

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Mikell R. Scarborough, Master in Equity

Case No. 2006-CP-10-2859
Appellate Case No. 2012-212524

7/11/87

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.....Respondent,

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

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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,

Of whom Vandora M. Huggins-Edwards a/k/a Vandora
H. Edwards is the Appellant.

**RESPONDENT'S MOTION TO
DISMISS THE APPEAL**

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Attorneys for Respondent 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 5, 2014

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Respondent 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 (“Deutsche Bank”) hereby moves to dismiss the appeal of Appellant Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards (“Vandora Huggins”) on the ground that she has violated the Court’s Order of December 17, 2013, by failing to make several of the ordered corrections to the Record on Appeal.

FACTS

On September 24, 2013, Vandora Huggins served Deutsche Bank with the Record on Appeal. After discovering that the Record on Appeal omitted documents that Deutsche Bank had designated for inclusion, included matters not presented to the lower court, and failed in other material aspects to comply with the South Carolina Appellate Court Rules, Deutsche Bank filed a “Motion to Correct the Record on Appeal, or, in the alternative, to Dismiss the Appeal” on October 15, 2013.

The Court entered an Order on December 17, 2013, requiring Vandora Huggins to serve and file a second¹ amended record on appeal within 30 days of the Order. (Order p. 2.) The Court specifically ordered Vandora Huggins to ensure that the second amended record on appeal would:

- “include all matters designated by the parties,” (Order p. 2);
- “not include any matters that were not presented to the lower court,” (Order p. 2); and
- “be consecutively numbered (1, 2, 3, 4, etc.)” (Order p. 2).

¹ Deutsche Bank was never served with a first amended record on appeal.

The Court further ordered that “Appellant’s second amended final brief shall be filed separately from the record on appeal (and shall not be included in the record on appeal)...” (Order p. 3.)

On January 16, 2014, Vandora Huggins filed and served Deutsche Bank with a proposed Second Amended Record on Appeal.

ARGUMENT

Vandora Huggins has violated the Order of December 17, 2013, as follows:

1. Vandora Huggins’s proposed Second Amended Record on Appeal still improperly omits documents from the record that were designated for inclusion by Deutsche Bank in its Designation of Matter.

“The Record on Appeal shall include all matter designated to be included by any party under Rule 209 ...” Rule 210(c), SCACR. Vandora Huggins once again omitted the following documents from the Second Amended Record on Appeal that Deutsche Bank listed in its Designation of Matter:

- Complaint filed on July 24, 2006;
- First Amended Lis Pendens, Summons, & Complaint filed on September 10, 2008;
- Second Amended Complaint filed on December 9, 2010—it is missing the last page;
- Plaintiff’s Notice of Motion and Motion for Partial Summary Judgment filed on January 5, 2012—Vandora Huggins included only an unfiled copy of these documents. Deutsche Bank requests that filed copies of the motion be included in the record on appeal. Further, the copy of the motion that she has included in the Second Amended Record on Appeal contains handwritten

markings made by Vandora Huggins that are prejudicial to Deutsche Bank and impermissible under the South Carolina Appellate Court Rules. (Second Amended R. p. 138.)

- Trial Transcript from the trial held on February 28, 2012—the copy of the transcript contained in the Second Amended Record on Appeal contains handwritten comments, notes, and markings made by Vandora Huggins that are prejudicial to Deutsche Bank and impermissible under the South Carolina Appellate Court Rules. (Second Amended R. Vol. I pp. 247, 249, 250, 253, 254, 260, 261, 275, 279, 282, 290, 291; Vol. II pp. 265, 275, 276, 277, 282, 283, 294, 305, 306, 311, 314.) This must be substituted with a “clean” version of the transcript.
- Copies of all exhibits admitted into evidence at trial—several of the copies of these exhibits included in the Second Amended Record on Appeal are still missing top and bottom portions of the pages due to poor photocopying by Vandora Huggins. (Second Amended R. pp. 329 – 335, 367 – 407, 420 – 462, 505 – 520.) Deutsche Bank requests that complete and better copies of the exhibits be included in the Record on Appeal.

The omission of these documents violates the Order of December 17, 2013, and this appeal must therefore be dismissed.

2. Vandora Huggins’s proposed Second Amended Record on Appeal still includes matter not presented to the lower court.

“The Record shall not, however, include matter which was not presented to the lower court or tribunal.” Rule 210(c), SCACR. The following documents included by

Vandora Huggins in the Second Amended Record on Appeal were never presented to the lower court:

- Pages 7 – 14 of the Second Amended Record on Appeal include what appears to be some kind of preamble or additional appellate brief by Vandora Huggins not previously served or filed in this appeal. No such further brief is permitted under the South Carolina Appellate Court Rules. Further, it is improper to include appellate briefs in the Record on Appeal.
- Pages 15 – 16 include a Proof of Service of the original Record on Appeal and Initial Brief of the Respondent from September 24, 2013. Aside from this proof of service making the false representation that Vandora Huggins would have served the Initial Brief of the Respondent, it is not properly included in the record on appeal.
- Pages 17 – 36 include a third version of the Brief of the Appellant which has never been served or filed by the Appellant. Deutsche Bank had never seen this version of the Brief of the Appellant before it appeared in the first version of the Record on Appeal submitted by Vandora Huggins. Further, the Court specifically ordered her not to include her brief in the record on appeal. (Order p. 3.)
- Page 73 includes a letter that was not designated for inclusion in the record by either Vandora Huggins or Deutsche Bank, and this letter is irrelevant to this appeal.

- Pages 132 – 135 include a letter that was not designated for inclusion in the record by either Vandora Huggins or Deutsche Bank, and this letter is irrelevant to this appeal.
- Pages 221 – 224 include one of the Notices of Appeal filed by Vandora Huggins in this case. It is improper to include this document in the Record on Appeal.
- Pages 225 – 229 include a letter that was not designated for inclusion in the record by either Vandora Huggins or Deutsche Bank, and this letter is irrelevant to this appeal.
- Pages 230 – 237 include an incomplete and unfiled version of the Affidavit of Attorney’s Fees submitted by Deutsche Bank’s counsel at trial. If Vandora Huggins wants this affidavit included in the record, it needs to be substituted with a filed and complete copy.

The inclusion of these documents violates the Order of December 17, 2013, and this appeal must therefore be dismissed.

3. The proposed Second Amended Record on Appeal still fails to comply with the South Carolina Appellate Court Rules in other material aspects.

Vandora Huggins’s proposed Second Amended Record on Appeal further fails to comply with the South Carolina Appellate Court Rules as follows:

- The documents included in the proposed Second Amended Record on Appeal are not arranged as required under the rules. Rule 210(c), SCACR (“Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings,

transcript, charges, exhibits and other materials or documents, and a certificate by appellant.”).

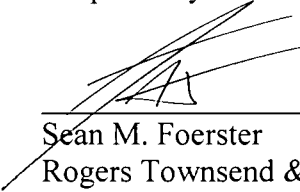
- The pages of the proposed Second Amended Record on Appeal are not consecutively numbered, which will make it difficult for Deutsche Bank to cite to the record in its Final Brief. Rule 210(c), SCACR (“Each page of the Record on Appeal shall be numbered consecutively beginning with the index.”).

Vandora Huggins’s noncompliance with the South Carolina Appellate Court Rules is also a violation of the Order of December 17, 2013, and this appeal must therefore be dismissed.

CONCLUSION

For these reasons, Deutsche Bank respectfully moves for an Order dismissing this appeal. In the event that this appeal is not dismissed, Deutsche Bank respectfully requests relief from having to serve and file its Final Brief of the Respondent until the deficiencies in the Second Amended Record on Appeal are corrected.

Respectfully submitted,



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Attorneys for Respondent Deutsche Bank
National Trust Company, as Trustee of
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2005-R4CGM under the Pooling and
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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

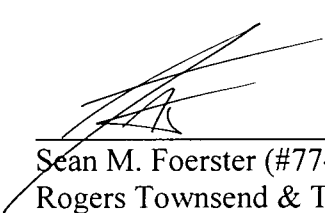
Assigns, and all other persons entitled to claim through them;
all unknown persons with any right, title or interest
in the real estate described herein; also any persons
who may be in the military service of the United States
of America, being a class designated as John Doe;
and any unknown minors or 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,

Of whom Vandora M. Huggins-Edwards a/k/a Vandora
H. Edwards is theAppellant.

PROOF OF SERVICE

I HEREBY CERTIFY that I have served the Respondent's Motion to Dismiss the
Appeal on February 5, 2014, by depositing a copy of each in the United States Mail,
postage prepaid, addressed to the following party of record:

Vandora M. Huggins
1218 Gunn Avenue
Charleston, South Carolina 29407



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Trust Company, as Trustee of Ameriquest Mortgage
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February 5, 2014

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
The South Carolina Court of Appeals Clerk of Court
1015 Sumter Street
Columbia, South Carolina 29201

RE: *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 vs. Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards, et al.*
Appellate Case No. 2012-212524
Civil Action# 2006-CP-10-2859
Our File # 010378-00062

Dear Ms. Kitchings:

Enclosed for filing are the original and seven (7) copies of Respondent's Motion to Dismiss Appeal with Proof of Service in the above matter, along with a check in the amount of \$25.00.

By copy of this letter, I am serving one copy of Respondent's Motion to Dismiss Appeal with Proof of Service on Appellant Vandora M. Huggins-Edwards.

Please have your staff return a filed copy of this document to me via the courier.

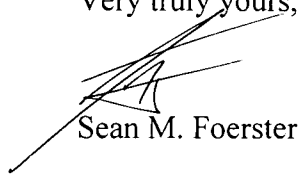
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SC Court of Appeals

Thank you for your assistance in this matter.

Very truly yours,



Sean M. Foerster

SMF/tds
Enclosures

cc:
Vandora M. Huggins-Edwards
1218 Gunn Avenue
Charleston, South Carolina 29407