

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Judge

Case No. 2007-CP- 46-4305

SunTrust Mortgage, Inc.....Respondent,

v.

Mark Ostendorff.....Appellant.

REPLY TO RETURN TO STAY DATED MARCH 31,2014

Mark D. Ostendorff
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Appellant , Pro Se

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APR 28 2014

SC Court of Appeals

In this Reply to Return To Stay Dated March 31, 2014, Appellant Ostendorff still contends , as he did on March 31, 2014, that the stay on this case not be lifted until (1) SunTrust advises that it will not appeal Ostendorff's Chapter 7 Discharge and (2) that SunTrust is to provide bond to Ostendorff before the Ostendorff's foreclosed house is sold by SunTrust.

- (1) A Chapter 7 Discharge can be revoked by the Bankruptcy Court. "Typically, a request to revoke the debtor's discharge must be filed within one year of the discharge...". Please see the attached sheet provided by the US Bankruptcy Court.

A simple affidavit by SunTrust would suffice that it has not appealed nor will ever move to revoke Ostendorff's Chapter 7 Discharge. Susan Walker of SunTrust had no problem in providing an affidavit stating that Ostendorff's mortgage was not securitized. Susan Walker can just as easily provide another affidavit regarding Ostendorff's Chapter 7 Discharge as final with no appeal or any future move to revoke it.

- (2) The bond requirements under South Carolina statues is a very simple concept and makes legal logic and economic sense.

In an appeal on foreclosed property, one party will prevail:

If the Plaintiff prevails, the Defendant will compensate, via his bond, the Plaintiff for the economic value of the property while the Defendant had beneficial use of that property.

If the Defendant prevails, the Plaintiff will compensate, via his two bonds, the Defendant for twice the value of the Defendants foreclosed and already sold property. The bonds compensate the Defendant for property wrongfully taken from him. There is no way a Defendant can recover his property once it is sold.

If the property is sold without bond by the Plaintiff, and the Defendant prevails, the Defendant receives nothing for his property.

The requirement for bond twice the value insures that the Defendant receives the true value of the property if the property had been marketed to receive its " highest and best use" value. Foreclosure sales receive much less value than a marketed property, hence the presence of real estate agencies that market and sell property to get the "highest and best use" value. The bond for twice the value is to compensate for loss of property usage to the Defendant during the appeal process . The twice value bond is an attempt to compensate being removed from a person 's home and that uniqueness that cannot be replicated.

Carsten v. Wilson , 241 S.C. 516, 129, 129 S.E. 2d 431 (1963) does not apply to this case as Ostendorff is not petitioning this Court for stay under Ostendorff's appeal. The stay came as a result of Ostendorff's Chapter 7 petition in the US Bankruptcy Court.

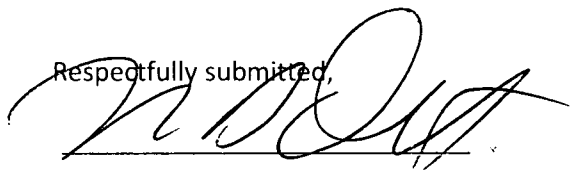
If the Plaintiff wishes to sell Ostendorff's property, then the Plaintiff has a duty to provide a bond to Defendant for twice the value of the property.

CONCLUSION

The stay should remain until SunTrust provides the affidavit and also the bond.

April 24, 2014

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M D Ostendorff', written over a horizontal line.

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DISCHARGE IN BANKRUPTCY

The bankruptcy discharge varies depending on the type of case a debtor files: chapter 7, 11, 12, or 13. Bankruptcy Basics attempts to answer some basic questions about the discharge available to individual debtors under all four chapters including:

click each topic to expand and view the contents.
[expand all](#)

[What is a discharge in bankruptcy?](#)

[When does the discharge occur?](#)

[How does the debtor get a discharge?](#)

[Are all of the debtor's debts discharged or only some?](#)

[Does the debtor have the right to a discharge or can creditors object to the discharge?](#)

[Can a debtor receive a second discharge in a later chapter 7 case?](#)

[Can the discharge be revoked?](#)

The court may revoke a discharge under certain circumstances. For example, a trustee, creditor, or the U.S. trustee may request that the court revoke the debtor's discharge in a chapter 7 case based on allegations that the debtor: obtained the discharge fraudulently; failed to disclose the fact that he or she acquired or became entitled to acquire property that would constitute property of the bankruptcy estate; committed one of several acts of impropriety described in section 727(a)(6) of the Bankruptcy Code; or failed to explain any misstatements discovered in an audit of the case or fails to provide documents or information requested in an audit of the case. Typically, a request to revoke the debtor's discharge must be filed within one year of the discharge or, in some cases, before the date that the case is closed. The court will decide whether such allegations are true and, if so, whether to revoke the discharge.

In chapter 11, 12, and 13 cases, if confirmation of a plan or the discharge is obtained through fraud, the court can revoke the order of confirmation or discharge.

[May the debtor pay a discharged debt after the bankruptcy case has been concluded?](#)

[How can the Debtor obtain another Copy of the Discharge Order?](#)

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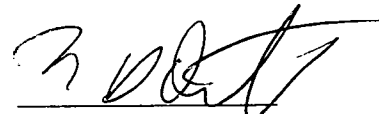
Mark Ostendorff.....Appellant.

CERTIFICATE OF MAILING

I, Mark Ostendorff, Appellant , Pro Se, certify that I placed in the US Postal Service with correct postage paid , a copy of Ostendorff's Reply to Return to Stay Dated March 31,2014, to SunTrust's attorney to :

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April 24, 2014



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