, Mr.
2 McFarland?

3 MR. MCFARLAND: No objection, Your Honor.

4 THE COURT: Without objection.

5 (Whereupon Plaintiff's Exhibits 19, 20 and 21 are received
6 in evidence.)

7 MR. FOERSTER: I have no further questions for Mr.
8 Merrill.

9 THE COURT: Okay. Mr. McFarland, any questions?

10 MR. MCFARLAND: Yes.

11 THE COURT: On the debt.

12 CROSS EXAMINATION BY MR. MCFARLAND:

13 Q Mr. Merrill, with respect to the loan, this loan
14 was actually made in the name of Lucille Huggins and Vandora
15 Huggins Edwards; is that correct?

16 A That's what was on the Note.

17 Q So the loan was made -- the borrowers on this loan
18 would have been both Lucille Huggins and Vandora Huggins
19 Edwards?

20 A Yes. I just saw on the Mortgage, though, it was
21 just Vandora.

22 Q She signed on the Mortgage because Lucille
23 Huggins -- Vandora signed the Mortgage because Lucille
24 Huggins no longer had an interest in the real estate; is
25 that correct?

1 A I don't know about her interest.

2 Q Were you aware from your records that Lucille
3 Huggins had transferred her -- conveyed her interest in this
4 property to Vandora Huggins Edwards?

5 A We're hearing it here but -- not something I
6 reviewed prior to coming here.

7 Q I know counsel kept asking you whether Default
8 Notices were sent to Vandora Huggins Edwards but were not
9 these notices also sent to Lucille Huggins as a borrower on
10 this loan?

11 A We have them addressed to Vandora Huggins.

12 Q Would you look at the last three exhibits that you
13 just -- if I might, Your Honor?

14 THE COURT: Here.

15 Q Would you look at Exhibits 19, 20 and 21, please,
16 and tell me to whom they are addressed?

17 A Yes. They are Vandora M. Huggins Edwards and
18 Lucille Huggins; yes.

19 Q So your company was looking to both Lucille
20 Huggins and Vandora Huggins Edwards as borrowers on the Note
21 that you testified about?

22 A Yes, on the Note; yes.

23 Q And were you, before today, were you aware of any
24 of the title issues with respect to the interests of
25 Ms. Huggins Edwards in this property?

FWA

Facts

1 A I was aware of title issues, yes.

2 Q How did you become aware of the issues, and what
3 are the issues you became aware of?

4 MR. FOERSTER: Objection. I think he's going into
5 attorney-client privilege communication with that

6 question.

7 THE COURT: I think he can testify whether or not
8 he knew about it. That's one thing.

9 Q To the extent that you learned of this through
10 your records, through your company's records, were you aware
11 of any title issues?

12 A I was only aware because I was at the mediation
13 several months ago.

14 MR. MCFARLAND: I have nothing further, Your
15 Honor.

16 THE COURT: Mr. Cockley, Mr. Bigler, I don't
17 suppose you have any challenge to that?

18 MR. BIGLER: No.

19 MR. COCKLEY: No.

20 THE COURT: All right. So the total debt you came
21 up with was \$206,750.56?

22 A That is correct.

23 MR. FOERSTER: Excluding my attorneys fees and
24 costs.

25 THE COURT: Do you have a breakdown of your fees?

1 MR. FOERSTER: I can summarize them, because this
2 is six years of litigation, but I could pull a
3 narrative -- I have a system at work. I can pull a
4 narrative of them. I would ask the Court to redact
5 attorney-client privilege information.

6 THE COURT: Just send me -- send out your fees off
7 this file, send that to me. If you would like to
8 redact it or if there is any challenge to that -- I'm
9 not hearing any, but Mr. McFarland would have a right
10 to do that. It's not inconsequential. This case has
11 been going on for long time. I don't find on the face
12 of it the attorneys fees are unreasonable considering
13 the length of time, amount of work that's gone into the
14 file. I think it's incumbent upon me to review that
15 and make sure that's correct.

16 MR. FOERSTER: Okay.

17 THE COURT: All right. Any further questions for
18 Mr. Merrill?

19 MR. FOERSTER: None, Your Honor.

20 THE COURT: Thank you, sir. You may step down. I
21 assume that concludes your foreclosure cause of action?

22 MR. FOERSTER: Yes, Your Honor.

23 THE COURT: All right. Now we have to figure out
24 what we're foreclosing upon; is that right?

25 MR. FOERSTER: Yes.

1 THE COURT: All right. Why don't we take a five
2 minute break and come right back? Let's take five
3 minutes.

4 (Short break.)

5 MR. FOERSTER: Plaintiff calls Jennifer Perry to
6 the stand.

7 (Jennifer C. Perry, 2814 Summer Trees Blvd., Johns Island,
8 S.C. 29455, duly sworn, testifies as follows:)

9 DIRECT EXAMINATION BY MR. FOERSTER:

10 Q Could you please state your full name for the
11 record?

12 A Jennifer Cooper Perry.

13 Q What is your occupation?

14 A I'm a Certified Residential Real Estate Appraiser.

15 Q What company?

16 A Sass Heron and Associates.

17 Q Where is your office located?

18 A We are located on 21 Gamecock Avenue in the West
19 Ashley area of Charleston.

20 Q How long have you been a real estate appraiser?

21 A I've been appraising full time since 2003.

22 Q Do you hold any certifications?

23 A I'm a Certified Residential Appraiser.

24 Q What were the requirements for obtaining that
25 certification?

1 A Approximately 150 hours of classroom hours, then
2 we have to pass two exams, then we need about three years of
3 full time experience.

4 Q Do you have any continuing education requirements?

5 A We do. We have to have at least 28 hours every
6 two years.

7 Q How many real estate appraisals have you
8 conducted?

9 A I belief over 1400.

10 Q Residential or commercial?

11 A Combination of both, mostly residential.

12 MR. FOERSTER: Your Honor, at this time I would
13 offer Ms. Perry as an expert in the field of
14 residential appraisal.

15 THE COURT: Okay. Any objection or any voir dire
16 anybody would like?

17 MR. MCFARLAND: No, Your Honor.

18 MR. COCKLEY: No.

19 THE COURT: I will find she's so qualified.

20 Congratulations. You're now a real estate expert of
21 appraisals.

22 Q Have you appraised the property located at 1218
23 Gun Avenue, TMS number 418-05-00-279?

24 A Yes, sir.

25 Q When did you most recently conduct that appraisal?

1 A My effective date was February 21st, 2012.

2 Q Did you put your findings into an appraisal
3 report?

4 A Yes, sir.

5 MR. FOERSTER: May I approach the witness?

6 THE COURT: You may.

7 MR. FOERSTER: Let the record reflect I'm showing
8 counsel Plaintiff's Exhibit Number 25.

9 (pause)

10 MR. BIGLER: Do you have a copy for me?

11 MR. FOERSTER: Yes.

12 Q Ms. Perry, I'm handing you a copy of Plaintiff's
13 Exhibit Number 25. Take a few minutes to look at it. Could
14 you tell the Court what that is?

15 A A copy of the appraisal I completed.

16 Q In conducting your appraisal did you come up with
17 a valuation of this property?

18 A Yes, sir.

19 Q In your expert opinion what is the complete value
20 of this property as of the date of your appraisal report
21 there?

22 A We did it under the hypothetical condition that
23 there was an encroachment. Under that condition it was
24 \$70,000.

25 Q Seventy thousand?

1 A Yes.

2 Q Does that include all improvements, the structure
3 on there?

4 A Yes, sir.

5 MR. FOERSTER: Your Honor, at this time I would

6 offer a copy of this first appraisal report into
7 evidence.

8 THE COURT: Any objection?

9 MR. MCFARLAND: None, Your Honor.

10 THE COURT: Without objection.

11 (Whereupon Plaintiff's Exhibit 25 is received in evidence.)

12 Q Now, Ms. Perry, I indicated to you there is some
13 kind of encroachment issue with this property; correct?

14 A Yes.

15 Q That I had obtained a plat from a land surveyor
16 showing a new proposed boundary line; is that correct?

17 A Yes, sir.

18 Q Have you seen a copy of that proposed plat?

19 A Yes, sir.

20 Q Is this a copy of that proposed plat?

21 A Yes.

22 Q I have requested you conduct a second appraisal
23 report on this property showing what the value would be if
24 the Court were to order the boundary line redrawn as shown
25 on that proposed plat; correct?

1 A Yes, sir.

2 Q Have you appraised the property located at 1218
3 Gun Avenue based on -- as if that new boundary line was in
4 effect?

5 A Yes.

6 Q When did you conduct that appraisal?

7 A Same effective date, February 21st, 2012.

8 Q Did you put your findings in a report?

9 A Yes.

10 MR. FOERSTER: Your Honor, let the record reflect

11 I'm showing counsel Plaintiff's Exhibit Number 26.

12 (pause)

13 Q I'm showing you a copy of Plaintiff's Exhibit

14 Number 26. Could you tell the Court what that is?

15 A The appraisal with the proposed new boundary line.

16 Q Did you come up with a valuation of this property
17 in the event the boundary line would be redrawn pursuant to
18 that proposed plat?

19 A Yes, sir.

20 Q In your expert opinion what would be the complete
21 value of this property in the event that the boundary line
22 would be redrawn as shown on that proposed plat?

23 A 65,000.

24 Q 65,000?

25 A Yes.

1 Q Does that include all improvements on the land as
2 well?

3 A Yes.

4 Q In your opinion what would be the total diminution
5 of value to the subject property if the boundary lines were
6 to be redrawn as shown on that proposed plat?

7 A \$5,000.

8 MR. FOERSTER: Let the record reflect that the
9 proposed plat we're referring to is one created by
10 Chuck Dawley who will testify next, and we would offer
11 it into evidence through his testimony later.

12 Q Finally, in your opinion were the encroachments to
13 remain in place would this negatively impact the property
14 value?

15 A Yes, sir.

16 Q Would it negatively effect the marketability of
17 the property?

18 A Yes, in my opinion.

19 MR. FOERSTER: No further questions for this
20 witness.

21 THE COURT: All right. Very good. Mr. Bigler?

22 CROSS EXAMINATION BY MR. BIGLER:

23 Q I only have a couple... I'm looking through the
24 report and in the time I've had I haven't found the part
25 that describes the reduction in the lot size. Can you point

1 that to me in the report?

2 A Which report?

3 Q I understand the second one, and I'm not -- I need
4 to label these. Second one is which Exhibit Number. --

5 A I believe 26.

6 Q Twenty-six is the second. And 25 is the first?

7 Is that correct?

8 THE COURT: That's correct.

9 Q I want to understand what the dimensions are in
10 the second one, and I would like you to point me to that
11 part of it so I understand what the report covers.

12 A On the second page under additional scope of work
13 it describes the proposed boundary lines are 100 by 83.6 or
14 83,100 square feet.

15 Q Where is that -- that's the summary appraisal
16 report residential page; is that correct?

17 A It's on the second page under additional scope of
18 work comments.

19 Q They are not numbered. I'm still --

20 A Third page.

21 Q Third page. All right. Okay. So it's 100 by
22 100; is that correct?

23 A As-is right now. The proposed boundary lines are
24 100 by 83.6.

25 Q So it's a reduction of 16 feet, 16 and a half

1 feet. Is that --

2 A About 1690 square feet.

3 Q I'm just trying to confirm my bad math here.

4 Hundred feet minus 83.6 feet is the width of the strip which
5 has been deducted; is that correct?

6 A Yes.

7 Q Okay. Just want to understand what the report
8 covers.

9 To determine the difference in value,
10 did you use the comparable sales of empty lots or
11 lots with different sizes or how did you compute
12 that?

13 A This assignment required me to appraise the
14 improvements and the land, so we used improved lots for
15 comparables.

16 Q So how do you determine, then, the difference
17 between a lot with a house that's 83 feet wide and a lot
18 with a house that's a hundred feet wide?

19 A Are you asking me how I came up with my land value
20 adjustment?

21 Q Yes.

22 A There have been a couple of lot sales in the area
23 which we looked at to come up with a per square footage
24 adjustment.

25 Q And were the houses in similar condition as far as

1 the upkeep and appearance of the house?

2 A As far as the five that I included? One them was
3 similar in condition. One was slightly superior, and one
4 had been renovated. We made adjustments for condition
5 accordingly.

6 MR. BIGLER: I have no further questions at this
7 time. I haven't had a lot of time to study this
8 report; haven't seen it before.

9 THE COURT: All right. Mr. Cockley, any
10 questions?

11 MR. COCKLEY: None.

12 MR. MCFARLAND: None, Your Honor.

13 THE COURT: All right.

14 MR. BIGLER: If I could ask an additional
15 question?

16 BY MR. BIGLER:

17 Q Did you look at any unimproved lots in the
18 preparation of either of these reports?

19 A Yes.

20 Q Are there figures in these reports that reflect
21 the value of unimproved lots in that neighborhood?

22 A No, sir.

23 MR. BIGLER: Thank you.

24 THE COURT: Ms. Perry, you calculated the value of
25 the lot with improvements, and all you did was take --