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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Charles B. Simmons, Jr., Master-In-Equity

Case No. 2024-CP-23-04910
Appellate Case No. 2025-002386

Harbor Town Association, Inc.; Oriole Properties, LLC; Thomas and Son Properties, LLC; and Kelley Yarborough Woody, Esq., Guardian ad Litem Nisi ..... Respondents,

v.

Estate of Rajiv Kumar Lakhaney, Deceased..... Appellant.

INITIAL BRIEF OF APPELLANT

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC

Jane H. Downey, ID 15045
J. Boone Aiken, IV, ID 105243
1501 Main St., Ste. 310
Columbia, SC 29201
(803) 251-8814
jdowney@bakerdonelson.com
baiken@bakerdonelson.com

Attorneys for Appellant

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Court Rules

STATEMENT OF ISSUES ON APPEAL

I. Did the Master-in-Equity (the "Master") err as a matter of law in denying the Estate's motion to vacate, where the Judgment of Foreclosure and Sale was void under Rule 60(b)(4), SCRCP, for lack of personal jurisdiction, the Association having proceeded by publication against a known and reachable fiduciary?

II. Did the Master err in invoking the bona fide purchaser doctrine and S.C. Code Ann. § 15-39-870 to insulate the sale from collateral attack, where the underlying judgment was not rendered by a "court of competent jurisdiction" and where the purchaser's own testimony established constructive notice of the defects in service?

III. Did the Master abuse his discretion in declining to set aside the foreclosure sale under the second prong of Buffalo Creek Investments, Inc. v. Pettus – "other circumstances warranting the interference of the court"?

IV. Did the Master err as a matter of law in applying the Debt Method of valuation under Winrose Homeowners' Ass'n, Inc. v. Hale, and in crediting the winning bid with unassumed delinquent ad valorem taxes and post-sale renovation costs, where the Property carried no mortgage and the Equity Method governed?

STATEMENT OF THE CASE

This appeal arises from the denial of a motion to vacate a Judgment of Foreclosure and Sale, the resulting judicial sale, and the deed conveying real property pursuant to that sale – all entered without constitutionally sufficient notice to the Estate of the deceased record owner, Rajiv Kumar Lakhaney (the "**Estate**").

The record owner, Rajiv Kumar Lakhaney, died in the State of New Jersey on July 31, 2024 – twelve days before the Association filed suit. (See Vacatur Hr'g Tr. 18:1-6, R. at ____). Within barely a week, on August 8, 2024, the Bergen County Surrogate's Court appointed Katherine Semyonov as Administrator of the Estate[1] (Docket No. 2024-3095). (Vacatur Hr'g Tr. 18:12-19, R. at ____). The Administrator was thus in place – and the Estate open and publicly identifiable in New Jersey – four days before this foreclosure action was even filed. (Compl., R. at ____). And by the time the foreclosure proceeded to judgment, the personal representative had changed once more: by consent order entered January 22, 2025 (as later amended on February 11, 2025), the Bergen County Surrogate's Court removed Ms. Semyonov and appointed Carmen Cortes-Sykes, Esq., as Substitute Administrator. (Cortes-Sykes Aff., R. at ____).

When Harbor Town Association, Inc. (the "**Association**") commenced this action on August 12, 2024 in the Greenville County Court of Common Pleas, seeking to foreclose a homeowners' association assessment lien filed June 16, 2023, the only debt encumbering the real estate was the Association's – which, after the decedent's last payment in August 2023, had stood at just $151.12, the deficit amount which spun this foreclosure into action. (Vacatur Hr'g Tr. 65:9-

[1] Rajiv Kumar Lakhaney was in the midst of a divorce proceeding at the time of his unexpected death (Vacatur Hr'g Tr. 18:2-11; 48:16, R. at ____). Because of the divorce, Mr. Lakhaney's brother contested having Ms. Semyonov –the mother of Mr. Lakhaney's seven-year-old daughter (Vacatur Hr'g Tr. 16:17-19, R. at ____) – serve as personal representative, and Ms. Semyonov was abruptly removed with no orderly transition to her successor (Vacatur Hr'g Tr. 18:18-20:1; 50:5-21, R. at ____).

17; see also 22:1-30:9, R. at ____). Without so much as an email to the absentee homeowner, with whom the Association's attorney previously had communicated before his death (Vacatur Hr'g Tr. 66:4-22; R. at ____), the Association pursued foreclosure against the real property located at 36 Spinnaker Court, Greenville, South Carolina (the "**Property**"), owned by the estate of a deceased and formerly absentee homeowner. (Vacatur Hr'g Tr. 12:7-15, R. at ____).

The Property was a valuable asset—a townhome in an established residential development (Vacatur Hr'g Tr. 12:18-24, R. at ____), valued between $176,000 and $209,000 (Vacatur Hr'g Tr. 16:4-8; 56:11-14; 88:16-22; 93:3-9, 137:13-19, R. at ____), and intended by the decedent as a vacation residence to be left to his minor daughter (Vacatur Hr'g Tr. 17:7-16, R. at ____). It carried no mortgage or other debt: only the Association's lien (Vacatur Hr'g Tr. 16:20-23, R. at ____), which stood at $3,254.70 when the Amended Complaint was filed (Am. Compl. ¶ 11, R. at ____) including attorney's fees and had grown only to a still-modest $5,596.76 by the time of judgment. (Foreclosure Order ¶ 16, R. at ____).

To collect that $5,596.76, the foreclosure sale that followed divested the Estate of a residence worth approximately $151,000 more than the bidder paid for it, transferred the Property to a third-party bidder for only $25,000 (Master's Order on Sale; Vacatur Hr'g Tr. 114:14-19, R. at ____), and stripped the inheritance of a minor child residing in Florida. (Vacatur Hr'g Tr. 16:17-19, R. at ____). Compounding the disconnect, the decedent died in New Jersey, not South Carolina (Vacatur Hr'g Tr. 12:7-10, R. at ____), and his estate was being probated in New Jersey at the time of the sale (Vacatur Hr'g Tr. 18:13-19:12, R. at ____).

And although the Association was aware of the personal representative, it did not provide her effective notice – as the Association's own counsel candidly acknowledged. (Vacatur Hr'g Tr. 149:8-150:13, R. at ____). For that reason, this appeal is not expected to be contested by the

Association; it is contested by the third-party purchaser, whose principal is a retired South Carolina lawyer. (Vacatur Hr'g Tr. 109:8-14, R. at ____).

Although the Association was on notice of Mr. Lakhaney's death, the procedural path it chose did not reach his Estate. On August 29, 2024, the Association filed an Amended Summons and Complaint substituting "RAJIV KUMAR LAKHANEY, DECEASED," together with classes of unknown adults (John Doe) and unknown minors and persons under disability (Richard Roe). (Am. Compl., R. at ____). It did not, however, name the Estate as a defendant, and it did not serve the personal representative. Instead, as if on a conveyor belt, by standard form Order dated September 9, 2024, the Court appointed Kelley Yarborough Woody, Esq., as Guardian ad Litem Nisi for the unknown defendants and, without any notice to the Estate, authorized service by publication. (GAL Order, R. at ____). The Motion and Order for Appointment of Guardian ad Litem Nisi and Attorney contained a combined motion and order without any affidavit or information itemizing attempts to serve the known defendants by publication. The GAL Order theoretically protected only unknown defendants but provided no due process upon known defendants as they were not served, even with notice of the sale. The Association, through its counsel, caused service of the Amended Complaint to be published in the Greenville Journal for three consecutive weeks in September and October 2024. (Aff. of Publication, R. at ____).

The Guardian ad Litem in turn filed an Answer denying the allegations on behalf of the unknown defendants and consented to reference to the Master. (GAL Answer, R. at ____). The Court thereafter referred the matter to the Honorable Charles B. Simmons, Jr., Master-in-Equity for Greenville County, with finality. (Order of Reference, R. at ____). And the Guardian ad Litem herself understood her role to be a narrow one: she considered her representation to have ended with the filing of her Answer. (Vacatur Hr'g Tr. 104:1-8; 106:15-18, R. at ____).

On that record, the matter proceeded to a foreclosure hearing before the Master on June 6, 2025. (Foreclosure Hr'g Tr. 1:1, R. at ____). On June 11, 2025, the Master entered a Judgment of Foreclosure and Sale, reciting that "Service was made upon all Defendant(s) as shown by the proof(s) of service filed herein"; the Association expressly waived any deficiency judgment. (Foreclosure Order ¶ 4, R. at ____). The judicial sale followed on August 4, 2025; Oriole Properties, LLC submitted the winning bid of $25,000 and assigned a one-half interest to Thomas and Son Properties, LLC (the "**Third-Party Purchasers**"). (Master's Order on Sale; Master Assignment of Bid; Vacatur Hr'g Tr. 114:1-115:5; 119:14-120:18, R. at ____). The Third-Party Purchasers recorded the deed two weeks later, on August 18, 2025. (Master's Deed; Vacatur Hr'g Tr. 122:6-9, R. at ____).

The Estate moved promptly. On September 4, 2025 – within weeks of learning the Property had been sold – it filed a motion under Rule 60, SCRCP, to vacate the September 9, 2024 Order Appointing Guardian ad Litem and authorizing publication, the June 11, 2025 Judgment of Foreclosure and Sale, the August 4, 2025 sale, and the August 18, 2025 Order on Sale of Real Estate. (Mot. to Vacate, R. at ____). The Master held an evidentiary hearing on the Motion to Vacate on October 7, 2025. (Vacatur Hr'g Tr. 1:1, R. at ____). By Order entered October 29, 2025 (the "**Order**"), the Master denied the Motion to Vacate, concluding that (i) the Third-Party Purchasers were bona fide purchasers; (ii) under S.C. Code Ann. § 29-3-610, the Association was not required to substitute the Administrator of the Estate as a party because it sought only to foreclose against the Property and did not pursue a deficiency or personal judgment; (iii) the Estate's fiduciaries had "actual notice" of the foreclosure proceedings; and (iv) the price did not shock the conscience once delinquent ad valorem taxes and prospective renovation costs were considered alongside the bid under what the Master termed the "Debt Method." (Order, R. at ____).

The Estate then timely sought reconsideration. On November 7, 2025, it moved under Rules 59(e) and 52(b), SCRCP, to reconsider and amend the October 29, 2025 Order. (Mot. to Reconsider, R. at ____). By Form 4 Order entered November 17, 2025, the Master denied reconsideration "for the reasons sufficiently set forth in the Order filed October 29, 2025." (Reconsideration Order, R. at ____). The Estate filed its Notice of Appeal on November 26, 2025. (Notice of Appeal, R. at ____). And by consent order entered December 11, 2025, the Master set the Estate's appeal bond at $40,000 and continued the lis pendens in effect throughout the pendency of this appeal. (Bond Consent Order, R. at ____).

The amount involved on appeal, accordingly, is the value of the Property – uncontroverted record evidence places fair market value in a range of approximately $176,000 to $209,000 – together with the $25,000 sale consideration and the residual equity that vacatur would restore to the Estate. (Vacatur Hr'g Tr. 16:4-8; 56:11-14; 88:16-22; 93:3-9; 114:14-19, R. at ____).

STANDARD OF REVIEW

A single standard of appellate review governs each issue presented, and at every layer that standard points toward reversal.

An HOA-lien foreclosure, like a mortgage foreclosure, sounds in equity. Wachesaw Plantation E. Cmty. Servs. Ass'n, Inc. v. Alexander, 420 S.C. 251, 256 n.1, 802 S.E.2d 635, 638 n.1 (Ct. App. 2017); E. Sav. Bank, FSB v. Sanders, 373 S.C. 349, 354, 644 S.E.2d 802, 805 (Ct. App. 2007). Because the Master sat with finality, this Court reviews the equitable record under its "own view of the preponderance of the evidence." Buffalo Creek Invs., Inc. v. Pettus, 440 S.C. 111, 118-19, 889 S.E.2d 608, 611-12 (Ct. App. 2023); accord Belle Hall Plantation Homeowner's Ass'n, Inc. v. Murray, 419 S.C. 605, 614, 799 S.E.2d 310, 315 (Ct. App. 2017) ("The appellate court's standard of review in equitable matters is our own view of the preponderance of the

evidence." (quoting Horry Cty. v. Ray, 382 S.C. 76, 80, 674 S.E.2d 519, 522 (Ct. App. 2009))). While this Court is "not required to disregard the findings of the special referee," id. at 118, 889 S.E.2d at 611, that deference yields where, as here, the findings are "controlled by an error of law" or "based on unsupported factual conclusions." Belle Hall, 419 S.C. at 615, 799 S.E.2d at 315.

Moreover, the decision whether to set aside a judicial sale, including upon a motion under Rule 60, SCRCP, rests in the first instance within the Master's sound discretion. See Buffalo Creek, 440 S.C. at 119, 889 S.E.2d at 612 (quoting Wells Fargo Bank, NA v. Turner, 378 S.C. 147, 150, 662 S.E.2d 424, 425 (Ct. App. 2008)). That discretion does not, however, extend to legal error. As this Court has repeatedly emphasized, "[a]n abuse of discretion occurs when the conclusions of the [master] are either controlled by an error of law or are based on unsupported factual conclusions." Belle Hall, 419 S.C. at 615, 799 S.E.2d at 315; accord Buffalo Creek, 440 S.C. at 119, 889 S.E.2d at 612.

This Court must therefore reverse where the ruling below rests on a misapprehension of controlling law–including the law of personal jurisdiction under Rule 60(b)(4), SCRCP, see Belle Hall, 419 S.C. at 617-19, 799 S.E.2d at 316-17; the law governing bona fide purchaser status under S.C. Code Ann. § 15-39-870; the equitable principles articulated in Buffalo Creek; and the valuation framework the Supreme Court announced in Winrose Homeowners' Ass'n, Inc. v. Hale, 428 S.C. 563, 837 S.E.2d 47 (2019).

Each of those legal frameworks, properly applied, leads to the same result.

ARGUMENT

This appeal presents a foundational question of judicial authority: may a court of equity bind an estate, sell its homestead, and strip its equity for a fraction of the Property's value through service by publication directed only to "unknown heirs"—when the foreclosing plaintiff possessed actual, documented knowledge of the homeowner's death, the docket number of his out-of-state estate, and the name and contact information of its administrator, and when the purchaser had sufficient factual and legal notice to calculate the risk that the sale would be undone?

The answer, under settled South Carolina law, is no. A court of equity may not bind an estate, sell its homestead, or confiscate its equity at a sale price reflecting only a small fraction of the Property's value – and particularly not without express notification – where the foreclosing plaintiff possessed actual, documented knowledge of the homeowner's death, the existence and docket number of the out-of-state estate, and the identity and contact information of the estate's administrator.

Proceeding by publication directed only to "unknown heirs" is constitutionally insufficient notice to sell a property carrying significant equity for a nominal amount, particularly when the foreclosing party is a homeowners' association possessed of other means of repayment and free to allow the balance to grow without prejudice. (See Vacatur Hr'g Tr. 31:16-32:3; 66:4-10; 66:19-25, R. at ____). Permitting a homeowners' association to foreclose for so trivial a debt also offends the equitable principles this Court has reaffirmed. See Winrose Homeowners' Ass'n, Inc. v. Hale, 428 S.C. 563, 574, 837 S.E.2d 47, 53 (2019) ("A foreclosure proceeding is a **last resort**, not a business model to be swiftly invoked for the purpose of exploiting property owners. We do not countenance the improper use of foreclosure proceedings by the HOA, its attorney, or Regime.") (emphasis added). The proceedings below cannot be reconciled with the constitutional and

equitable command that protects parties from the deprivation of property without due process. See Mullane v. Cent. Hanover Bank & Tr. Co., 339 U.S. 306, 314 (1950). This Court should reverse.

Four independent grounds, each sufficient on its own, warrant that result. First, the Judgment of Foreclosure and Sale is void *ab initio* for want of personal jurisdiction over the real party in interest. Second, the bona fide purchaser doctrine cannot validate a sale that depends upon a void judgment, and the doctrine fails on its own merits where the purchaser's own testimony establishes constructive notice. Third, the equities under Buffalo Creek independently require vacatur. Fourth, the Master's adequacy analysis rested on a legal error in valuation methodology. The grounds are sequential as well as independent: each, taken on its own terms, supplies a complete basis for reversal, and the conclusion reached on any one of them reinforces the others. This Court should reverse, vacate the Order, the November 17, 2025 Form 4 Order denying reconsideration, the Judgment of Foreclosure and Sale, the August 4, 2025 sale, and the August 18, 2025 deed, and restore title to the Estate.

I. The Judgment of Foreclosure and Sale Is Void Under Rule 60(b)(4) Because Service by Publication Was Constitutionally and Statutorily Insufficient.

The first ground for reversal is the most fundamental: the Master never acquired personal jurisdiction over the real party in interest, and the Judgment of Foreclosure and Sale is therefore void *ab initio*. The constitutional and statutory rules governing service by publication permit that mode of service only against parties who cannot be located after due diligence. The undisputed record shows that the Estate's administrator was known, reachable, and in regular contact with the Association's counsel throughout the foreclosure. Under Belle Hall and Rule 60(b)(4), SCRCP, the judgment that issued from those proceedings is a complete nullity.

A. Due process requires notice reasonably calculated to reach a known, ascertainable interested party, and publication is reserved for parties who cannot be located after due diligence.

Personal jurisdiction begins with notice, and the sufficiency of notice is measured against what a party genuinely seeking to inform would do. The "fundamental requisite of due process," the United States Supreme Court held in Mullane, is "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Mullane, 339 U.S. at 314. Formality divorced from effect does not satisfy that requirement: "when notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." Id. at 315. Measured against actual notice to a party the plaintiff already knows how to reach, publication is, in Mullane's words, no more than "a feint," because "[c]hance alone brings to the attention of even a local resident an advertisement in small type inserted in the back pages of a newspaper." Id. The line Mullane draws is unmistakable: where a party is "missing or unknown," constructive service may suffice; where the party is known, it does not. See id. at 317-18.

South Carolina has codified that constitutional command through a regime of strict statutory requirements. Section 15-9-710 permits publication only "when the person on whom the service of the summons is to be made cannot, after due diligence, be found within the State and (a) that fact appears by affidavit to the satisfaction of the . . . clerk of the court of common pleas." S.C. CODE ANN. § 15-9-710. Section 15-9-740, in turn, requires the clerk to direct that "a copy of the summons be forthwith deposited in the post office directed to the person to be served at his place of residence, unless it appears that such residence is neither known to the party making the application nor can, with reasonable diligence, be ascertained by him." S.C. CODE ANN. § 15-9-

740; see also Bloody Point Prop. Owners Ass'n, Inc. v. Ashton, 410 S.C. 62, 68, 762 S.E.2d 729, 732-33 (Ct. App. 2014).

The South Carolina Supreme Court has held statutory commands are not optional. This Court has "repeatedly required strict compliance with publication statutes." Belle Hall, 419 S.C. at 616, 799 S.E.2d at 316 (quoting Caldwell v. Wiquist, 402 S.C. 565, 572, 741 S.E.2d 583, 587 (Ct. App. 2013)). Consistent with that principle, Belle Hall squarely held that an HOA's facially defective publication affidavit – one whose attached search reflected efforts to locate the wrong defendant – did not support an order of publication, that the master had authority to overrule the clerk's order, and that the resulting foreclosure judgment was void under Rule 60(b)(4), SCRCP, because the master "never had personal jurisdiction over [the homeowner]." Id. at 615-19, 799 S.E.2d at 315-17. The basis for that conclusion lies in the very definition of voidness: "The definition of void under the rule only encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction." Id. at 617-18, 799 S.E.2d at 316 (quoting McDaniel v. U.S. Fid. & Guar. Co., 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996)).

The governing rule is therefore settled: a judgment entered against a known but unserved party is void. The Association's conduct, set forth below, did not satisfy that rule.

B. The Association's service of the Amended Complaint by publication did not satisfy Mullane, Belle Hall, or §§ 15-9-710 and 15-9-740.

Measured against Mullane and Belle Hall, the Association's service of the Amended Complaint by publication was constitutionally insufficient. By the time the Association sought leave to publish, it already knew the homeowner was deceased, knew an Estate had been opened in New Jersey, and knew how to reach the personal representative; in the months that followed, its file came to contain her name, e-mail address, telephone number, signature, and Letters of

Administration. The Association nonetheless proceeded by publication directed only at "unknown heirs." It never informed the Court—by motion or affidavit—of any effort to locate the Estate or its fiduciary, even though the process server's own return reflected leads the Association left unexplored. The record suggests, instead, that the Association treated the borrower's death as itself sufficient to authorize publication: the affidavit of non-service prompted the Association to amend its Complaint and proceed against "unknown heirs" without further inquiry.

The chronology is unmistakable. On August 20, 2024 – nine days before the Association filed its Amended Complaint, and three weeks before it sought the order authorizing service by publication – its own process server, Pat Watson of Greenville Process Service, LLC, emailed the Association's counsel and reported that Mr. Lakhaney had "died on July 31, 2024," that the unit was "unoccupied," and that a non-serve affidavit would be filed. (Case Detail Notes (8/20/2024 Watson e-mail), R. at ____). By December 2024, the Association's own court-appointed Guardian ad Litem had provided the personal representative's name, email address, and telephone number to the Association's counsel. (Aff. of Attorney for Unknown ¶¶ 5-6; Vacatur Hr'g Tr. 98:16-99:5, R. at ____). On December 16, 2024, Ms. Semyonov herself delivered Letters of Administration to the Association's counsel; within a day, the Association executed a written installment payment agreement with her, by which she undertook to cure the past-due assessments, though not being informed about the foreclosure. (Case Detail Notes (12/16/2024 Semyonov e-mail transmitting Letters of Administration); Vacatur Hr'g Tr. 42:14-25, R. at ____). And at the June 6, 2025 foreclosure hearing itself, the Association's counsel acknowledged on the record that the homeowner was deceased. (Foreclosure Hr'g Tr. 2:10-13, R. at ____). That knowledge was reflected in the Association's own pleadings, which expressly referenced the New Jersey Estate by docket number. (See Foreclosure Order ¶ 10, R. at ____.)

That knowledge did not waver when the fiduciary changed. Upon Ms. Semyonov's removal, she had no opportunity to inform her replacement of the existing payment agreement (Vacatur Hr'g Tr. 25:18-26:5, R. at ____); the Substitute Administrator, though without funds at the time, nevertheless reached out in good faith to address any debt (Vacatur Hr'g Tr. 51:16-22, R. at ____); and neither administrator was made aware of the foreclosure in time to pay the trivial sum owed. (Vacatur Hr'g Tr. 24:1-3, R. at ____). The Guardian ad Litem, for her part, expressly disclaimed any role in alerting the Estate's fiduciaries that the debt was trivial and should be paid. (Vacatur Hr'g Tr. 101:23-102:5, R. at ____).[2] The result is a foreclosure carried forward not by adversarial necessity, but by procedural inertia: a sequence of forms processed in sequence, untempered by the discretion or candor that equity demands. A single communication to the Substitute Administrator, at de minimis cost to the Association, would have resolved the arrears and obviated this proceeding entirely.

Notwithstanding that actual and documented knowledge, the Association, at no time throughout the entire process, named the Estate as a defendant, moved to substitute the personal representative, or served the Administrator. (Am. Compl.; Order, R. at ____.) It elected instead to proceed by publication—and in doing so, it failed to satisfy the statutory predicates that South Carolina law makes mandatory for that mode of service.

As detailed above, Section 15-9-710 permits publication only where the party "cannot, after due diligence, be found within the State" and where "that fact appears **by affidavit** to the

[2] The pattern of inattention extended beyond the pleadings. At the time the Association filed its Amended Complaint, its process server had already reported Mr. Lakhaney's death and provided a contact e-mail, yet the Association chose not to use that e-mail to obtain information about the Estate or to direct the Estate to counsel. (Case Detail Notes (8/20/2024 Watson e-mail), R. at ____). The Association never communicated to either administrator that the outstanding balance could be resolved by a full payoff – a sum that, at the time of the Amended Complaint, stood at only $3,254.70. (Am. Compl. ¶ 11, R. at ____). And the Guardian ad Litem, for her part, took the position that she did not represent the Estate once the fiduciaries became known and that her role ended with the filing of her Answer. (See Vacatur Hr'g Tr. 104:1-8; 106:15-18, R. at ____). At no point did any party to this proceeding inform the Estate that it needed to retain South Carolina counsel to protect its interest in the Property.

satisfaction of the . . . clerk of the court of common pleas." S.C. CODE ANN. § 15-9-710 (emphasis added). Section 15-9-740 then requires the clerk to direct that "a copy of the summons be forthwith deposited in the post office directed to the person to be served at his place of residence, unless it appears that such residence is neither known to the party making the application nor can, with reasonable diligence, be ascertained by him." S.C. CODE ANN. § 15-9-740. Each requirement is a condition precedent to valid service; neither was met here.

The Association filed no affidavit of due diligence describing any inquiry into the New Jersey Surrogate's docket, any attempt to locate or contact the personal representative, or any reason such efforts would have been futile. Its application for that mode of service consisted of a single combined Motion and Order for Appointment of Guardian ad Litem Nisi – a filing that recited no effort to verify the death and identified no steps taken to contact the Estate. (GAL Order, R. at ____.) No mailing was directed to any known address of the personal representative, as § 15-9-740 requires; the Association undertook no follow-up upon learning the fiduciary's identity; and the Association made no attempt to notify Ms. Cortes-Sykes once she succeeded as Substitute Administrator. (GAL Order; Cortes-Sykes Aff. ¶¶ 7-12; Vacatur Hr'g Tr. 60:23-25, R. at ____.) The single direct communication from the Association's counsel to Ms. Cortes-Sykes, an attempted call on June 5, 2025, came on the eve of the foreclosure hearing itself. (Case Detail Notes (6/5/2025 attempted call to Cortes-Sykes); Vacatur Hr'g Tr. 59:1-15; 69:14-70:6, R. at ____.)

The deficiency was not technical; it was substantive. A diligence affidavit could *not* have been filed, because the Estate, its docket, and its fiduciary were already known to the Association. The publication procured here therefore rested on no statutory predicate at all: there was no

affidavit of due diligence under § 15-9-710, no mailing under § 15-9-740, and no factual basis upon which either could have been satisfied.

The Association's own concessions on the record below reinforce the conclusion. The Association knew Ms. Semyonov had been removed as administrator (Vacatur Hr'g Tr. 26:24-27:3, R. at ____), and at the October 7, 2025 hearing on the Estate's Motion to Vacate, the Association's counsel acknowledged that notice should have been sent to the administrator before the foreclosure hearing—and confirmed that the Association does not oppose setting aside the sale. (Vacatur Hr'g Tr. 149:8-150:13, R. at ____.) The position that the Association satisfied Mullane and the publication statutes is therefore one the Association itself does not advance.

Such a course of conduct cannot be reconciled with "notice reasonably calculated . . . to apprise interested parties." Mullane, 339 U.S. at 314. It is, in Mullane's own words, "a mere gesture," id. at 315—service of the Amended Complaint by publication directed at "unknown heirs" of a fiduciary whose Letters of Administration, telephone, email, and signature were already sitting in the Association's file. The threshold predicates for publication under §§ 15-9-710 and 15-9-740 were therefore not satisfied; and Belle Hall supplies the consequence: where service of process by publication is procured against a known defendant without compliance with those statutes, the resulting judgment is void for want of personal jurisdiction. 419 S.C. at 615-19, 799 S.E.2d at 315-17.

The Order's contrary rationale rests on two propositions, each of which is addressed in turn below.

C. Section 29-3-610 does not relieve a foreclosing plaintiff of its obligation to serve a known fiduciary.

§ 29-3-610 by its plain terms governs mortgage foreclosures only. The statute provides that "[i]t shall not be necessary to make the personal representative of a deceased mortgagor a party to any foreclosure proceeding and no sale heretofore made under foreclosure proceedings to which the personal representative of a deceased **mortgagor** was not a party shall be invalid by reason of the absence of such personal representative." S.C. CODE ANN. § 29-3-610 (emphasis added). By its terms, the statute does one thing and one thing only: it excuses the joinder of the personal representative as a party. It does not purport to excuse service on the heirs, and it cannot be read to dispense with the constitutional notice that Mullane requires for any known, ascertainable interested party. Joinder and service are distinct doctrines, and § 29-3-610 addresses only the former. That distinction is dispositive here. The heirs hold the equity of redemption, and the heirs were known to the Association before Ms. Woody's appointment as Guardian ad Litem. (GAL Order, R. at ____.) The Association nonetheless did not serve them, and the Guardian ad Litem confirmed that, once the fiduciaries became known, she did not represent the Estate's interests. (Vacatur Hr'g Tr. 104:1-8; 106:15-18, R. at ____). Because those known heirs were not served, the foreclosure sale is void.

Further, three features of the statute confirm that its scope is confined to mortgage foreclosures and does not reach the HOA-lien foreclosure presented here. The operative noun is "mortgagor," a defined legal term referring to one who grants a mortgage, and the General Assembly is presumed to use technical terms in their settled legal sense. See Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. . . . Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are

not needed and the court has no right to impose another meaning."). The Estate is not a "mortgagor"; it is the record owner of property encumbered by an HOA assessment lien, not a mortgage. The statute's location in the Code reinforces that limitation: § 29-3-610 sits in Chapter 3 of Title 29, titled "Mortgages and Deeds of Trust." HOA-lien foreclosures, by contrast, derive from the Association's recorded covenants and the statutory framework governing homeowners' associations–none of which incorporates § 29-3-610 by reference. See generally Wachesaw, 420 S.C. at 256 n.1, 802 S.E.2d at 638 n.1. And statutes that authorize departures from the ordinary rules of service and party-joinder are strictly construed against the party invoking them. See Caldwell v. Wiquist, 402 S.C. 565, 572, 741 S.E.2d 583, 587 (Ct. App. 2013). Section 29-3-610 thus narrows a foreclosing mortgagee's joinder obligation; expanding that narrow exception by analogy to a different statutory lien regime would invert the strict-construction canon.

Second, even if § 29-3-610 applied by analogy, its reach is narrower than the Order suggests. The statute dispenses only with the necessity of naming the personal representative as a party where no personal judgment is sought; nothing in its text authorizes substitute service by publication on "unknown heirs" when a known fiduciary is reachable, and nothing in it overrides either the constitutional rule of Mullane or the strict publication regime of §§ 15-9-710 and 15-9-740. The Association thus conflated two distinct obligations–the obligation to name a personal representative as a party (which § 29-3-610 may relax in the mortgage context) and the obligation to provide constitutionally adequate notice to known interested parties (which no statute can relax). The Order treats § 29-3-610 as if it answered the second question. It does not.

Third, no statute can supply jurisdiction that the Constitution withholds. See Mullane, 339 U.S. at 314. Even if § 29-3-610 obviated party-naming altogether, it could not relieve a foreclosing plaintiff of the constitutional obligation to provide notice "reasonably calculated . . . to apprise"

the real party in interest. Id. The Order's reading of § 29-3-610 – under which a foreclosing plaintiff with documented knowledge of a known and reachable fiduciary may proceed by publication directed only at "unknown heirs" – would render the statute unconstitutional as applied. The canon of constitutional avoidance counsels squarely against that reading. See Curtis v. State, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001) ("[A]ll statutes are presumed constitutional and, if possible, will be construed to render them valid.").

Section 29-3-610 thus provides no support for the publication procured below.

D. Awareness of pending litigation does not cure defective service under South Carolina law.

The Order's second rationale is likewise unavailing. Even if § 29-3-610 had some bearing on this case – and, for the reasons set forth above, it does not – the Master's separate reliance on the Estate fiduciaries' supposed "actual notice" of the proceedings cannot sustain the judgment. (Order, R. at ____). South Carolina law has long drawn a firm line between proper service and mere awareness: the former is the means by which personal jurisdiction attaches; the latter is not. See Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995) ("Rule 4, SCRCP serves at least two purposes. It confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action."); Moore v. Simpson, 322 S.C. 518, 523, 473 S.E.2d 64, 66 (Ct. App. 1996) (holding that a plaintiff must establish personal jurisdiction by demonstrating compliance with the rules of service). That distinction is not a formality; it is the mechanism through which the Due Process Clause operates. A party who learns of a lawsuit through informal channels has not been served, and a court that has not effected service has not obtained jurisdiction, regardless of what the defendant may have known or when she may have known it.

A threshold observation frames the analysis. The Association itself never directly noticed either administrator or the minor of the foreclosure proceeding. Service of the Amended Complaint by publication was directed to the John Doe and Richard Roe classes alone (GAL Order, R. at ____); no separate notice was issued to Ms. Semyonov even after the Association entered into a written installment payment agreement with her in December 2024 (Vacatur Hr'g Tr. 42:14-25, R. at ____); and no notice of any kind was issued by the Association to Ms. Cortes-Sykes after she succeeded as Substitute Administrator in January 2025 (Cortes-Sykes Aff. ¶ 12, R. at ____). The single direct communication from the Association's counsel to Ms. Cortes-Sykes, an attempted return call on June 5, 2025, came on the eve of the foreclosure hearing itself (Case Detail Notes (6/5/2025 attempted call to Cortes-Sykes); Vacatur Hr'g Tr. 59:1-15; 69:14-70:6, R. at ____); no further attempt was made between that call and the August 4, 2025 sale, and Ms. Cortes-Sykes did not learn of the sale until August 6, 2025–two days after it had occurred. (Cortes-Sykes Aff. ¶ 9, R. at ____).

The "actual notice" on which the Order relies is, therefore, notice of an entirely different character: not service by the Association, but the Guardian ad Litem's transmission of a hearing notice to Ms. Semyonov. (Order, Conclusions of Law § 3; Order ¶¶ 14-15, R. at ____). That informal transmission, however, cannot supply what the Association's own service was required to supply. Ms. Woody's appointment authorized her to represent the John Doe and Richard Roe classes, the Unknown Defendants in the Military Service and the unknown minors and incompetents, and nothing more. (GAL Order, R. at ____; Woody Aff. ¶¶ 1, 14, R. at ____). She candidly testified that the May 2025 transmission to Ms. Semyonov was a one-time courtesy and not part of her role: it was "not my typical practice," she explained, but she "noticed those notes where [Ms. Semyonov] had obviously been trying to pay it up," and "just, you know, sent it to her,

by the way." (Vacatur Hr'g Tr. 99:17-25, R. at ____). She likewise testified that she "would have nothing to do with the sale" itself (Vacatur Hr'g Tr. 99:18-19, R. at ____), and never reached out to Ms. Cortes-Sykes after learning of her appointment. (Vacatur Hr'g Tr. 106:2-10, R. at ____).

A foreclosing plaintiff cannot acquire personal jurisdiction over a known fiduciary by appointing a guardian ad litem for unknowns and relying on the hope that the message will eventually reach the Estate by chance or courtesy; particularly not when, as here, the Guardian ad Litem herself disclaimed any role in the substantive proceedings and described her transmission as outside her ordinary practice. The constitutional requirement is direct, not derivative; it runs to the foreclosing plaintiff, not to a third party acting outside the scope of her appointment. See Mullane, 339 U.S. at 314-15.

Even on its own informal terms, moreover, the chain failed for both administrators. Ms. Semyonov had been removed as Administrator months before the May 2025 transmission and testified that she did not even know who Ms. Woody was, believing instead that Ms. Woody was the Association's attorney. (Vacatur Hr'g Tr. 27:4-15, R. at ____). And Ms. Cortes-Sykes, who at the relevant time was the *actual* fiduciary of the Estate, testified that she had no understanding of Ms. Woody's role and was given no information sufficient to act on the forwarded notice. (Vacatur Hr'g Tr. 53:23-54:18, R. at ____). Whatever Ms. Cortes-Sykes may have learned about the *hearing*, she did not learn of the *sale* until August 6, 2025–two days after the Property had been sold and her ability to redeem extinguished. (Cortes-Sykes Aff. ¶ 9, R. at ____).

Awareness of pending litigation, in short, is not a substitute for the service the Constitution and South Carolina law require. Neither § 29-3-610 nor the informal chain on which the Order's "actual notice" finding depends – a chain initiated by a Guardian ad Litem acting outside her appointed role, transmitted through a former administrator, and ending with a successor

administrator who learned of the sale only after it occurred – supplies the jurisdictional predicate the Order lacks.

E. The Judgment of Foreclosure and Sale is, therefore, void under Rule 60(b)(4).

The foregoing analysis is cumulative, and three conclusions emerge from it. First, the Association failed to serve the Estate. Second, neither of the Order's rationales excuses that failure: § 29-3-610 is confined by its text, its placement in the Code, and the strict-construction canon to mortgage foreclosures, and South Carolina law has never treated informal awareness of a lawsuit as a substitute for proper service on a known fiduciary. Third, the Association itself does not contend otherwise–it acknowledged below that notice should have been sent and confirmed that it does not oppose vacatur. With every defense of the publication procedure foreclosed, the doctrinal consequence is settled by Belle Hall:

> A void judgment is one that, from its inception, is a complete nullity and is without legal effect. . . . The definition of void under [Rule 60(b)(4)] only encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction.
>
> Belle Hall, 419 S.C. at 617, 799 S.E.2d at 316 (internal quotations omitted).

Because the Association failed to serve the real party in interest – the Estate, by and through its administrator – and because publication directed at "unknown heirs" was not reasonably calculated to reach the known fiduciary, the Master never acquired personal jurisdiction. The Judgment of Foreclosure and Sale, and every order, sale, and deed that followed from it, is accordingly *void ab initio* and must be set aside. See id. at 618, 799 S.E.2d at 317.

This ground alone suffices to require reversal. As Section II explains, the Order's remaining defense, the bona fide purchaser doctrine, cannot validate a sale conducted without jurisdiction.

II. The Bona Fide Purchaser Doctrine and Section 15-39-870 Do Not Validate a Sale Conducted Without Jurisdiction, and the Defense Fails on Its Own Terms in Any Event.

The void character of the Judgment of Foreclosure and Sale is not cured by the bona fide purchaser doctrine; and, the doctrine in fact fails on the present record for two distinct reasons. First, S.C. Code Ann. § 15-39-870 by its express terms protects only purchasers under decrees of "a court of competent jurisdiction"; a void judgment does not satisfy that predicate. Second, even on its own merits, the doctrine cannot insulate a purchaser whose own testimony establishes constructive notice of the very defects he disclaims. The Order's principal rationale for denying relief – that "the Third-Party Purchasers are entitled to the protections as bona fide purchasers" – does not align with the threshold limitation § 15-39-870 imposes or with the decisional law applying it. (Order, Conclusions of Law § 1, R. at ____).

A. The bona fide purchaser doctrine engages only where the underlying decree was rendered by a court of competent jurisdiction.

The bona fide purchaser statute, codified as § 15-39-870, provides that the proceedings underlying a deed delivered "at a judicial sale under a decree of a court of **competent jurisdiction** . . . shall be deemed res judicata as to any and all bona fide purchasers for value without notice." S.C. CODE ANN. § 15-39-870 (emphasis added). The protective shield therefore engages only when the underlying decree was rendered by "a court of competent jurisdiction." See Robinson v. Estate of Harris, 378 S.C. 140, 144-45, 662 S.E.2d 420, 422-23 (Ct. App. 2008), aff'd, 390 S.C. 272, 701 S.E.2d 740 (2010). The Supreme Court articulated that limitation in Cumbie v. Newberry, 251 S.C. 33, 37, 159 S.E.2d 915, 917 (1968), holding that a purchaser at a judicial sale "is required at his peril only to make inquiry as to the jurisdiction of the court which ordered the sale, and whether all proper parties were before the court when the order was made." Id.

This Court reaffirmed that predicate in Rallis Holdings, LLC v. Martinez, No. 2019-001821, 2023 WL 155075, at *1 (S.C. Ct. App. Jan. 11, 2023), explaining that "the purchaser at a judicial sale is required only to verify that the court had 'jurisdiction of the subject of the action and of the parties in interest.'" Id. (quoting Gladden v. Chapman, 106 S.C. 486, 490, 91 S.E. 796, 797 (1917)).

The protection extends, Rallis further explained, only where the master's deed is not facially undermined by a "defect in service . . . readily apparent on the face of the materials in the master's file before he ordered the foreclosure sale." Id. On the present record, the master's file shows that the Association knew the owner was deceased, knew the Estate had been opened, knew the docket number, possessed the administrator's contact information, and proceeded by publication to "unknown heirs." The predicate for § 15-39-870 is therefore not satisfied, and the doctrine does not engage.

Belle Hall removes any remaining doubt. Even though the foreclosure purchasers there had paid value and recorded a deed, this Court affirmed vacatur of the sale because the master "never had personal jurisdiction" and the judgment was therefore void under Rule 60(b)(4). 419 S.C. at 618, 799 S.E.2d at 317.

The decisions on which the Order chiefly relies – Robinson, Bloody Point, and Buffalo Creek – are not to the contrary; each presupposes a court of competent jurisdiction. Robinson itself emphasized that "the Master had competent jurisdiction to execute and deliver the deed . . . pursuant to the judgment of foreclosure and sale by a 'court of competent jurisdiction,'" and that "there [was] no evidence . . . [the purchaser] had notice, constructive or otherwise, of [the] claims that [the prior owners] . . . were . . . not properly served in the foreclosure action." 378 S.C. at 146-47, 662 S.E.2d at 423. Bloody Point turned on the state of the court file at the time of the sale,

which reflected the appellants "had been served" and "had received notice." 410 S.C. at 69, 762 S.E.2d at 733.

Buffalo Creek, in turn, invoked the Cumbie presumption that the master "considered and adjudicated the regularity and sufficiency of each and every step in the proceedings leading up to" the sale–a presumption the Court took care to confine to circumstances in which the underlying defects do not strip the court of jurisdiction. 440 S.C. at 122, 889 S.E.2d at 614. Where, as in this appeal, the master's file shows on its face that an interested party was never served and never before the court, the predicate fails. See Belle Hall, 419 S.C. at 618, 799 S.E.2d at 317.

The recital in the Judgment of Foreclosure and Sale that "Service was made upon all Defendant(s) as shown by the proof(s) of service filed herein" does not alter that conclusion. (Foreclosure Order ¶ 4, R. at ____). Such a recital cannot override undisputed record evidence to the contrary: the Association's own pleadings, the process server's documentation of the homeowner's death, the unrebutted affidavit of the Substitute Administrator, and the Association's counsel's own admission below all confirm that the real party in interest was never served. (Am. Compl.; Case Detail Notes (8/20/2024 Watson e-mail); Cortes-Sykes Aff. ¶¶ 12-15; Vacatur Hr'g Tr. 149:8-150:13, R. at ____).

The threshold predicate for the bona fide purchaser doctrine is therefore unsatisfied, and the doctrine has no application. That conclusion alone removes the Order's principal rationale. But even if the doctrine were available to validate a void judgment – and, as set forth below, it is not – the defense would still fail on this record, because the purchaser's own sworn testimony establishes constructive notice of the very defects he now disclaims.

B. The bona fide purchaser defense fails on its own merits because the purchaser's own testimony establishes constructive notice.

The defense's failure on its own merits proceeds from the same affirmative duty that Rallis and Cumbie impose on every judicial-sale purchaser: to "verify that the court had 'jurisdiction of the subject of the action and of the parties in interest,'" with the inquiry made "at his peril;" Rallis, 2023 WL 155075, at *1; Cumbie, 251 S.C. at 37, 159 S.E.2d at 917. The record establishes that the purchaser here did not satisfy that duty – and, indeed, knew enough to know that further inquiry was warranted.

Mr. Custer, the principal of Oriole Properties, conceded on cross-examination that he had reviewed the foreclosure file before bidding. (Vacatur Hr'g Tr. 130:6-13, R. at ____). He saw the Estate of Mr. Lakhaney referenced in that file, together with the New Jersey docket number and the appointment of the Guardian ad Litem. (Vacatur Hr'g Tr. 130:17-131:14, R. at ____). When asked whether he undertook any inquiry into the New Jersey docket – for example, by contacting the Surrogate's Court or the Estate's administrator – he conceded that he did not. (Vacatur Hr'g Tr. 131:5-14, R. at ____) ("Like contact New Jersey you mean or what? . . . I did not try to read any pleadings in New Jersey or get all of them, if that's what you're asking.").

He further conceded that he was already "familiar with" Winrose before bidding on this Property. (Vacatur Hr'g Tr. 132:19-20, R. at ____). And when confronted with Winrose's admonition that "[a] foreclosure proceeding is a solemn judicial proceeding" not to be "leveraged" against homeowners over "a small debt," Mr. Custer acknowledged the principle but testified that the disparity between value and bid did not "bother" him. (Vacatur Hr'g Tr. 132:1-25, R. at ____).

Mr. Custer also testified that, before he complied with the bid, he received a telephone call from a New Jersey number followed by a voicemail, and then a direct call from the Administrator herself – Ms. Cortes-Sykes – inquiring about the Property. (Vacatur Hr'g Tr. 120:24-121:13, R. at

____). He did not return the call or make any further inquiry into the Estate's interest before closing.

A purchaser who has read the controlling Supreme Court decision condemning the use of HOA foreclosures as a vehicle for exploiting property owners, who has reviewed a foreclosure file that references on its face a known out-of-state Estate and an unrepresented administrator, and who nonetheless bids without further inquiry, has not satisfied the "at his peril" obligation that Cumbie imposes. Cumbie, 251 S.C. at 37, 159 S.E.2d at 917. The defects in service appeared on the face of the very materials Mr. Custer reviewed. Under Rallis, that defeats the bona fide purchaser defense on its own merits. See Rallis, 2023 WL 155075, at *1.

The defense thus fails twice over – once because § 15-39-870's threshold predicate is unsatisfied, and again because the purchaser had constructive notice of the defects.

C. That the foreclosing plaintiff itself does not oppose vacatur reinforces that the equitable balance favors the Estate.

A feature of this record distinguishes the appeal from the ordinary case. At the October 7, 2025 hearing, the Master asked the Association's counsel directly whether his client opposed setting the sale aside, and the Association's counsel answered that the Association does not oppose vacatur. (Vacatur Hr'g Tr. 150:10-13, R. at ____). Opposition to the Estate's relief comes solely from the Third-Party Purchasers, whose entitlement to the windfall is precisely what the bona fide purchaser doctrine, properly understood, is designed to test rather than to insulate. Chief Justice Beatty's concurrence in Winrose captures the proper equitable response: "**To allow the hard-earned equity to be confiscated by a bidder's minimal investment is unconscionable. This is especially troubling when the foreclosure sale is the result of an HOA lien**." 428 S.C. at 575, 837 S.E.2d at 53 (Beatty, C.J., concurring). The equitable balance therefore tips decisively toward the Estate.

D. Laches cannot supply the jurisdictional foundation that the publication record lacks.

A final argument requires only brief response. Laches likewise cannot supply what jurisdiction lacks. Belle Hall itself confronted that argument and declined to credit it: although the homeowner there had received some notice of the sale before it occurred, this Court nonetheless held that the master properly vacated the foreclosure under Rule 60(b)(4) for want of personal jurisdiction. 419 S.C. at 619, 799 S.E.2d at 317. The Order's invocation of laches – and its reliance on a single laches passage from Belle Hall – is difficult to square with that holding. Belle Hall affirmed vacatur. So too should this Court.

The bona fide purchaser doctrine therefore furnishes no basis for affirming the Order. The brief turns next to a separate and independent ground for reversal, which would require vacatur even were the jurisdictional defect set aside.

III. Independent of the Jurisdictional Defect, Reversal Is Required Under the Second Prong of Buffalo Creek.

Even were the void-judgment ground put to one side, the settled equitable standard for setting aside a judicial sale would still require vacatur. Two features of appellate review make that conclusion inescapable here. First, because this is an equitable proceeding in which the Master sat with finality, this Court applies its "own view of the preponderance of the evidence" to the record as a whole. Buffalo Creek, 440 S.C. at 118, 889 S.E.2d at 612; Wachesaw, 420 S.C. at 256, 802 S.E.2d at 638. Second, the discretionary component of the Master's vacatur ruling is reviewed for abuse of discretion, but that standard is itself satisfied where, as here, the ruling is "controlled by an error of law." Belle Hall, 419 S.C. at 615, 799 S.E.2d at 315. Together, these standards strip the Order of the deference it would otherwise enjoy and place the equitable record squarely before this Court for independent review. That review leads to one conclusion: the second prong of Buffalo

Creek – "other circumstances warranting the interference of the court" – was crafted precisely for cases of this character, and the record here presents that case in concentrated form. 440 S.C. at 122, 889 S.E.2d at 613.

The doctrinal framework confirms as much. As this Court has articulated it, "[a] judicial sale will be set aside when either: (1) the sale price 'is so gross as to shock the conscience[;]' or (2) the sale '**is accompanied by other circumstances warranting the interference of the court**.'" Buffalo Creek, 440 S.C. at 122, 889 S.E.2d at 613 (emphasis added) (quoting Wells Fargo, 378 S.C. at 150, 662 S.E.2d at 425). The Supreme Court long ago confirmed that the second prong reaches beyond price alone: "where there are other circumstances tending to show that the sale should, in good conscience, be set aside, disparity between the accepted bid and the fair value of the property as disclosed by the evidence is a proper factor to be considered by the court in arriving at its decision." Spillers v. Clay, 233 S.C. 99, 104, 103 S.E.2d 759, 761 (1958). Indeed, foreclosure is, as the Supreme Court reaffirmed in Winrose, "a solemn judicial proceeding," and not a vehicle for "exploiting property owners"; equity intervenes when the process itself is fundamentally unfair. 428 S.C. at 573, 837 S.E.2d at 52.

Applied to the present record, that framework yields only one answer. The Association foreclosed a nominal HOA arrearage that the Amended Complaint placed at just $3,254.70. (Am. Compl. ¶ 11, R. at ____). By the time of judgment, the gross assessments of $4,442.38 had been credited by $3,452.60 in payments – leaving a net unpaid assessment of only $989.78 – and the addition of $92.68 in interest, $60 in special assessments, and $160 in capital reserve brought the underlying HOA debt to $1,302.46; the remaining $4,294.30 of the $5,596.76 judgment consisted of $2,169.30 in costs of collection and $2,125.00 in attorney's fees the Association could have prevented from being incurred. (Foreclosure Order ¶ 16, R. at ____). To collect that sum, the

Association did not communicate with, much less serve, the known fiduciary – even after its own court-appointed Guardian ad Litem supplied the fiduciary's name and contact information (Aff. of Attorney for Unknown ¶¶ 5-6; Vacatur Hr'g Tr. 98:16-99:5, R. at ____), and even after it had executed a written installment-cure agreement with that very fiduciary (Case Detail Notes (12/16/2024 Semyonov e-mail transmitting Letters of Administration); Vacatur Hr'g Tr. 42:14-25, R. at ____). When the Bergen County Surrogate's Court replaced the first administrator, the Association neither ascertained nor notified the Substitute Administrator. (Cortes-Sykes Aff. ¶¶ 7-12, R. at ____). It then published its final notice of sale only three days before the auction, with a weekend in between (Aff. of Publication for Foreclosure Sale (publications July 18, July 25, and August 1, 2025); Master's Order on Sale (sale held Monday, August 4, 2025), R. at ____), and ultimately transferred a home with a tax-assessed value of approximately $107,000 – and uncontroverted appraisal testimony placing fair-market value between $176,000 and $209,000 – for only $25,000, all to satisfy an underlying HOA debt of just $1,302.46. (Greenville County Consolidated Tax Notice; See Vacatur Hr'g Tr. 16:20-23; 56:11-14; 85:2-7; 93:3-9; 114:3-13, 126:25-127:10, R. at ____). The result is one equity does not countenance.

That result is also the precise result the Supreme Court condemned in Winrose. The Court there observed that "[t]his foreclosure action quickly morphed into a proxy to capitalize on a small debt," and described the conduct as "leveraging a nominal debt to secure an exorbitant return from homeowners who fear the prospect of eviction." Winrose, 428 S.C. at 573, 837 S.E.2d at 52. Moreover, what Winrose described in 2019 the present record reproduces almost line for line – and amplifies, **because the homeowner here is not living and the foreclosed equity would otherwise have inured to the benefit of a minor child (emphasis added)** (Vacatur Hr'g Tr.

16:17-19, R. at ____). Even Mr. Lakhaney's neighbor testified that he himself fears foreclosure if his HOA payment is not on autodraft. (Vacatur Hr'g Tr. 92:12-18, R. at ____).

The "circumstances warranting the interference of the court" identified by Winrose and Buffalo Creek are accordingly not theoretical here; they appear throughout the Master's file, and the Master himself noted them on the record. A de minimis arrearage drove the foreclosure. Publication targeted "unknown heirs" of an Estate the Association knew about and had transacted with. The Association acknowledged at the post-sale hearing that notice should have been sent and confirmed that it does not oppose vacatur. And the sale transferred substantial homestead equity for a fraction of its value. These are precisely the circumstances the second prong of Buffalo Creek addresses, and they fall squarely within the Master's equitable authority to ensure fairness in the conduct of judicial sales. See Buffalo Creek, 440 S.C. at 122, 889 S.E.2d at 613; Spillers, 233 S.C. at 104, 103 S.E.2d at 761.

The Order nevertheless reached the opposite conclusion, and it did so by departing from that framework in two related respects, each of which is reversible error of law. First, the Order weighed the Third-Party Purchasers' post-sale renovations and their "reliance on the finality of the judicial sale." as a basis for denying vacatur. (Order ¶ 21; Order, Conclusions of Law §§ 3-4, R. at ___). As Buffalo Creek explained, however, weighing the relative equities of buyer and homeowner – rather than examining whether the sale was attended by circumstances warranting the court's interference – is itself an abuse of discretion. 440 S.C. at 122-23, 889 S.E.2d at 613-14. Second, and relatedly, the Order treated the process irregularities affecting the Association and the Estate as categorically separate from the validity of the sale. (Order, Conclusions of Law §§ 1, 3, R. at ____). That framing cannot be reconciled with the rule Buffalo Creek announces: the second prong expressly sweeps in "other circumstances warranting the interference of the court," and

Belle Hall makes clear that publication failures and the resulting due-process deprivation are precisely the circumstances that prong contemplates. Belle Hall, 419 S.C. at 615-19, 799 S.E.2d at 315-17.

Both errors point to the same conclusion. The second prong of Buffalo Creek is independently dispositive, and even apart from the void-judgment ground, the Order's discretionary denial of vacatur cannot stand. As Section IV explains, a separate legal error in the Order's adequacy analysis under Winrose fortifies that conclusion further still.

IV. The Order's Adequacy Analysis Rests on a Misapplication of the Valuation Framework Announced in Winrose.

The fourth ground for reversal stands independent of the first three, and it reinforces each of them. Even apart from the jurisdictional and equitable defects already discussed, the Order's adequacy analysis is reversible error of law. The Order concluded that "the Debt Method should be used in this case because the Property was not encumbered by a mortgage lien," and it then considered delinquent ad valorem taxes and prospective renovation costs alongside the $25,000 winning bid to reach a 'debt-adjusted' ratio that, in the Master's view, exceeded the threshold for shocking the conscience. (Order, Conclusions of Law § 4, R. at ____). With respect, that approach cannot be squared with the controlling Supreme Court decision: Winrose selects the Equity Method for circumstances of this kind; the credits the Order placed against the bid are not authorized by Winrose; and the bid, properly measured, is grossly inadequate.

A. Under Winrose, the Equity Method governs where the purchaser has assumed no senior lien.

Controlling authority begins with Winrose itself, in which the Supreme Court reversed a foreclosure sale and held that, on circumstances analogous to those presented in this appeal, "applying the Equity Method is the only logical option." 428 S.C. at 572, 837 S.E.2d at 52. The

Supreme Court explained that the Debt Method is appropriate "in most circumstances" because "a foreclosure purchaser will assume any obligation to pay outstanding senior liens in order to obtain free-and-clear title to the property. In those cases, it follows the Debt Method should be used." Id. Where, however, the purchaser has "taken no affirmative steps to legally obligate itself to take on the debt," the Equity Method governs and "it would be wholly inappropriate to add the value of the [senior lien] to [the] winning bid." Id. at 566, 572, 837 S.E.2d at 48, 52. Under the Equity Method, the bid is compared to the property's equity – fair market value minus any outstanding senior obligation. Id. at 571-72, 837 S.E.2d at 51.

The selection of methodology, in short, follows the structure of the senior debt: where a senior obligation exists that the purchaser must assume, the Debt Method credits that assumption; where there is none, the Equity Method governs.

B. The selection of the Debt Method on a property carrying no mortgage cannot be reconciled with Winrose, and the credits given against the bid are not authorized by that decision.

Measured against the Winrose framework, the Order's analysis cannot be sustained – and it cannot be sustained because it inverts the very rule Winrose announces. The Order invoked the Debt Method "because the Property was not encumbered by a mortgage lien." (Order, Conclusions of Law § 4, R. at ____). The Debt Method, however, exists for the precise opposite scenario: it credits a purchaser who must satisfy a senior lien in order to obtain clear title. Winrose, 428 S.C. at 572, 837 S.E.2d at 52. Where there is no mortgage to assume, there is nothing to credit, and the Debt Method has no proper role to play. The Order's own premise – that no mortgage encumbered the Property – therefore points not toward the Debt Method but away from it, and toward the Equity Method.

The methodological error compounded a second one. Even within the Debt Method the Order chose, the Order credited the bid with two non-bid items that Winrose does not authorize. First, it added approximately $13,196.79 in delinquent ad valorem taxes. (Order, Conclusions of Law § 4, R. at ____). Winrose conditions Debt-Method credit on obligations the purchaser has affirmatively assumed or is legally required to pay in order to obtain free-and-clear title. 428 S.C. at 572, 837 S.E.2d at 52. The record establishes neither prerequisite. Mr. Custer himself testified on direct examination that "you're definitely purchasing subject to" the taxes and that the redemption amount "was extra, and I knew it was extra." (Vacatur Hr'g Tr. 118:12-24, R. at ____). The record further establishes that Oriole Properties did not in fact pay the redemption amount until November 14, 2025 – more than three months after the August 4 sale and more than two months after the Estate filed its Motion to Vacate. (Custer Aff. ¶¶ 3-5 & Exs. A-C, R. at ____). At the time of sale, in other words, the taxes were neither assumed nor paid; they were a condition the purchaser had merely "factored . . . in" to a discounted bid. (Custer Aff. ¶ 2, R. at ____). "Sold subject to" is not assumption, and Winrose provides no warrant for crediting the bid with sums the purchaser had neither agreed to pay nor in fact paid as of the date of sale.

Second, the Order added "significant expenses for renovations" of $35,000-$45,000. (Order ¶ 21; Order, Conclusions of Law § 4, R. at ____). Renovation costs, however, are discretionary, post-sale capital expenditures, not senior liens, and they fall outside both the Debt Method and the Equity Method. Including such expenditures in the adequacy calculation finds no support in Winrose.

The legal premise of the Order's adequacy analysis is therefore mistaken in two respects: the methodology is wrong, and the credits given within that methodology are unauthorized. With

those errors corrected, the bid must be measured against the Property's full value–the inquiry to which the analysis now turns.

C. Properly calculated under the Equity Method, the bid is grossly inadequate.

Measured correctly, the $25,000 bid is grossly inadequate. Correct application of the Equity Method, with no senior mortgage to subtract from value, yields the following ratios on the record before the Court. Multiple independent value indicators converge on a fair-market value in the range of approximately $176,000 to $209,000: appraisal testimony of $176,000-$178,000 (Vacatur Hr'g Tr. 16:4-8; 56:13-14, R. at ____); a local realtor's after-repair value of approximately $205,000 (Vacatur Hr'g Tr. 85:2-7, R. at ____); a comparable unit at 28 Spinnaker Court at $187,500 (Vacatur Hr'g Tr. 139:14-17, R. at ____); a recent comparable cash sale in the same complex at $209,000 (Vacatur Hr'g Tr. 93:5-9, R. at ____); Homes.com's range of $162,000-$189,000 (Ex. To Vacatur Hr'g Tr, R. at ____); and Xome's estimate of $186,128 within a range of $165,658-$209,640 (Vacatur Hr'g Tr, R. at ____). Mr. Custer himself testified that he would list the Property at $170,000-$175,000 once renovations were complete and would not turn down a $175,000 offer. (Vacatur Hr'g Tr. 137:17-21, R. at ____). Against the appraisal figure ($176,000), the $25,000 bid is approximately 14.2%; against the after-repair value ($205,000), it is approximately 12.2%; against Mr. Custer's own list-price range ($170,000-$175,000), it is approximately 14-15%. Even against the tax-assessed value ($107,000) – itself well below the indicators above – the bid is approximately 23%.

Each of those ratios falls within the range South Carolina courts have repeatedly held inadequate. Winrose itself reaffirmed that, where the Equity Method governs, a bid representing less than ten percent of the property's actual value "shocks the conscience of the court." 428 S.C. at 566, 837 S.E.2d at 48; see also E. Sav. Bank, 373 S.C. at 359, 644 S.E.2d at 807 ("[A] search of

South Carolina jurisprudence reveals only when judicial sales are for less than ten percent of a property's actual value, have our courts consistently held the discrepancy to shock conscience of the court."). Winrose also held, importantly, that "South Carolina courts have not established a bright-line rule," and that an inadequate price "accompanied by other circumstances from which the court may infer fraud has been committed" is sufficient to set aside a sale. 428 S.C. at 569-70, 837 S.E.2d at 50.

On the present record, the inadequacy is accompanied by precisely such circumstances: a facial publication defect, an unserved fiduciary, an HOA-lien foreclosure for a trivial sum, a sale-day notice published only three days in advance with a weekend in between, the Association's express acknowledgment that notice should have been sent, and the Association's own non-opposition to vacatur. (GAL Order; Cortes-Sykes Aff. ¶¶ 7-12; Aff. of Publication for Foreclosure Sale (publications July 18, July 25, and August 1, 2025); Master's Order on Sale (sale held Monday, August 4, 2025); Vacatur Hr'g Tr. 150:10-13, R. at ____). On a record of that character, equity does not tolerate the result the Order reached.

The legal error in the Order's adequacy analysis therefore supplies a fourth, independent ground for reversal – and one that reinforces, rather than competes with, the conclusions reached on each of the three preceding grounds.

CONCLUSION

This appeal presents the Winrose problem in concentrated form, and in a posture more troubling than Winrose itself. To collect a $151.12 arrearage from an absentee owner with whom it had previously corresponded by e-mail, the Association elected to foreclose a home that carried no other liens. By the time of judgment, that arrearage had grown only to $1,302.46, with the balance of the $5,596.76 judgment composed of attorney's fees and costs. No grace was extended

to the homeowner – who had died twelve days before suit was filed – and the procedural machinery moved with the same speed it would have moved against a homeowner hospitalized or relocated to a nursing home. Here, the Association had contact information for the Estate. It chose not to use it. Instead of pausing to ask whether a home worth $176,000 to $209,000 should really be sold to satisfy a four-figure debt – instead of acting, in counsel's traditional role, as mediators rather than collectors – the Association stayed on the conveyor belt: prosecuting the foreclosure to judgment against an Estate whose existence, docket number, and administrator the Association knew, and serving by publication directed only to "unknown heirs." The Estate received no notice.

The Association acknowledged below that notice should have been sent, and confirmed that it does not oppose vacatur. Opposition comes solely from the third-party bidder, who stands to capture the windfall – a retired South Carolina lawyer familiar with Winrose and the surrounding case law, who reviewed the foreclosure file (which referenced the Estate, the New Jersey docket number, and the appointment of the Guardian ad Litem) before bidding, and who has collected rent on the Property throughout the pendency of this appeal. He is not a bona fide purchaser. He is a sophisticated investor who knowingly accepted the risk of vacatur, and who will not suffer the prejudice that a seven-year-old child residing in Florida will suffer from the loss of her approximately $150,000 inheritance.

The four grounds set forth above each foreclose that result. The Judgment of Foreclosure and Sale is void *ab initio* for want of personal jurisdiction, and every order, sale, and deed that followed from it is likewise a nullity. Independently, the Master's discretionary refusal to vacate rested on legal error in the application of the bona fide purchaser doctrine, the Buffalo Creek equitable framework, and the Winrose valuation analysis. Any one of these grounds requires reversal; together, they make reversal unavoidable.

To affirm on this record would reduce Winrose to a paper admonition and ratify the very practice the Supreme Court condemned. Chief Justice Beatty put the equitable point in terms this record makes unavoidable: "To allow the hard-earned equity to be confiscated by a bidder's minimal investment is unconscionable. This is especially troubling when the foreclosure sale is the result of an HOA lien." Winrose, 428 S.C. at 575, 837 S.E.2d at 53 (Beatty, C.J., concurring). The Court need not announce any new doctrine to honor that admonition; it need only enforce the threshold requirement that a judgment of foreclosure issue from a court that has obtained jurisdiction over the parties whose property it purports to convey.

In conclusion, the Estate respectfully requests that this Court reverse the Order entered October 29, 2025; vacate the Judgment of Foreclosure and Sale entered June 11, 2025, the August 4, 2025 sale, and the August 18, 2025 deed; and remand with instructions to restore title to the Estate.

Respectfully submitted,

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC

s/ Jane H. Downey
Jane H. Downey, ID 15045
J. Boone Aiken, IV, ID 105243
1501 Main St., Ste. 310
Columbia, SC 29201
(803) 251-8814
jdowney@bakerdonelson.com
baiken@bakerdonelson.com

Attorneys for Appellant

April 24, 2026
Columbia, South Carolina