

AMENDED RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002-373

H & R Block Bank, FSB,

Respondent

v.

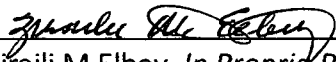
Ziraili M Elbey, a/k/a/ Ziraili
Mohassan El Bey,

Appellant

**MOTION TO AMEND DEISGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Appellant, only included one (1) item as record on appeal and that was the October 24, 2013 transcript of the final hearing. She was not aware that other pertinent pleadings, exhibits, etc. could be included as records. Therefore, this is a memorandum in pursuant to Rule 240(c)(2) in support to the Record on Appeal where all the facts relied upon were not contained in the initial Record of Appeal, therefore, according to Rule 240(c)(3) other document in support of Appellant's position, please find therein. Please find filing fee attached.

So moved.....February 03, 2014

By: 
Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665

INDEX

Order of August 22, 2012.....	3	
Order of August 01, 2013	3	
Order of November 14, 2013	3	
Complaint – January 14, 2011	4	
Answer – February 04, 2011	5	
Testimony	6	
<hr/>		
Final Hearing Transcript – October 24, 2013	6	
The Court	Included as The Court	
Mr. Burgess	Included as Mr. Burgess	
Ms. El Bey	Included as Ms. El Bey	
Citation of Authorities		
Previous Cited Authorities found in [Initial] Brief	7	
Defendant’s Evidence Exhibits from Lower Court Pleadings	10	
1. Bank One, N.A. v. Dave, State of Michigan Circuit Court,		
Case# 03-047448-CZ	Exhibit included	
2. Chet Adams Co. v. James F. Pederson Co., 413 SE 2D 827- S.C.:		
SUPREME Court (1992)	Exhibit included	
3. Deutsche Bank v. Heinrich, Charleston, SC, Ct of Common Pleas,		
9 th District, Case. No. 2011-CP-10-1060, July (2013).....	Exhibit included	
4. Deed of Full Reconveyance		Exhibit included
5. Certificate of No Record – The State of South Carolina		Exhibit included
6. Examination of Assignments Mortgage by M. McDonnell...Exhibit included		

- 7. Executive Summary – Forensic Professionals Group USA,..Exhibit included
- 8. Fannie Mae Loan Lookup Results Exhibit included
- 9. Full Securitization Audit for Elbey (2011)..... Exhibit included
- 10. SC Assignment filed by Plaintiff with Robo-Signers Exhibit included
- 11. SC Chief Justices’ Administrative Order issued June 5, 1992 ... Exhibit included
- 12. Mortgage, Note & Allonge..... Exhibit included

Proof of Service 11

Certificate of Appellant 12

Total Pages with this Motion to Amend Record of Appeal pg. 179

Order of August 22, 2012

This order was previously submitted to this Court on November 22, 2013

Order of August 01, 2013

This order was previously submitted to this Court on November 22, 2013

Order of November 14, 2013

This order was previously submitted to this Court on November 22, 2013.

Complaint of January 14, 2011

See entire Complaint of January 14, 2011.

Pg 1-5 - Attached

COUNTY OF LANCASTER

C/A NO.: _____

H&R Block Bank,

Plaintiff,

COMPLAINT

(Non-Jury)

vs.

Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey,
WKFC Living Trust Under Trust Agreement Dated
June 4, 2010 by and through its Trustee Wellesley
K. Clayton and American Home Mortgage
Servicing, Inc. s/b/m to Option One Mortgage
Corporation,

Defendant(s).

FORECLOSURE
OF REAL ESTATE
MORTGAGE

(Deficiency Judgment Demanded as to Defendant
Ziraili M. Elbey (a/k/a Ziraili Mohassan El Bey))

The Plaintiff above named, complaining of the Defendant(s) herein alleges that:

1. Plaintiff, H&R Block Bank, is a business entity duly authorized to conduct business in the State of South Carolina.
2. Upon information and belief, the Defendant Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey is a resident and citizen of the County of Lancaster, State of South Carolina; Defendant WKFC Living Trust Under Trust Agreement Dated June 4, 2010 by and through its Trustee Wellesley K. Clayton is a trust organized under the laws of the State of South Carolina which owns real property in the State of South Carolina; and, Defendant American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation is a business entity and is duly authorized to conduct business in the State of South Carolina.
3. The real property hereinafter described, that is the subject of this action, is situated and located in the County of Lancaster, State of South Carolina, and this Court has proper jurisdiction over the subject matter and the parties of this action.
4. Heretofore, on March 29, 2006, Ziraili M. Elbey (a/k/a Ziraili Mohassan El Bey) (hereinafter "Borrower(s)") made, executed, and delivered to Option One Mortgage Corporation (hereinafter "Lender") a certain Fixed Rate Note in writing (hereinafter "Note"), wherein and whereby Ziraili

M. Elbey (a/k/a Ziraili Mohassan El Bey) promised to pay to Option One Mortgage Corporation the principal sum of \$197,186.00, together with interest at the rate of 7.999% per annum on the unpaid balance; said principal and interest being payable in monthly installments thereafter until the said Note is fully paid.

5. In order to secure the payment of said Note, the said Ziraili M. Elbey (a/k/a Ziraili Mohassan El Bey) (hereinafter "Mortgagor(s)"), did on the same date, to wit, March 29, 2006, make, execute and deliver to Option One Mortgage Corporation, its successors and assigns, a certain mortgage (hereinafter "Mortgage") securing the below described real property, including any and all improvements to the property, located in the County and State aforesaid (hereinafter "Property"):

All that certain piece, parcel or lot of land located in Lancaster County, South Carolina, and being designated as Lot 261 on that certain Plat of Clairemont, Phase 2, Map 5, prepared by Yarbrough, Williams & Houle, Inc. dated January 18, 2005, and recorded January 28, 2005, as Plat Doc #2005 at Page 0047 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Also being shown as Lot 261 of Clairemont on a Plat of Ziraili Elbey prepared by Hucks and Associates, PC, dated March 3, 2006, and recorded in Plat Doc 2006 at Page 198.

This being the identical property conveyed to Ziraili M. Elbey by deed from The Ryland Group, Inc. dated March 29, 2006 and recorded April 7, 2006 in Book 329 at Page 170. Subsequently, said property was conveyed to KMJ Trust, dated December 15, 2006 (Trustees: Ziraili Mohassan El Bey and Mark Antonio Findletter Clayton) by Deed of Ziraili M. Elbey dated January 19, 2007 and recorded January 29, 2007 in Book 378 at Page 7. Thereafter, the property was conveyed to WKFC Living Trust Under the Provisions of a Trust Agreement Dated June 4, 2010 (Trustee: Wellesley K. Clayton) by deed of Ziraili Mohassan El Bey and Mark Antonio Findletter Clayton as Trustees of The KMJ Trust, dated December 15, 2006 dated June 11, 2010 and recorded June 22, 2010 in Book 569 at Page 85.

Parcel Number: 0006M-0A-261.00

Property Address: 13132 Wilburn Park Lane, Fort Mill, SC 29715

6. Said Mortgage was dated March 29, 2006 and recorded on April 7, 2006 in Book 1486 at Page 1, in the Lancaster County Registry.
7. Thereafter the Mortgage and the Note were assigned to the Plaintiff herein by assignment recorded on August 5, 2010 in Book 2265 at Page 129.

8. The Mortgage evidences and secures the repayment of money advanced by the Lender to, or on behalf of, the Mortgagor(s) and constitutes a valid purchase money, first lien on the Property.
9. As required by an Administrative Order issued by the South Carolina Supreme Court dated May 22, 2009, the Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLMC, or the Servicer has signed an agreement to participate in the Home Affordable Modification Program ("HAMP"); however, Plaintiff alleges upon information and belief, that the loan does not qualify for a modification under the above foreclosure prevention program because the loan investor has declined to allow a HAMP modification.
10. Any notice required by the terms of the Mortgage or by State or Federal law has been given to the applicable defendant(s) prior to the commencement of this action.
11. In and by the terms of said Note and the Mortgage securing the same, it is provided, among other things, that on failure to pay any installment of either principal or interest or any portion thereof when due, or if any of the conditions and requirements in the Mortgage securing the same not be complied with, then the whole principal sum and accrued interest shall at the option of the legal holder thereof become at once due and payable without notice, and collectible by foreclosure.
12. In and by the terms of the said Note it is further provided that the maker thereof shall pay all collection costs including reasonable attorneys fees if the said Note be placed in the hands of an attorney for collection after default.
13. The Plaintiff demands a personal or deficiency judgment, and the Plaintiff has the right to seek a deficiency judgment against the maker(s) of its Note, Ziraili M. Elbey (a/k/a Ziraili Mohassan El Bey). That in the event that the net amount realized by the Plaintiff upon the sale of the subject property is insufficient to pay in full the total indebtedness of the Plaintiff, including costs of collection, the Plaintiff demands a personal judgment against said Defendant(s) in the amount of such deficiency.
14. The installments of principal and interest falling due from and after February 1, 2010, have not been paid although demand for the payment thereof has been made. The Plaintiff, as holder of

the said Note and Mortgage, has and does hereby elect to declare the entire balance of said principal and interest due and payable at once; that there is now due and owing and unpaid upon the said Note and Mortgage the full and just principal sum of \$189,911.32, together with interest at the rate of 7.999% per annum, the current/modified rate of interest, from the date of the last payment, together with reasonable attorneys fees for the collection thereof and the costs of this action. Plaintiff may be forced to pay sums for taxes, insurance and costs for securing the property, which sums, according to the terms of the Mortgage, should be added to the amount of the debt.


15. Upon information and belief, said information having been obtained from the records of Lancaster County, South Carolina, the Defendant(s) below named has/have or may claim to have some interest in or lien upon the Property by virtue of the matters and things herein below alleged, to-wit:

A. The Defendant, American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation, has or may claim to have some interest in the Property by virtue of mortgage given by Ziraili M. Elbey to Option One Mortgage Corporation in the original principal amount of \$49,296.00, which mortgage was recorded in the Lancaster County Registry on April 7, 2006 in Mortgage Book 1486 at Page 9. Upon information and belief, American Home Mortgage Servicing, Inc. is the successor in interest to Option One Mortgage Corporation. Said mortgage is junior and subordinate to the Plaintiff's mortgage and should be removed from title to the Property upon the completion of a properly held foreclosure sale of the Property.

WHEREFORE, Plaintiff prays judgment that:

1. The amount due upon the said Note and Mortgage held by the Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action.
2. Appoint a Receiver to collect the rents, issue, profits or designated sums from the mortgagor(s), and/or the grantee(s) of the mortgagor(s), and/or tenant(s) occupying or exercising control over the mortgaged premises and hold the same subject to the further order

undersigned attorneys from the date of default. In the alternative, Plaintiff will move before a judge on this Circuit on the 10th day after service hereof, or as soon thereafter as counsel may be heard, for an Order enforcing the assignment of rents, if any, and compelling payment of all rents covered by such assignment directly to the Plaintiff, which motion is to be based upon the original note and mortgage and the Complaint attached hereto.



Ronald F. Johnson, Jr, SC Bar #16931
Mark A. Pearson, SC Bar #15926
Brian L. Campbell, SC Bar #74521
Suzanne E. Brown, SC Bar#76440
Jason L. Branham, SC Bar #72902
Adam J. Russo, SC Bar #78676
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Phone 888-726-9953 Fax 866-676-7658
Attorneys for Plaintiff

Dated: 1 / 13 / 11
Wilmington, North Carolina

Answer of February 04, 2011

Answer see attached, the entire answer including caption and signature. Pg. 1-3

Ms. Ziraili M. Elbey
13132 Wilburn Park Lane
Ft. Mill, SC 29715
803-233-2665

February 4, 2011

Lancaster County Clerk of Court
Post Office Box 1809
Lancaster, SC 29721

Re: H&R Block Bank vs. Ziraili M. Elbey et al.
Case No. 2011-CP-29-36

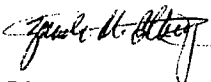
Dear Clerk of Court:

Enclosed please find the original and one copy of my Motion to Dismiss in this case under Rule 12-b-5 of the Rules of Civil Procedure. Please file the original and return the copy to me in the return envelope. We certify that we are sending copies of this Motion to Plaintiff's Attorney:

Brock & Scott, PLLC
Ronald Johnson, Esq.
3800 Fernandina Rd., Ste. 110
Columbia, SC 29210

Also enclosed please find my check to you for \$25.00 for this Motion. If you have any questions, please advise. Thank you for your attention to this matter. With kind regards,
we are

Sincerely yours,



Ziraili M. Elbey

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

IN THE COURT OF COMMON PLEAS

H&R Block Bank,
Plaintiff)

v.)

Ziraili M. Elbey aka Ziraili Mohassan El Bey,
WKFC Living Trust Under Trust Agreement Dated
June 4, 2010, by and through its Trustee, Wellesley
K. Clayton and American Home Mortgage Servicing,
Inc. sbm to Option One Mortgage Corporation
X Defendants.)

CASE NO.
2011-CP-29-36

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Defendant Ziraili M. Elbey, Pro-Se
13132 Wilburn Park Lane
Fort Mill, SC 29715
Phone No. 803-233-2665

Plaintiff's Attorney:
Ronald Johnson, Brock and Scott, PLLC
Address: 3800 Fernandina Rd., Suite 110
Columbia, SC 29210
phone: 803-454-3540 fax: 803-454-3541
e-mail: other:

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

SECTION I: Hearing Information

Nature of Motion: Motion to Dismiss, Rule 12-b-5, South Carolina Rules of Civil Procedure
Estimated Time Needed: 15 minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

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

Signature of Attorney for Plaintiff / Defendant

February __, 2011
Date submitted

SECTION III: Motion Fee

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

JUDGE'S SECTION

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

JUDGE

CODE: _____ Date: _____

CLERK'S VERIFICATION

Date Filed: _____

Collected by: _____

- MOTION FEE COLLECTED: _____
- CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

COURT OF COMMON PLEAS

WELLS FARGO BANK, NA,)
Plaintiff,)

CASE NO. 2011-CP-29-36
MOTION TO DISMISS
RULE 12-B-5-

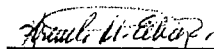
Ziraili M. Elbey aka Ziraili Mohassan)
El Bey, WKFC Living Trust Under)
Trust Agreement Dated June 4, 2010, by)
and through its Trustee, Wellesley K.)
Clayton and American Home Mortgage)
Servicing, Inc. sbm to Option One)
Mortgage Corporation, Defendants.)

Comes now, Defendants, through the undersigned, to move to dismiss this case pursuant to Rule 12-b-5, SCRPC, based on the following:

1. This is an action for foreclosure.
2. Defendant was never validly served with the case documents. This case was apparently filed on January 14, 2011. However, I was not served with the papers. They were left on my front door when I returned to my house.
3. This is insufficiency of service of process according to Rule 4 (d) (1), South Carolina Rules of Civil Procedure. This entitles me to have the case dismissed under Rule 12 (b) (5), Rules of Civil Procedure.

WHEREFORE, Defendants move before this Court that:

- A. This case be dismissed without prejudice according to Rules 12 (b) (5), SCRPC for lack of sufficiency of service of process and
- B. Any other relief that this Court deem prudent, just and proper.



Ziraili M. Elbey, aka Ziraili Mohassan El Bey, Defendant
13132 Wilburn Park Lane
Ft. Mill, SC 29715
803-233-2665

Testimony

There is no trial Testimony, but a Transcript of
the Administrative Hearing proceedings

October 24, 2013

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002-373

H & R Block Bank, FSB

Respondent,

v.

Ziraili M Elbey, a/k/a Ziraili
Mohassan El Bey,

Appellant.

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

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

1. COPY OF TRANSCRIPT, Original sent to Brock & Scott, PLLC
For Respondent H & R Block Bank, FSB

I certify that this designation contains no matter which is irrelevant to this appeal.

December 02, 2013

By: _____
Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Indian Land, South Carolina 29707
(803) 233-2665

PROOF OF SERVICE OF TRANSCRIPT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002-373

H & R Block Bank, FSB,

Respondent,

v.

Ziraili M Elbey, a/k/a Ziraili
Mohassan El Bey,

Appellant.

PROOF OF SERVICE

I certify that Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd, Ste 110, Columbia, South Carolina 29210 have received the original copy of transcript mailed directly from CREEL COURT REPORTING, INC., 1230 Richland Street, Columbia, SC 29201. Service confirmed. I have served the front page of same transcript, by depositing a copy of it in the United States Mail, postage prepaid, on December 02, 2013, addressed to H & R Block Bank, FSB its attorney of record, Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd, Ste 110, Columbia, South Carolina 29210

December 02, 2013

By: _____

Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, # 400-191
Indian Land, South Carolina, 29707
(803) 233-2665

APPEARANCES

Chad W. Burgess, Esquire
James Harkey, Associate
Brock & Scott, PLLC
3800 Fernandina Rd., Ste. 110
Columbia, South Carolina 29210
Attorney for the Plaintiff

Also Present:

Zaraili M. El Bey, Defendant, Pro-Se
Wes Clayton, Trustee

INDEX

Certificate 50

EXHIBITS

Plaintiff's Exhibit Number One 10
(Disciplinary Letter)
Plaintiff's Exhibit Number Two 17
(Judgement)
Defendant's Exhibit Number One 26
(Certificate of No Record)
Defendant's Exhibit Number Two 27
(Fannie Mae Loan Lookup)
Defendant's Exhibit Number Three 29
(Assignment of Mortgage)
Court's Exhibit Number One 34
(Statutes)



1 **THE COURT:** My name is Phillip Wright. I am a
2 Special Referee appointed in Case 2011-CP-29-
3 35, H&R Block Bank versus Ziraili M. El Bey, in
4 propria persona. Present today at the hearing
5 are a number of people and I'm going to go
6 around the room and ask first Plaintiff's
7 counsel to introduce themselves.

8 **MR. BURGESS:** Good morning, Your Honor. May it
9 please the Court. My name is Chad Burgess. I
10 represent the Plaintiff, H&R Blank -- Block
11 Bank.

12 **THE COURT:** Okay. And the gentleman at the ---

13 **MR. BURGESS:** Your Honor, this is my law clerk,
14 James Harkey. He's here merely as a -- as a --
15 an observer.

16 **THE COURT:** Okay. And I believe the Defendant, Mrs.
17 El Bey is here?

18 **MS. EL BEY:** I am Ziraili Mohassan El Bey --

19 **THE COURT:** El Bey.

20 **MS. ELBEY:** -- and I'm representing the all-caps
21 name of "Ziraili M. El Bey." I am ---

22 **THE COURT:** I'm sorry, I didn't understand what you
23 said.

24 **MRS. EL BEY:** Yes.

25 **THE COURT:** You're representing what?



1 **MS. EL BEY:** The all-caps name, "Ziraili," all-caps,
2 "M.," initial, "El Bey," the corporate entity
3 that H&R Block and Nations Forward Mortgage,
4 LLC, addresses an all-caps name, but I'm here
5 as an individual.

6 **THE COURT:** All right. And there's a gentleman
7 seated in the room.

8 **MR. CLAYTON:** Observer, Wes Clayton.

9 **THE COURT:** I'm sorry?

10 **MR. CLAYTON:** Observer, Wes Clayton.

11 **THE COURT:** Wes Clayton. C-L-A-Y?

12 **MR. CLAYTON:** T-O-N.

13 **THE COURT:** T-O-N. Do you intend to testify in the
14 proceeding, Mr. Clayton?

15 **MR. CLAYTON:** Testify?

16 **THE COURT:** Do you intend to testify?

17 **MR. CLAYTON:** No.

18 **THE COURT:** All right.

19 **MR. BURGESS:** Your Honor, I don't anticipate there
20 will be any testimony today. This is a motions
21 hearing and ---

22 **THE COURT:** This is everything. There will be
23 testimony today.

24 **MR. BURGESS:** Ah.

25 **THE COURT:** We will finish this case today.



1 MR. BURGESS: Ah.

2 THE COURT: All right?

3 MR. BURGESS: Yes, sir.

4 THE COURT: Now, first, Mrs. El Bey, I want to go
5 back to your statement. You differentiate, for
6 some reason, your name. Can you tell me --
7 explain to me why you are calling yourself by
8 an all-caps name of some nature?

9 MS. EL BEY: For the record and on the record, for
10 this Honorable Court, it's not that I'm calling
11 myself the all-caps name, but any addresses,
12 statements, mortgage, notes, have been in all-
13 caps, not me as a living individual person. I
14 am not an attorney and I'm not real versed in
15 the law, per per (sic), but I am demanding my
16 rights at this time in and not for them to be
17 confused, that my rights and due process of law
18 as an individual are upheld by the oath of
19 office of the Special Referee and the Plaintiff
20 that's being represented here today. That each
21 party agrees to uphold the constitution, the
22 federal constitution, the constitution of South
23 Carolina and not limit to the Bill of Rights,
24 the indigenous rights of United Nations of
25 Indigenous People. So, the all-caps name is



1 ~~now coming before this Court in order to have~~
2 this action dismissed with prejudice and I will
3 state the following reasons when I'm given
4 time to speak.

5 **THE COURT:** Mr. Burgess, who did you sue in this
6 case?

7 **MR. BURGESS:** Your Honor, the Defendant, Ziraili M.
8 El Bey, the person who signed the note and the
9 mortgage in this action.

10 **THE COURT:** May I see -- May I see the note and
11 mortgage, please?

12 **MR. BURGESS:** Yes, Your Honor, I do have the
13 originals of these documents. Here's the
14 original note and I also have the original
15 mortgage.

16 **MS. EL BEY:** I'd like to see copies of those, too,
17 when you finish.

18 **THE COURT:** Ms. El Bey, I'm looking at a note that
19 is dated -- well, the loan number that is
20 noted is 571007388 and it has a date of 3/29/06
21 on it and is a promissory note in the amount of
22 \$197,186, that has a maturity date of April
23 2036 with the first payment due of May 2006.
24 And on the second page of the note, there is a
25 signature that appears to be a signature made



1 by someone asserting themselves to be Ziraili
2 M. El Bey, bearing Social Security number [REDACTED]
3 [REDACTED].

4 **MS. EL BEY:** I object, Your Honor. That is not my
5 signature but the name is in all-caps, as I
6 indicated earlier.

7 **THE COURT:** I'm going to ask you to look at that
8 document and tell me whether you signed that
9 document.

10 **MS. EL BEY:** For the record, Your Honor, I did not
11 sign this document, as I have indicated in
12 previous pleadings, that the documents have
13 been altered. It does appear to have the all-
14 caps name "Ziraili M. El Bey"; that is correct.
15 And on the allonge that's attached, the all-
16 caps name appear again and that is "Ziraili M.
17 El Bey" on the allonge to the note, which I was
18 not aware of.

19 **THE COURT:** Okay. And I also have a mortgage that
20 is dated March 29th, 2006, recorded in Mortgage
21 Book 1486 at Page 1, in the face amount of
22 \$197,186 and the mortgage is some seven pages
23 long. And on page seven, again, appears a
24 signature above the typed name "Ziraili M. El
25 Bey." I'll ask you if that's your signature.



1 ~~MS. EL BEY:~~ ~~Objection, Your Honor, this is not my~~
2 signature, again, as I have indicated in the
3 past pleadings that these documents have been
4 altered. So let the record reflect, here
5 again, the all-caps name "Ziraili M. El Bey,"
6 it is not my signature.

7 **THE COURT:** All right. Mr. Burgess, do you have any
8 motions that you want the Court to hear before
9 we begin taking testimony on the merits of the
10 case?

11 **MR. BURGESS:** Yes, Your Honor. Back on September
12 the 26th, 2013, we -- our office filed a Motion
13 to Strike the pleadings of Ms. El Bey, along
14 with a Motion for Sanctions against Ms. El Bey.
15 As Your Honor is aware, there is a number of
16 pleadings filed by Ms. El Bey in this action,
17 all of which appear to be as a part of the --
18 what I know to be a Sovereign Citizens group
19 known as the ---

20 **MS. EL BEY:** Objections.

21 **THE COURT:** Ma'am ---

22 **MS. EL BEY:** Objections.

23 **THE COURT:** Ma'am, you are not to speak while
24 someone else is speaking. When the time comes
25 for you to speak, I will let you speak.



1 MS. EL BEY: Okay.

2 THE COURT: But let the attorney make his argument.

3 MS. EL BEY: That's okay.

4 THE COURT: You'll have an opportunity to speak
5 afterwards.

6 MS. EL BEY: That's okay. Thank you.

7 MR. BURGESS: And, Your Honor, our argument is
8 merely, on the face of the documents that Ms.
9 El Bey has presented, these documents are the
10 definition of sham pleadings under the South
11 Carolina statute regarding sham pleadings and
12 our position is that they should be stricken in
13 their entirety under Rule 12(f) of the South
14 Carolina Rules of Procedure. Your Honor, to
15 take it a step further, back in 2011, Ms. El
16 Bey was warned by the South Carolina Court of
17 Appeals. Clerk Daniel Shearouse wrote her a
18 letter dated January 28th, 2011 ---

19 THE COURT: You have a copy of that?

20 MR. BURGESS: Yes, sir, I do. And in that letter
21 Mr. Shearouse outlines that the pleadings that
22 she's submitting are sham pleadings. I do have
23 a copy of that letter. And Ms. El Bey has
24 continued to submit documents to both our
25 office and to the Court purporting to assert



1 that the mortgage itself has been satisfied,
2 along with a number of other theories that just
3 aren't cognizant. And the pleadings on their
4 face are sham filings and should be stricken in
5 their entirety.

6 **THE COURT:** Ms. El Bey, have you seen a copy of this
7 letter?

8 **MS. EL BEY:** No, I haven't.

9 **THE COURT:** I want to have that marked as Exhibit
10 One.

11 **(Plaintiff's Exhibit Number One was marked for**
12 **identification purposes.)**

13 **MR. BURGESS:** Yes, sir. And I believe that letter
14 may have been a part of -- this case has
15 already been rendered to judgement back on
16 August the 22nd, 2012. Ms. El Bey filed
17 Chapter 13 bankruptcy on August the 24th, 2012,
18 before the foreclosure sale took place. That
19 Chapter 13 bankruptcy in the Federal Bankruptcy
20 Court was converted to a Chapter 7 on September
21 the 28th, 2012. Ms. El Bey was subsequently
22 discharged from bankruptcy and her bankruptcy
23 case was closed on January the 14th of 2013 and
24 the case -- this case was restored to the
25 active roster on August the 1st of 2013.



1 **THE COURT:** Okay. Have all the bankruptcy filings
2 been filed with the court?

3 **MR. BURGESS:** With the bankruptcy court, yes, sir.
4 And I think with the Motion to Restore, we
5 filed a copy of the -- I believe it was the
6 Chapter 7 discharge.

7 **THE COURT:** Let me see your Chapter 7. While he's
8 looking for that, you indicated, Ms. El Bey,
9 that you don't recall having seen this
10 (indicating)?

11 **MS. EL BEY:** No, I don't recall and I'm not saying
12 it wasn't sent to me, Special Referee.

13 **THE COURT:** Is this your proper address, 13132
14 Wilburn Park Track Lane, Fort Mill?

15 **MS. EL BEY:** That is the address of the property,
16 yes, but my mailing address is different.

17 **THE COURT:** Do you reside at that property?

18 **MS. EL BEY:** Occasionally I do.

19 **MR. BURGESS:** I apologize, Your Honor, I have a
20 number of documents here. I thought I had my
21 ---

22 **THE COURT:** Take your time. I'm reading the letter
23 from the Supreme Court. Did the clerk send up
24 the original file?

25 **MR. BURGESS:** This is -- that's her file



1 (indicating).

2 **THE COURT:** If you can look in that and just look
3 for -- what he's trying to find is a Chapter 7
4 discharge that would have been filed with the
5 court. And while you're going, if you see the
6 original Referee's report before the bankruptcy
7 filing.

8 **MR. HARKEY:** Yes, sir.

9 (Off the Record)

10 **MR. BURGESS:** I do have a copy of the Motion to
11 Restore, Your Honor.

12 **THE COURT:** Okay.

13 **MR. BURGESS:** It was filed -- it was submitted July
14 24th, 2013, and it does have the order from the
15 -- the discharge order from the Bankruptcy
16 Court, filed August 1st, 2013.

17 **THE COURT:** I'm going to have the reporter mark this
18 letter as Exhibit One and we'll substitute a
19 copy after the hearing.

20 **MR. BURGESS:** Thank you, sir. I was trying to see --
21 Brook Dangerfield, one of my colleagues, was
22 the counsel with our office handling this case
23 back during the Summary Judgment Motion back in
24 August of 2012 and I thought he might have
25 included a copy of the letter with his Motion



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1 for Summary Judgement, as well. But I --

2 **THE COURT:** And it may be, but I want to have it
3 attached to this hearing record.

4 **MR. BURGESS:** Copies of the note and mortgage were
5 entered at that time, as well.

6 **THE COURT:** Okay.

7 **MR. BURGESS:** And what was the other document? The
8 original Master's report, is what you were
9 looking for?

10 **THE COURT:** (Nods head affirmatively.)

11 **MR. BURGESS:** I think I do have that.

12 **THE COURT:** Right, the Referee's report before the
13 filing of the bankruptcy. The Court notes for
14 the record that there is already in the file a
15 filed copy of the Bankruptcy Discharge Notice
16 as referenced by Mr. Burgess, that being filed
17 August the 1st, 2013, with their Motion to
18 Restore. And the case was restored by my
19 order, which is also attached and dated
20 July 29th, 2013. I'll give you back your copy
21 of that since it's already in the record.

22 **MR. BURGESS:** Thank you, sir.

23 **THE COURT:** While you're looking, Mr. Burgess, do
24 you know if you happen to have a copy with you
25 of the code section cited by the -- Mr.



1 Shearouse, 16-17-735?

2 **MR. BURGESS:** Your Honor, I can certainly get a copy
3 of that. I don't think I have a separate copy
4 of that particular statute.

5 **THE COURT:** Can you get your clerk to go grab a copy
6 of that?

7 **MR. BURGESS:** Yes, sir.

8 **THE COURT:** I need two code sections -- well,
9 actually, three -- if you want to make a note
10 of these. I need a copy of 16-17-735, I need
11 15-75-60, and 30-9-30. If you -- do you have a
12 computer with you with access to ---

13 **MR. BURGESS:** I do. It's actually ---

14 **THE COURT:** I can get my office to run them and send
15 them up if you need them or ---

16 **MR. BURGESS:** It's actually in the back in the very
17 bottom of the thing, if you'll just bring it
18 back up here. They have courthouse access?

19 **THE COURT:** They do.

20 **MR. BURGESS:** All right. If you'll just grab my --
21 my laptop.

22 **MR. HARKEY:** Okay.

23 **THE COURT:** Just go on Casemaker Code and copy those
24 sections.

25 **MR. HARKEY:** Yes, sir.



1 **MR. BURGESS:** I'll be able to pull them up if you'll
2 just bring the computer up here.

3 **MR. HARKEY:** Yep.

4 **THE COURT:** Okay. What I want to do is, I want to
5 put copies in the record as part of the
6 hearing. Did you locate that Referee's report?

7 **MR. BURGESS:** I had a separate copy of the order.
8 I'm trying to locate that now. And I do
9 apologize, Your Honor. There is a number of --

10 -

11 **THE COURT:** No, take your time.

12 **MR. BURGESS:** There's a lot of people working this
13 file.

14 **THE COURT:** Well, the clerk has two boxes full and
15 we'll address that shortly.

16 **MR. BURGESS:** Your Honor, we do have the transcript
17 from the original hearing.

18 **THE COURT:** Okay.

19 **MR. BURGESS:** And I believe we have -- and that's
20 from August 22nd, 2012.

21 **THE COURT:** Okay.

22 **MR. BURGESS:** We would have the actual Master in
23 Equity's order here, as well. And also I have
24 the original Notice of Sale from that hearing
25 the 22nd.



1 **THE COURT:** I'm going to need those printed.

2 **MR. BURGESS:** Yes, sir.

3 **THE COURT:** Can you -- while you're looking for
4 that, did we ever find the original Referee's
5 report from the original ---

6 **MR. BURGESS:** That's what I was looking through in
7 the file and I am -- we have a copy uploaded to
8 our system.

9 **THE COURT:** Okay.

10 **MR. BURGESS:** But I don't ---

11 **THE COURT:** I just wanted to see the order before
12 the bankruptcy and I probably have it in my
13 file, but I -- it is not well organized.

14 **MR. BURGESS:** And I do apologize, Your Honor. I was
15 reviewing that particular order in preparing
16 for today's hearing and it seems to have been
17 misplaced in my file, as well, which is also
18 quite voluminous.

19 **THE COURT:** Well, I'm going to -- any ruling that I
20 make today is going to be impacted by that
21 order, so I need to find that original or a
22 clocked copy of that.

23 **MR. BURGESS:** I've sent an email to my legal
24 assistant back at the office to email me a copy
25 of it from our system. I'm also looking



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1 through our finished documents.

2 **THE COURT:** They ought to be in the clerk's original
3 file.

4 **MR. BURGESS:** Your Honor, I do have the 16-17-735
5 section pulled up from the South Carolina
6 Legislature.

7 **THE COURT:** Can you print that?

8 **MR. BURGESS:** I can -- let's see. Can I copy and
9 paste it into an email to your office?

10 **THE COURT:** Uh-huh (affirmative response).

11 **MR. BURGESS:** Would that work?

12 **THE COURT:** Sure.

13 **MR. BURGESS:** All right.

14 **THE COURT:** It might be easier --

15 **MR. BURGESS:** Okay.

16 **THE COURT:** Let me just ---

17 **MR. BURGESS:** Is there an email address that I can -
18 --

19 (Off the Record)

20 (Plaintiff's Exhibit Number Two was marked for
21 identification purposes.)

22 **THE COURT:** I have the order from the previous
23 hearing, which we have marked as Exhibit Two,
24 and I find that that is an order rendering
25 judgement in the case as of the numbers existed



1 as of the date of that hearing. That order was
2 signed by me August 22nd, 2012. All right.
3 Mr. Burgess, so you're moving for sanctions on
4 the grounds that these are sham pleadings that
5 have been filed subsequent to the filing of the
6 order in August of 2012?

7 **MR. BURGESS:** That's correct, Your Honor.

8 **THE COURT:** All right. Okay. Any other motions?

9 **MR. BURGESS:** Your Honor, we're also moving to
10 update the judgement figures as rendered in
11 that August 22nd order based on the passage of
12 time between August 22nd and today. We do have
13 an Affidavit of Indebtedness as to the updated
14 figures. Or, actually, we have a copy of a
15 proposed order that has the updated figures and
16 several copies, one for Ms. El Bey, as well.

17 **THE COURT:** All right. Let me look at your -- let
18 me look at your -- do you have an Affidavit of
19 Debt?

20 **MR. BURGESS:** I have an Affidavit of Attorney's
21 Fees. I do not have an updated Affidavit of
22 Indebtedness. I believe the only thing that's
23 changed is the interest and taxes and
24 insurance.

25 **THE COURT:** Those numbers are included in the



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1 proposed order?

2 **MR. BURGESS:** They are --

3 **THE COURT:** All right.

4 **MR. BURGESS:** -- in the proposed order. There's
5 also a copy there for Ms. El Bey to have for
6 her own records, as well.

7 **THE COURT:** Okay. Anything further beyond the
8 proposed order with the affidavit of updated
9 numbers and the Attorney's Fee Affidavit?

10 **MR. BURGESS:** Your Honor, I believe that's
11 everything we're asking for. The sanctions,
12 Your Honor, we're not necessarily seeking
13 anything monetary from Ms. El Bey. We just
14 seek an order basically preventing her from
15 filing any more of these filings in the future.
16 As you can see, the file has become quite
17 voluminous and it's overwhelming to deal with
18 a number of filings; none of which have an
19 relevance to the actual foreclosure action.

20 **THE COURT:** Okay. Is that all?

21 **MR. BURGESS:** Yes, Your Honor, that's everything.

22 **THE COURT:** Okay. Ms. El Bey, you have filed
23 various motions with the Court. It's now time
24 for you to tell me what motions you want for me
25 to consider at this time.



1 **MS. EL BEY:** Thank you, Your Honor. I shall do
2 that. Before you, Special Referee and Counsel,
3 you have two amended motions and what I'm going
4 to do, since I have filed numerous motions
5 utilizing the South Carolina Rules of Civil
6 Procedure, I've narrowed everything down to two
7 motions that I will present today before the
8 Court. And those are the Amended Respondent's
9 Counter Notice of Motion and Motion to Strike
10 and for Sanctions Plaintiff's Complaint and
11 Motion for Default Judgement under Rule 55.
12 Affirmative Defenses under Rules Counter
13 Claims, this action shall be conducted by
14 equitable proceedings under the South Carolina
15 Rules of Civil Procedure 38 and an Affidavit --
16 let me know when you're ready.

17 **THE COURT:** Go ahead.

18 **MS. EL BEY:** And an Affidavit in Support of the
19 Amended Counter Notice of Motion and Motion to
20 Strike for Sanctions to Plaintiff's Complaint
21 and Motion for Default Judgement on Counter
22 Claim with Objections. The last amended motion
23 that I'll present today is a Motion to Dismiss
24 under South Carolina Rules of Civil Procedure
25 12(b)(6).



1 **THE COURT:** Well, 12(b)(6) is the failure to state
2 a cause of action motion. On what basis do you
3 say that they have failed to state a cause of
4 action?

5 **MS. EL BEY:** Your Honor, if you will allow me to
6 address that, I will. Let me know if it's my
7 time to speak. I don't know.

8 **THE COURT:** You're -- you have the floor now.

9 **MS. EL BEY:** Oh, all right.

10 **THE COURT:** Mr. Burgess is off; you're up.

11 **MS. EL BEY:** Okay.

12 **THE COURT:** He's not going to say another word.

13 **MS. EL BEY:** All right. Thank you. What I'd like
14 to do ---

15 **THE COURT:** Are you, Mr. Burgess?

16 **MR. BURGESS:** (Shakes head negatively.)

17 **THE COURT:** No. Thank you.

18 **MS. EL BEY:** On and for the record, I would like to
19 start with the original complaint.

20 **THE COURT:** Ma'am, I'm not here to start with the
21 original complaint. Let me explain to you
22 where we are procedurally and you need to
23 understand this because it has effect on what
24 you're doing. The Court had this matter before
25 it last year and an order was rendered in which



1 facts were found and an order was rendered for
2 sale of the property. At that time, I found
3 that the Plaintiffs had established everything
4 they needed to establish to foreclose on this
5 property. The order that was filed stated
6 that. You've subsequently filed bankruptcy
7 through the United States Bankruptcy Court and
8 that delayed the proceeding until that
9 bankruptcy matter could be resolved. The
10 bankruptcy matter was resolved and the attorney
11 for the Plaintiff submitted to me an order to
12 restore the case to the docket based on the
13 fact that the bankruptcy had been resolved.
14 So, all that happened was, after the hearing
15 last year, when I issued an order granting the
16 relief they sought, there was a delay because
17 of the bankruptcy. We're now back to the point
18 to where we are proceeding with the -- with the
19 case and really all that's happening today is,
20 they are updating the figures on the debt that
21 have increased since the last hearing, and
22 furnishing me with an affidavit of their
23 attorney's fees and making a Motion for
24 Sanctions, because they argue that what you're
25 doing in the case is, in effect, gumming up the



1 Court by filing sham pleadings. That's
2 procedurally where we are. At this point, the
3 issues that relate to the complaint and the
4 relief have been determined. So, if you're
5 making a Motion to Dismiss under Rule 12(b)(6),
6 that motion is moot. That issue was decided
7 last year and that motion would not properly be
8 before the Court. There's no way for you to
9 make a 12(b)(6) motion after the issues have
10 already been determined. So, if you have a
11 12(b)(6) motion, is that -- if that is one of
12 the motions you're making, that motion is
13 dismissed as not timely. So, I'm not going to
14 listen to an argument on the 12(b)(6) motion.
15 If you have another motion, I'll be glad to
16 listen to it. You lost me in the long
17 explanation of what that motion was. Thank
18 you. Tell me about the first motion that you
19 said you had consolidated everything into two
20 things and I lost you somewhere in the
21 explanation in what that first thing was.

22 **MS. EL BEY:** Your Honor, for the record, I need to
23 object because, number one, this is the first
24 hearing that I have attended. The -- this
25 Court should duly note that it was notified the



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1 ~~reason I was not at the first hearing in August~~
2 of 2012 because I was in the hospital. You
3 proceeded to go ahead and have the hearing
4 anyway and this Court proceeded to go ahead and
5 move with an order. So, now making everything
6 moot denies me of my due process. And as far
7 as I am concerned, I need to have my process
8 heard dealing with the law, as well as the
9 facts in this case. And the major fact in this
10 case, for the record, is that the Plaintiff is
11 not even registered to do business in this
12 state and does not have standing to even step
13 -- initiate the initial procedure. This is a
14 certified copy from the Secretary of State that
15 there is no Certificate of Record. It was no
16 Certificate of Record of H&R Block doing
17 business in this state in 2011 and before that
18 when this initial complaint was initiated. May
19 I continue, sir?

20 **THE COURT:** Yes, ma'am.

21 **MS. EL BEY:** Thank you. Now, the initial complaint
22 was filed January the 14th -- actually, it was
23 stamped January the 14th. I think the filing
24 date on here is the 13th. And, for the record,
25 I want it stated that I answered the initial



1 complaint within -- before the 30 days. And if
2 you will bear with me, the initial complaint
3 states -- and since we're dealing with law and
4 facts, I will get to the other Plaintiff's
5 objections later, but I just want to, for the
6 record, deal with the major issue. And the
7 major issue is, does H&R Block have the
8 authority to bring this matter before the
9 Court, okay? Or before this hearing, let's put
10 it that way. And it states that Plaintiff with
11 motion is based upon original note and mortgage
12 and the complaint attached hereto. That was
13 the summons. Now, the complaint indicates that
14 this loan is not owned by H&R Block. This loan
15 is owned or guaranteed by Fannie Mae or it's
16 owned or guaranteed by HLMC. So, I object to
17 the fact that H&R Block and the Plaintiff, who
18 is H&R Block Bank, FSB, has been able to put
19 forth an order for foreclosure on a
20 Respondent's property without even having
21 standing in this matter. As you know, and in
22 my pleadings, that this mortgage was
23 securitized. And for the record, Fannie Mae --
24 here's another exhibit. Fannie Mae does not --

25 -



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1 **THE COURT:** Well, I'm not -- ma'am ---

2 **MS. EL BEY:** --- and never has ---

3 **THE COURT:** Ma'am.

4 **MS. EL BEY:** --- owned the mortgage.

5 **THE COURT:** Ma'am, if you intend to offer exhibits
6 into the record -- and I need -- you're laying
7 copies of stuff up, but are you intending to
8 offer exhibits into the record at this hearing?

9 **MS. EL BEY:** Absolutely, Your Honor.

10 **THE COURT:** Okay. You want to offer this
11 certificate that you handed me from the
12 Secretary of State?

13 **MS. EL BEY:** Is there another way I'm supposed to do
14 it?

15 **THE COURT:** You're supposed to offer it as an
16 exhibit.

17 **MS. EL BEY:** All right.

18 **THE COURT:** I'm going to put it in as Defendant's
19 One.

20 **(Defendant's Exhibit Number One was marked for**
21 **identification purposes.)**

22 **THE COURT:** And I'm going to put in the other
23 document in a minute. Just wait until the
24 reporter marks this.

25 **MS. EL BEY:** Let me ask you again ---



1 THE COURT: Ma'am. Wait until the court reporter
2 finishes.

3 MS. EL BEY: Oh, oh.

4 THE COURT: You can't say anything yet. Just wait.
5 Have you marked Exhibit One? All right.

6 (Defendant's Exhibit Number Two was marked for
7 identification purposes.)

8 THE COURT: She's handed me a document that is
9 Fannie Mae loan look-up result. I'm going to
10 hand you and she's offering as her Exhibit Two.
11 All right. Do you have -- you can go ahead
12 with your presentation, but when you get to the
13 point of wanting to put something in the
14 record, you need to tell me so we can offer it
15 as an exhibit and mark it. Okay?

16 MS. EL BEY: Yes, Your Honor.

17 THE COURT: All right.

18 MS. EL BEY: So, based on the Exhibit Number Two,
19 for the record, Fannie Mae, nor FHLM and H&R
20 Block, do not own the mortgage or the note that
21 is before this Court today, for and on the
22 record. And it's my understanding from
23 Plaintiff's exhibit, you have a copy already of
24 the note, which was not my signature, and the
25 mortgage, which was not my signature. I did



1 ~~sign a mortgage and I did sign a note; I'm not~~
2 denying that. But those records have been
3 altered. I do want to indicate that -- another
4 exhibit for the record.

5 **THE COURT:** Okay.

6 **MS. EL BEY:** The -- this has been in many of my
7 pleadings and also the Plaintiff's pleading and
8 that is the assignment of the real mortgage.
9 Please note, for the record, that the mortgage
10 -- that this assignment was dated the same day
11 that the mortgage originated and that was March
12 the 29, 2006. However, the assignment was
13 never filed in the Lancaster County until
14 August the 5th, 2010, which makes it four years
15 interrupting the chain of command or the chain
16 of ownership of the mortgage and the note. Not
17 only that, on and for the record, this
18 assignment was later signed by naturally known
19 robo-signers. And I do have two affidavits
20 that have previously been submitted and are
21 part of the existing court record from the
22 Register of Deeds in the Commonwealth of
23 Massachusetts. And if I may read it for the
24 record?

25 **THE COURT:** No ma'am, you may not.



1 MS. EL BEY: Okay. Well, I will submit it for the
2 record.

3 THE COURT: Well, I'll look at the exhibit but you
4 may not read that into the record. Let me see
5 your exhibit.

6 MS. EL BEY: May I continue while you look?

7 THE COURT: No, ma'am.

8 MS. EL BEY: Okay. Okay.

9 THE COURT: I'm considering the exhibit.

10 MS. EL BEY: Oh, okay.

11 (Defendant's Exhibit Number Three was marked for
12 identification purposes.)

13 THE COURT: Ms. El Bey, I'm going to admit into the
14 record the exhibit, which is a two-page
15 exhibit, the Assignment of the Real Estate
16 Mortgage which was recorded August 5th, 2010,
17 in Mortgage Book 2265 at Page 129, but I am not
18 going to introduce the accompanying
19 documentation that is not part of the original
20 document. So, I'm going to return to you your
21 affidavits from the Commonwealth of
22 Massachusetts and we'll mark the two-page
23 exhibit, which is the Assignment of Mortgage,
24 as your Exhibit Number Three and once the court
25 reporter completes that, I have a question.



1 Explain to me, if you can, please, why you
2 think that the recording of the assignment four
3 years after the execution of the assignment has
4 any effect upon this action?

5 **MS. EL BEY:** It is my understanding based on the
6 flow of things -- if I might be able to analyze
7 and give you a brief analysis, if I'm permitted
8 to do that.

9 **THE COURT:** Well, I need for you to answer my ---

10 **MS. EL BEY:** Dealing with ---

11 **THE COURT:** I need for you to answer my question.

12 **MS. EL BEY:** I am -- I am going to answer your
13 question, but in order to answer your question,
14 I need -- I need for an understanding to be
15 placed before this Court, because it appears
16 that I'm being railroaded. I'm not able to
17 even share what has taken place with me as a
18 homeowner in this county. And it's important
19 to me that I am heard and that --

20 **THE COURT:** Ma'am, I'm going to stop you right
21 there. This is a proceeding in the course of
22 this state. I am a Judge in this Court,
23 appointed by the state to hear this case. I am
24 trained in the law, I understand the law and I
25 am giving you your due process. But, I'm not



1 going to stay here all day while you go through
2 this vast amount of material that you have
3 submitted because I have reviewed all of this
4 material and, quite frankly, I have seen this
5 type of material before in other cases. These
6 are, in fact, sham pleadings. These are, in
7 fact, sham defenses. And these are, in fact,
8 documents and defenses that are designed to
9 delay and cause exactly what has been happening
10 in this case and that is a delay in the prompt
11 distribution of justice in this case under the
12 law. Now, I asked you a question. And the
13 question was, why does the passage of four
14 years affect the validity of the assignment.
15 I will answer that question for you. It makes
16 no difference at all. They could have filed
17 that assignment the day before they started
18 this foreclosure, if they wanted to. They do
19 not have to file that assignment the day it is
20 signed. There is no requirement at law. The
21 requirement is that as of the date of filing,
22 everything has to be in place. That was in
23 place before they filed. It assigns the
24 mortgage to the Plaintiff in this case. The
25 Plaintiff has standing and is properly before



1 this Court. So, any objection based on
2 standing is improper and is not going to be
3 granted. So -- and as to the -- to your
4 statement about you being railroaded, you have
5 to comply with the rules of the Court. The
6 Court does not hear everything you wanted to
7 say because everything you wanted to say is not
8 relevant to the issues that are before the
9 Court today. I'm giving you an opportunity to
10 speak to the relevant issues that are before
11 the Court today, but standing of the Plaintiff
12 is not one of those issues; they have standing.
13 So, that's the end of that issue. What other
14 issue do you have?

15 **MS. EL BEY:** I object that the Plaintiff has
16 standing based on what Your Honor has stated,
17 because it is a matter of law, as you stated,
18 and also rules, as you stated. And also, based
19 on my objection, I object from the standpoint
20 that Your Honor has already made a decision and
21 made the statement -- this is on and for the
22 record -- that any decision will be impacted by
23 that order and that order that was referred to
24 was the order to foreclose and sell my
25 property.



1 **THE COURT:** That order ---

2 **MS. EL BEY:** That was your statement.

3 **THE COURT:** Ma'am, that order is the law of this
4 case.

5 **MS. EL BEY:** And that's at rule 701.

6 **THE COURT:** Ma'am?

7 **MS. EL BEY:** Yes.

8 **THE COURT:** Do not talk over me. When I'm talking,
9 you stop.

10 **MS. EL BEY:** I hadn't finished, Your Honor.

11 **THE COURT:** You are finished. This is a simple
12 foreclosure of a mortgage case. You --
13 according to the record in this case, you made
14 transactions of this property after you entered
15 into the mortgage agreement with the Plaintiff,
16 the successor of the Plaintiff. It appears to
17 the Court that the effort to make those
18 conveyances was to confuse the title and delay
19 any prosecution of this case. I note that the
20 gentleman sitting in the court has indicated
21 that his name is Wes Clayton. A named
22 Defendant in this case is Wellesley K. Clayton.
23 I assume that that is the same gentleman seated
24 in the courtroom.

25 **MR. CLAYTON:** I am independent of this Court.



1 **THE COURT:** He is a -- he is a ~~Trustee under one of~~
2 the deeds that was done in this chain of title.
3 I can tell you that it appears to the Court
4 that this is simply an effort to delay this
5 proceeding. And I'm going to allow you to
6 continue your presentation, but I am not going
7 to allow you to continue endlessly debating the
8 Sovereignty of Nations and your individuality
9 as an indigenous person. You were warned by the
10 South Carolina Supreme Court about this
11 behavior in January of 2011 and I have made
12 copies of the three statutes that were cited in
13 that letter and I herewith deliver them to you
14 and we'll give a copy to Counsel for the
15 Plaintiff. And we'll make a set of those the
16 Court's Exhibit Number One. If you'll mark
17 that, Madame Reporter.

18 **(Court's Exhibit Number One was marked for**
19 **identification purposes.)**

20 **THE COURT:** Now, the letter and the statutes have
21 been introduced. Those -- I hope that when you
22 got the letter, you went and reviewed those
23 statutes, looked at them closely and understand
24 that those statutes indicate that the behavior
25 that you're engaging in in this case can be



1 deemed criminal and is, at the very least, a
2 process which the courts of this state
3 discourage and do not recognize. So, I will
4 listen to your presentation, but I can tell you
5 that the bulk of the stuff that you sent me are
6 not proper pleadings. They are not proper
7 responses. They are, in fact, sham pleadings.
8 And the Court gives them little or no weight in
9 the consideration of the issues in this case.
10 You certainly have a right of appeal after we
11 finish this case, but I would again warn you
12 that the strictures contained in the letters
13 that you received dated January 28th, 2011,
14 and, most probably, the instructions that I
15 will grant in the order will prevent you from
16 filing any further sham pleadings with this
17 Court and if you do, I will still have
18 jurisdiction of this case and I will take
19 action in relation to those sham pleadings if
20 they are filed. I have not done anything to
21 this point because I wanted to wait to get to
22 this hearing to see and hear your explanation,
23 but your explanations are not legal reasons for
24 this Court to take action or undo anything that
25 this Court has done to this point. So, I will



1 listen to you as you present your case. If you
2 would like to make further statements to the
3 record, I will listen to the point that the
4 things you say are relevant. When they become
5 irrelevant, I will stop you and we will move to
6 another point.

7 **MS. EL BEY:** Thank you. I object to everything that
8 has been said so far and the objection, Rule
9 103(c), and that objection is improper
10 character characterization that was made by the
11 Plaintiff and also the Special Referee this
12 morning in reference to my motion -- the Motion
13 to Strike, which was repetitive in recognizing
14 me as a Sovereign. I have no idea what that
15 definition is but, to me, that's derogatory.
16 So, on and for the record, I am utilizing South
17 Carolina Rule 103(c) and also Rule 404 and 505
18 as far as an objection is concerned. I want
19 this Court to know, on and for the record, I am
20 not an attorney, but I do recognize law and
21 facts and I will present law and facts. None
22 of my pleadings, as I see them, have been sham.
23 And for the record, in reference to the South
24 Carolina letter, and also the Section 16-17-735
25 dated 2003 and 15 -- Chapter 15-75-60, 2005,



1 and Chapter 30-9-30, 2007, which is the Supreme
2 Court's order dealing with sham pleading
3 filing. At this particular point, since
4 nothing that I have presented so far I would
5 consider sham, everything has been based on the
6 South Carolina Rules. I do have a book that I
7 follow. I do have the evidence and -- evidence
8 rules of South Carolina and I also have the
9 Evidentiary Objection Ruling of South Carolina,
10 which I have tried my best to stay on point and
11 be recognized by the Court dealing with law and
12 facts. I consider the constant attack in
13 reference to me as bolstering credibility and
14 I -- that attack is Rule 608(a). Also, this is
15 reference to saving my property and to whether
16 H&R Block has standing in this case; that is
17 Rule 608(a), as being irrelevant. Moving now
18 the Motion to Restore this case, August of 1,
19 2013, by the Plaintiff. This is after the
20 foreclosure order was submitted by the
21 Honorable Special Referee, Mr. Wright. Let the
22 records indicate that I answered Plaintiff
23 before the 30 days in reference to their Motion
24 to Restore. It is ambiguous at this particular
25 point because some of the statements in the



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1 ~~July --- the August 1st pleading, I do not~~
2 understand and do not see why they were
3 mentioned, but maybe someone can assist me with
4 that. I'm looking at the Motion and Order to
5 Restore and that is ---

6 **THE COURT:** Yes, ma'am. I'm familiar with that and
7 I'm going to stop you at that point. The
8 Motion to Restore is an administrative matter
9 that is summarily handled by the Court on
10 motion of the Plaintiff when the bankruptcy has
11 expired. There is not requiring of a hearing
12 on that motion. There is no requiring for a
13 response on that motion. And I granted the
14 motion upon submission by the Plaintiff because
15 it is an administrative act and does not
16 require a hearing. So, that issue is moot.

17 **MS. EL BEY:** May I continue?

18 **THE COURT:** Not discussing that issue. You can move
19 to the next issue.

20 **MS. EL BEY:** I'm confused. So, I just need -- I
21 just need some clarification on ---

22 **THE COURT:** I've explained to you ---

23 **MS. EL BEY:** --- on this right here. The motion ---
24 well, anyway, I'll wait.

25 **THE COURT:** Well, the Court notes that the Defendant



1 has handed up a Supreme Court order relating to
2 family court forms rendered by Justice Toal in
3 February of 2006; that has absolutely nothing
4 to do with this action because, first, this is
5 not family court. Second, this is an
6 Administrative Order related to forms in the
7 family court and it has nothing to do with
8 this. So, I'm not going to introduce that as
9 anything in the record as it's completely
10 irrelevant. And that's an example of a sham
11 pleading.

12 **MS. EL BEY:** My objection to what has just been
13 stated by the Special Referee, the order that
14 was signed was based on the Chief Justice Order
15 of July -- June the 5th, 1992, and I am
16 definitely confused when I received this
17 because this is not a family court. This is
18 the Court of Common Pleas.

19 **THE COURT:** Ma'am, I am not here -- I am not here to
20 clarify your confusion.

21 **MS. EL BEY:** I don't understand. I don't understand
22 this, but here -- here is ---

23 **THE COURT:** Ma'am, I'm sorry. I'm sorry that you
24 don't understand.

25 **MS. EL BEY:** This is what it was based on. You



1 signed an order.

2 **THE COURT:** Yes, ma'am.

3 **MS. EL BEY:** And it was ---

4 **THE COURT:** Move on to your next point. That had
5 nothing to do ---

6 **MS. EL BEY:** Okay. Let the record reflect that
7 order was signed which had nothing to do ---

8 **THE COURT:** Strike her statements at this point.
9 Move to your next point.

10 **MS. EL BEY:** My next point is that I answered the
11 Plaintiff's Motion to Restore.

12 **THE COURT:** And the Court has told you that no
13 answer was required. Move to your next point.

14 **MS. EL BEY:** Excuse me, Your Honor, are you going to
15 treat me this way as -- as we are going through
16 -- through this? I will go to ---

17 **THE COURT:** Ms. El Bey ---

18 **MS. EL BEY:** --- my next point.

19 **THE COURT:** Ms. El Bey, I am not going to go over
20 ground we have already plowed. You've already
21 stated that you filed an answer to their Motion
22 to Restore. I have told you that it was not
23 necessary to file an answer to that motion. It
24 was an administrative motion; I granted it.
25 It's not relevant. I don't care what you filed



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1 in relation to that. It had no bearing on the
2 re-entry of the order restoring this case.
3 Move on to your next point.

4 **MS. EL BEY:** Question.

5 **THE COURT:** Yes, ma'am.

6 **MS. EL BEY:** Your Honor, if there was a record on a
7 Motion to Restore and it was an Administrative
8 Order and I received a copy of this
9 Administrative Order, what does that mean to me
10 if I didn't answer it? Please explain that to
11 me. I want to be in compliance and -- and if
12 I did something wrong, I need you to tell me
13 that. But the rules say that I needed to
14 answer, so please help me out here.

15 **THE COURT:** Ms. El Bey, it is not the job of this
16 Court to teach you law. It is the job of this
17 Court to enforce the law. The fact that you do
18 not understand or appreciate or wish to follow
19 or wish to hire an attorney to get advice,
20 which is what you needed to do, is not the
21 problem of this Court. You have not understood
22 much of this entire process and no -- no amount
23 of me sitting here today telling you that is
24 going to convince you of that. So, I am going
25 to conduct this hearing according to the rules



1 of evidence and the rules of law and that's
2 exactly the path we're going down. Now, if you
3 have another legal issue to raise, you raise it
4 and I'll rule on it. If it's a valid reason,
5 if it's a valid thing, I'll hear it. But so
6 far, everything has been irrelevant. So, move
7 on to your next point.

8 **MS. EL BEY:** The original Master's report, I never
9 received a copy of that and if that is
10 available, I'd like to receive a copy.

11 **THE COURT:** Do you have an Affidavit of Service, Mr.
12 Burgess?

13 **MR. BURGESS:** Your Honor, I believe she's already
14 submitted a copy; that's her refusal of the
15 contract. That would be Plaintiff's Exhibit
16 Number Two.

17 **MS. EL BEY:** Is that the original Master's report?

18 **THE COURT:** That is a copy of the report. They're
19 not required to serve you with an original.
20 They served you with a copy.

21 **MR. BURGESS:** Okay.

22 **MS. EL BEY:** Yes, but I ---

23 **THE COURT:** Did you put that on there (indicating)?

24 **MS. EL BEY:** I just wanted to know if that was what
25 is considered to be ---



1 **THE COURT:** Did you stamp that on there "refused"?

2 **MS. EL BEY:** Absolutely.

3 **THE COURT:** Okay. Well, you received it.

4 **MR. BURGESS:** She received a copy.

5 **MS. EL BEY:** Okay. So we are clear that that's --
6 that order was what was called the original
7 Master's report?

8 **THE COURT:** That's correct.

9 **MS. EL BEY:** Okay. It didn't say that, so I didn't
10 know that. And I'm really not here for you to
11 teach me law or anything like that. I'm here
12 just to defend my property, okay? I said two
13 things I'd deal with today, so the first thing
14 is the amended form in reference to Counter
15 Notice of Motion to Strike and Sanctions. The
16 Motion to Strike and Default Judgement are
17 brought under the Rules of Civil Procedure in
18 the South Carolina Judicial Court, Rule 11, and
19 the CSPR, which stands for the South Carolina
20 Rules of Procedure, 12(f), and the South
21 Carolina Rules of Procedure, Default Rule 55.
22 Respondent as Counter Claimant and Plaintiff as
23 H&R Block, FSB, have failed to plead or
24 otherwise defend within 30 days as provided by
25 the South Carolina Rules of Civil Procedure and



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1 the South Carolina Judicial Court under Rule
2 55. When presented, the rule and the fact is
3 made to appear by affidavit or otherwise, the
4 clerk shall enter a -- enter the party or
5 plaintiff default. Under Rule and Civil
6 Procedure, South Carolina 13(g), Counter Claim
7 and Cross Claim, when presented, Counter Claim
8 exceeding opposing claim. The grounds to
9 Motion and Strike Sanctions are one; that the
10 Complaint filed by Plaintiff, H&R Block, FSB,
11 is not signed by H&R Block Bank, FSB, nor is it
12 verified by H&R Block Bank, FSB. The Complaint
13 does not contain an existing contract of fact
14 or of fact testimony from a competent fact
15 witness, no evidence has been introduced
16 showing that Rule 11(b)(3), Brock and Scott Law
17 Firm has personal knowledge supported by an
18 affidavit or an oath under the penalty of
19 perjury under the South Carolina Rules of
20 Evidence, Rule 601, 602, 603, 802, 803, 804 and
21 901, requirements for authentication and
22 identification, 1002 and 1003 and 1007 and is
23 hearsay, does not fall within the hearsay
24 exceptions, assumed facts not in evidence and
25 specifically object on these grounds. Brock



1 and Scott, a third-party debt collector, with
2 numerous attorneys and offices located in four
3 different states within the United States are
4 in violation of Rule 11(a). Signature; every
5 pleading, written motion or paper shall be
6 signed. What does this mean when you sign? It
7 means, A, that you have read the pleading; B,
8 that the pleading was not prepared for any
9 improper purpose; and, C, that you have
10 satisfied the substantive requirement of the
11 rule as described below. The third sentence
12 under 11(a) states that if you do not sign a
13 pleading, it may be stricken unless corrected.
14 Brock and Scott, PLLC, breached their duty.
15 Two, the Promissory Note and Mortgage Security
16 Agreement and the Mortgage Assignment dated
17 3/29/2006 to H&R Block contained forged
18 signatures under Section 35 -- Chapter 35,
19 3308(a) and (b) of the South Carolina Uniform
20 Commercial Code and the burden is on H&R Block
21 Bank as a moving party to authenticate the
22 signatures under Section 35-3-308(a)(b) of the
23 South Carolina Unified Commercial Code.

24 **THE COURT:** I'm going to stop you right there, Ms.
25 El Bey. You're reading from the form of the



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1 ~~motion that you already filed with the Court.~~

2 Is it your intention to read the entire motion
3 into the record?

4 **MS. EL BEY:** Yes, it is my intention to read the
5 entire motion in the record.

6 **THE COURT:** The motion is already in the record. I
7 want to hear argument related to the motion.
8 I don't need you to read the motion into the
9 record. You've filed it. It's part of the
10 record. I need to hear argument.

11 **MS. EL BEY:** Number one, the complaint filed by
12 Brock and Scott is not signed nor verified by
13 the bank and there is no valid, existing
14 contract between the Respondent and Brock --
15 and H&R Block Bank.

16 **THE COURT:** I'm going to stop you at this point.
17 Ma'am, I had found as a matter of fact in the
18 first proceeding that they presented sufficient
19 evidence to go forward and I find your motion
20 to be inappropriate and deny your motion. Move
21 to your next motion.

22 **MS. EL BEY:** I object, Your Honor, but this is your
23 court and I just wanted for the record to note
24 that H&R Block do not have standing in this
25 Court and ---



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1 **THE COURT:** I already ruled on that.

2 **MS. EL BEY:** Okay. My next motion, which is my last
3 motion, is an Amended Motion to Dismissed
4 (sic).

5 **THE COURT:** On what grounds?

6 **MS. EL BEY:** 12(b)(6).

7 **THE COURT:** Denied.

8 **MS. EL BEY:** Let the record state that the Special
9 Referee has denied my Amended Motion, 12(b)(6),
10 to be entered into the -- you denied the
11 motion. Can it be entered into the record?

12 **THE COURT:** The motion has already been filed. The
13 motion is part of the file. I told you
14 previously, a 12(b)(6) motion is not
15 appropriate at this stage of the proceeding.
16 We're beyond that stage. It's too late to make
17 a 12(b)(6) motion. I couldn't grant it if I
18 wanted to. It's not appropriate at this stage
19 of the proceeding. It's denied as untimely and
20 unsupported, so it's denied. You mentioned
21 earlier in your arguments about being in
22 default. You are not in default in this case.
23 You filed an answer. The record for the first
24 hearing specifically found that you were not in
25 default in this case. So, default has nothing



1 to do with this case. This was a case that was
2 heard and decided, held in abeyance while you
3 filed bankruptcy, has now been restored to the
4 record and I'm going to proceed to sign an
5 order to sell the property. You have all your
6 rights of appeal that you wish to exercise, but
7 I'm also going to grant the motion of the
8 Plaintiff for sanctions and I'm going ask the
9 Plaintiff to prepare a motion -- prepare an
10 order for me that says that if another sham
11 pleading is filed with this Court that the
12 Court will take action to prevent the filing of
13 other sham pleadings and that if this matter is
14 appealed to the South Carolina Appeals -- Court
15 of Appeals, that the Court would be notified of
16 the proceedings below and that the fact that
17 the Court here has found that you have filed
18 sham pleadings in this case to delay this
19 action and that there should be no further
20 delay in the process of getting this property
21 sold. I want to ask you a question, ma'am.
22 How long has it been since you made a mortgage
23 payment on this property?

24 **MS. EL BEY:** Your Honor, that's irrelevant at this
25 point.



1 **THE COURT:** No, ma'am, my question is how long has
2 it been? You'll answer my question.

3 **MS. EL BEY:** I really don't know.

4 **THE COURT:** Have you made a payment in the last two
5 years?

6 **MS. EL BEY:** Let the record indicate that Respondent
7 did reply to Your Honor.

8 **THE COURT:** Is that the only response you're going
9 to give me?

10 **MS. EL BEY:** The other response, Your Honor, that I
11 am going to express, for and on the record, is
12 that 12(b)(6) can be filed after a judgement.
13 So please have that on and in the record, but
14 Your Honor states that he will not entertain
15 it. But it can be filed at any time following
16 a judgement.

17 **THE COURT:** You misunderstand the law. Hearing is
18 adjourned.

19 (The hearing concluded at 12:00 p.m.)

20

21

22

23

24

25



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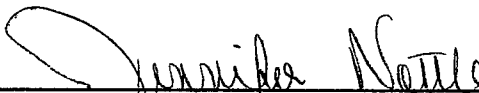
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CERTIFICATE

This is to certify that the within hearing consisting of Forty-Nine (49) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on November 26, 2013.



Jennifer Nottle
Court Reporter

Notary Public for South Carolina
My Commission Expires: 7/11/2023

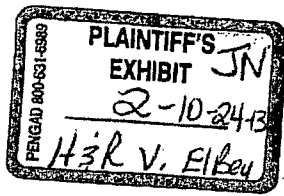


EXHIBIT B

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER
IN THE COMMON PLEAS COURT

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-29-00035

H&R Block Bank, FSB

PLAINTIFF(S)

Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey, WKFC Living Trust Under Trust Agreement Dated June 4, 2010 by and through its Trustee Wellesley K. Clayton and American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation

DEFENDANT(S)

Submitted by: <u>Brock & Scott, PLLC</u> <u>Westpark Center</u> <u>3800 Fernandina Road Suite 110</u> <u>Columbia, SC 29210</u>	Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
--	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON)** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: Special Referee's Order for Foreclosure and Judgment for Sale

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below where the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
H&R Block Bank, FSB	WKFC Living Trust Under the Provisions of a Trust Agreement Dated June 4, 2010 by and through its Trustee Wellesley K. Clayton	Deficiency Demanded: Exact deficiency judgment amount to be determined after sale

ATTACHED

Empty rectangular box at the top of the page.

If applicable, describe the property, including tax map information and address, referenced in the order:
All that certain piece, parcel or lot of land located in Lancaster County, South Carolina, and being designated as Lot 261 on that certain Plat of Clairemont, Phase 2, Map 5, prepared by Yarbrough, Williams & Houle, Inc. dated January 18, 2005, and recorded January 28, 2005, as Plat Doc #2005 at Page 0047 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Also being shown as Lot 261 of Clairemont on a Plat of Ziraili Elbey prepared by Hucks and Associates, PC, dated March 3, 2006, and recorded in Plat Doc 2006 at Page 198.

This being the identical property conveyed to Ziraili M. Elbey by deed from The Ryland Group, Inc. dated March 29, 2006 and recorded April 7, 2006 in Book 329 at Page 170. Subsequently, said property was conveyed to KMJ Trust, dated December 15, 2006 (Trustees: Ziraili Mohassan El Bey and Mark Antonio Findletter Clayton) by Deed of Ziraili M. Elbey dated January 19, 2007 and recorded January 29, 2007 in Book 378 at Page 7. Thereafter, the property was conveyed to WFKC Living Trust Under the Provisions of a Trust Agreement Dated June 4, 2010 (Trustee: Wellesley K. Clayton) by deed of Ziraili Mohassan El Bey and Mark Antonio Findletter Clayton as Trustees of The KMJ Trust, dated December 15, 2006 dated June 11, 2010, and recorded June 22, 2010 in Book 569 at Page 85.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Handwritten Signature]

Circuit Court Judge

Judge Code

8/22/12
Date

For Clerk of Court Office Use Only

This judgment was entered on the 22 day of Aug, 2012 and a copy mailed first class or placed in the appropriate attorney's box on this 22 day of Aug, 2012 to attorneys of record or to parties (when appearing pro se) as follows:

- Brian L. Campbell, SC Bar No. 74521
- Suzanne E. Brown, SC Bar No. 76440
- Jason L. Branham, SC Bar No. 72902
- Chad Burgess, SC Bar No. 72520
- J. Marshall Swails, SC Bar No. 79067
- Sarah B. Oliver, SC Bar No. 80165
- J. Martin Page, SC Bar No. 100200
- Brook Dangerfield, SC Bar No. 77912
- Marc S. Asbill, SC Bar No. 100332
- January N. Taylor, SC Bar No. 80069
- Travis E. Menk, SC Bar No. 79144
- Mark A. Pearson, SC Bar No. 15926

ATTORNEY(S) FOR THE PLAINTIFF(S)

Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey,
WKFC Living Trust Under Trust Agreement Dated
June 4, 2010 by and through its Trustee Wellesley K.
Clayton and American Home Mortgage Servicing,
Inc. s/b/m to Option One Mortgage Corporation
DEFENDANT(S)

[Handwritten Signature]
CLERK OF COURT

Court Reporter:

REUSED OFFER TO COMPLY

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS
CASE NO.: 2011-CP-29-00035

H&R Block Bank, FSB

Plaintiff,

SPECIAL REFEREE'S REPORT AND JUDGMENT OF
FORECLOSURE AND SALE

v.

DEFICIENCY DEMANDED AS TO DEFENDANT(S)
ZIRAILI M. ELBEY (A/K/A ZIRAILI MOHASSAN EL
BEY)

Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey,
WKFC Living Trust Under Trust Agreement
Dated June 4, 2010 by and through its Trustee
Wellesley K. Clayton and American Home
Mortgage Servicing, Inc. s/b/m to Option One
Mortgage Corporation,

Defendant(s)

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), the above-entitled matter was referred to the undersigned Special Referee to make appropriate findings of fact and conclusions of law, with authority to enter a final Judgment in the cause. Any appeal from the decision of the Special Referee shall be directed to the South Carolina Supreme Court.

Pursuant to the said reference, a hearing was held, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on January 14, 2011.
2. The Summons and Complaint were filed on January 14, 2011.
3. Service was made upon the Defendants named in this Report as is shown by the proofs of service filed herein.
4. The Defendant(s) WKFC Living Trust under trust agreement dated June 4, 2010, by and through its Trustee Wellesley K. Clayton; and American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation are in default as shown by Affidavit filed herein.

DEW

5. According to an Affidavit filed herein, no Defendant in default is in the military service of the United States of America, as contemplated under the Servicemembers' Civil Relief Act fka Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto.

6. The Defendant Ziraili M. Elbey a/k/a Ziraili M. El Bey answered in this action and has been notified of the time and date of this hearing.

7. The Defendant(s) were notified of the time, date and place of hearing in this matter.

8. For value received, Ziraili M. Elbey (a/k/a Ziraili Mohassan El Bey) made, executed and delivered a note, dated March 29, 2006, promising thereby to pay to the order of Option One Mortgage Corporation the sum of \$197,186.00 with interest at the rate of 7.999% per annum (hereinafter "Note"). Other terms and conditions are stated in the note, which is of record herein.

9. To better secure the payment of the Note described above, the said Ziraili M. Elbey (a/k/a Ziraili Mohassan El Bey) made, executed and delivered a mortgage to Option One Mortgage Corporation, in writing, dated March 29, 2006, covering real property in Lancaster County, which is the same as that described in the Complaint. The mortgage was recorded on April 7, 2006, and is of record in the Lancaster County Registry in Book 7486 at page 1.

10. This mortgage constitutes a valid purchase money, first lien on the subject property.

11. Thereafter the Mortgage and the Note were assigned to the Plaintiff herein by assignment recorded on August 5, 2010 in Book 2465 at Page 129. By virtue of said assignment, the Plaintiff in this action is the holder of the note and mortgage.

12. As required by an Administrative Order issued by the South Carolina Supreme Court dated May 22, 2009, the Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLB, or the Servicer has signed an agreement to participate in the Home Affordable Modification Program ("HMP"); however, the loan does not qualify for a modification under the above foreclosure prevention program because the loan investor has declined to allow a HMP modification.

13. Furthermore, Plaintiff complied with Administrative Order 2011-05-02-1 issued by the South Carolina Supreme Court.

14. The titleholder(s) of record of the Property as of the filing of the Lis Pendens in this action was WKFC Living Trust Under the Provisions of a Trust Agreement Dated June 4, 2010 by and through its Trustee Wellesley K. Clayton.

15. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note and Mortgage in the hands of its attorney of record herein for collection.

16. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice; the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$2,985.00 is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.

17. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal due as of today's date:	08/22/12	\$ 189,911.32
Accrued interest from	02/01/10 to: 07/16/12	\$ 37,335.97
Accruing at:	7.999% per annum	
Advancements to Escrow		\$ 803.19
Corporate Advances		\$ 54.90
Costs of collection prior to hearing:		\$ 2,222.50
Attorney's fees:		\$ 2,985.00

13. Furthermore, Plaintiff complied with Administrative Order 2011-05-02-1 issued by the South Carolina Supreme Court.

14. The titleholder(s) of record of the Property as of the filing of the Lis Pendens in this action was WKFC Living Trust Under the Provisions of a Trust Agreement Dated June 4, 2010 by and through its Trustee Wellesley K. Clayton.

15. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note and Mortgage in the hands of its attorney of record herein for collection.

16. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice, the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$2,985.00 is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.

17. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal due as of today's date:	08/22/12	\$ 189,911.32
Accrued interest from	02/01/10 to: 07/16/12	\$ 37,335.97
Accruing at:	7.999% per annum	
Advancements to Escrow		\$ 803.19
Corporate Advances		\$ 54.90
Costs of collection prior to hearing:		\$ 2,222.50
Attorney's fees:		\$ 2,985.00

2. That there is due to the Plaintiff on its Note and Mortgage the sum of \$233,312.88, representing the Total Debt due to the Plaintiff as outlined above, together with interest thereon at the rate provided in the Note to the date hereof.
3. That the amount due in the preceding paragraph (the "Total Debt") and later accrued interest and costs shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter at the rate of 7.999% per annum, the current interest rate of the Note.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That the Defendant(s) liable for the aforesaid Mortgage debt shall, prior to the date and time of the sale of the Property, hereinafter described, pay to the Plaintiff, or the Plaintiff's attorney, the amount of the Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.
2. That on default of payment prior to the date and time of the sale, the Property, hereinafter described, shall be sold by the undersigned Special Referee at public auction, at the Lancaster County Courthouse, Courtroom B, City of Lancaster, County and State aforesaid, on some convenient sales day hereafter, on the following terms, that is to say:
 - A. FOR CASH: The undersigned Special Referee shall require a deposit of 5% on the amount of the bid (in cash or equivalent) the same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within thirty (30) days the same to be forfeited and applied to the costs and then to the Plaintiff's debt.
 - B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.999% per annum, which is the Note's current interest rate.
 - C. The sale shall be subject to taxes and assessments, existing easements and restrictions of record, and any other senior encumbrances.
 - D. Purchaser to pay for the deed and the cost of recording the deed.

8. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whomsoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.
9. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Lancaster County Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.
10. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants in possession herein, the Sheriff of Lancaster County may be ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.
11. That it is further ORDERED ADJUDGED AND DECREED that after the Order Confirming Sale and Disbursements has been issued and filed, the undersigned Special Referee shall direct the Register of Deeds to release of record the lien(s) being foreclosed, which lien(s) are described in the Findings of Fact herein above.
12. That it is further ORDERED ADJUDGED AND DECREED that the following is a description of the Property herein ordered to be sold:

REV

3. If the Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of the Plaintiff in full, the Plaintiff may pay to the undersigned Special Referee only the amount of the costs and expenses, crediting the balance of the bid on the Plaintiffs indebtedness.
4. That a personal or deficiency Judgment being Demanded, the bidding will remain open for thirty (30) days after the date of sale (pursuant to S.C. Code Ann. § 15-39-760(1976) but compliance with the bid may be made immediately.
5. That the undersigned Special Referee will, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he will execute to the purchaser, or purchasers, a deed to the Property sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. Upon such sale being made, should the successful bidder, or his assignee, fail to comply with the terms thereof within thirty (30) after the date of sale, then the undersigned Special Referee may re-advertise the Property for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.
6. In the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.
7. That the undersigned Special Referee shall apply the proceeds of the sale as follows:
- FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court; and
- NEXT: To the payment of the amount to the Plaintiff, or the Plaintiffs Attorney, of the amount of the Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same; and
- NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRCP.

REFUSED OFFER TO CONTRACT

pet

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND LOCATED IN LANCASTER COUNTY, SOUTH CAROLINA, AND BEING DESIGNATED AS LOT 261 ON THAT CERTAIN PLAT OF CLAIREMONT, PHASE 2, MAP 5, PREPARED BY YARBROUGH, WILLIAMS & HOULE, INC. DATED JANUARY 18, 2005, AND RECORDED JANUARY 28, 2005, AS PLAT DOC #2005 AT PAGE 0047 IN THE OFFICE OF THE CLERK OF COURT FOR LANCASTER COUNTY, SOUTH CAROLINA.

ALSO BEING SHOWN AS LOT 261 OF CLAIREMONT ON A PLAT OF ZIRAILI ELBEY PREPARED BY HUCKS AND ASSOCIATES, PC, DATED MARCH 3, 2006, AND RECORDED IN PLAT DOC 2006 AT PAGE 198.

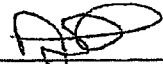
THIS BEING THE IDENTICAL PROPERTY CONVEYED TO ZIRAILI M. ELBEY BY DEED FROM THE RYLAND GROUP, INC. DATED MARCH 29, 2006 AND RECORDED APRIL 7, 2006 IN BOOK 329 AT PAGE 170. SUBSEQUENTLY, SAID PROPERTY WAS CONVEYED TO KMJ TRUST, DATED DECEMBER 15, 2006 (TRUSTEES: ZIRAILI MOHASSAN EL BEY AND MARK ANTONIO FINDLETTER CLAYTON) BY DEED OF ZIRAILI M. ELBEY DATED JANUARY 19, 2007 AND RECORDED JANUARY 29, 2007 IN BOOK 378 AT PAGE 7. THEREAFTER, THE PROPERTY WAS CONVEYED TO WFKC LIVING TRUST UNDER THE PROVISIONS OF A TRUST AGREEMENT DATED JUNE 4, 2010 (TRUSTEE: WELLESLEY K. CLAYTON) BY DEED OF ZIRAILI MOHASSAN EL BEY AND MARK ANTONIO FINDLETTER CLAYTON AS TRUSTEES OF THE KMJ TRUST, DATED DECEMBER 15, 2006 DATED JUNE 11, 2010 AND RECORDED JUNE 22, 2010 IN BOOK 569 AT PAGE 85.

CURRENT ADDRESS OF PROPERTY: 13132 Wilburn Park Lane, Fort Mill, SC 29715

TMS: 0006M-0A-261.00

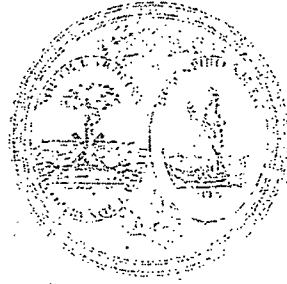
AND IT IS SO ORDERED.

Date: August 22, 2012
Lancaster, South Carolina


The Honorable Phillip E. Wright
Special Referee for Lancaster County

REFUSED OFFER

The State of South Carolina

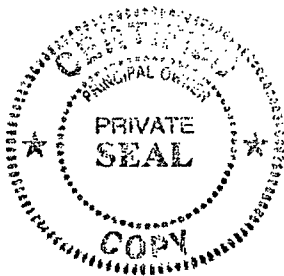
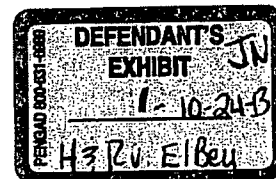


Office of Secretary of State Mark Hammond

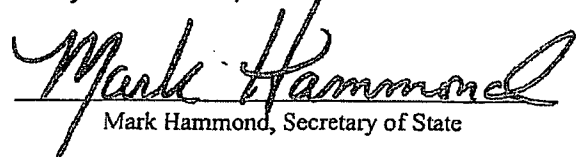
Certificate of No Record

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

At this time, this office can find no record of a corporation using the name:
H&R BLOCK BANK, FSB



Given under my Hand and the Great Seal of the State of South Carolina this 18th day of October, 2013.


Mark Hammond, Secretary of State



[About Us](#) | [Fannie Mae Help](#) | [Loan Lookup](#) | [Questions](#) | [En Español](#)

[Rent](#) [Buy](#) [Refinance](#) [Modify](#) [Avoid Foreclosure](#) [Find Resources](#)

[Home](#) > [Loan Lookup](#) > [Fannie Mae Loan Lookup Results: No Match Found](#)

Fannie Mae Loan Lookup Results: No Match Found

It appears that Fannie Mae does not own your loan, based on the information you entered:

ZIRAILI ELBEY
13132 Wilburn Park Ln.
Fort Mill, SC 29715
Last 4 Digits of Social Security Number: ****

FORECLOSURE CONSEQUENCES

What can happen if you are foreclosed on? Find out here to see what can be prepared.

[GO TO OUR FORECLOSURE PAGE](#)

Next Steps

Search Again

Re-enter your information in the Loan Lookup Tool or, if there is a co-borrower on the mortgage, try entering the co-borrower's information.

Explore KnowYourOptions.com

Review the useful information and tools on this site to learn more about your options.

Contact Your Mortgage Company

Confirm these results and obtain additional information regarding your mortgage by contacting your mortgage company. Remember, data entered in the Loan Lookup Tool that does not match our records exactly may return inaccurate results.

See if Your Loan is Owned by Freddie Mac

Go to MakingHomeAffordable.gov

Learn more about the Making Home Affordable program—other investors (who might own your loan) may participate in this program.

Contact the Homeowner's HOPE™ Hotline

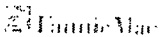
Get free housing counseling and immediate assistance by contacting the Homeowner's HOPE™ Hotline at 888-995-HOPE (4673) or www.995HOPE.org.

Visit HUD.gov

Find for more information about avoiding foreclosure.

[Search Again](#)

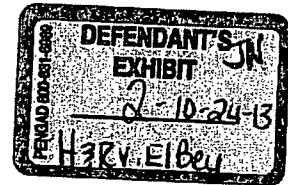
[Explore Now](#)



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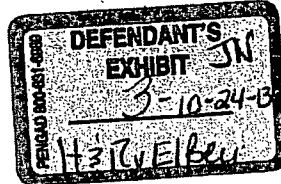


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SOUTH CAROLINA

PREPARED BY SECURITY CONNECTIONS, INC.
WHEN RECORDED MAIL TO:
SECURITY CONNECTIONS INC.
240 TECHNOLOGY DRIVE
IDAHO FALLS, ID 83401
PH: (208) 528-9895
ATT: KARLEEN MAUGHAN



COUNTY OF LANCASTER
POOL NO.
LOAN NO. 0021232020



Assignment-Interv.-Recorded

ASSIGNMENT OF REAL ESTATE MORTGAGE

For value received SAND CANYON CORPORATION FKA OPTION ONE MORTGAGE CORPORATION

located at 7595 IRVINE CENTER DRIVE, SUITE 100, IRVINE, CA 92618
hereby transfers, assigns and sets over without recourse unto
H & R BLOCK BANK FSB

located at ONE H & R BLOCK WAY, 8TH FLOOR, KANSAS CITY, MO 64105

its successors and assigns forever, that certain mortgage executed by
ZIRAILI M ELBEY
to OPTION ONE MORTGAGE CORPORATION

dated MARCH 29, 2006 and recorded in the Clerk's office LANCASTER
County, South Carolina, on APRIL 7, 2006, in Mortgage Book MORT 1486,
Page 1, together with the note thereby secured conditioned for the
payment of the full and just sum of \$197,186.00 Dollars,
according to the terms as set forth in said note and mortgage.



Loan No.

(NMRI.SC)
C=S.383.0002
P=S.002.00120.21

Page 1 of 2
J=HR8010109AI.s.02249

2010008401

ASSIGNMENT OF MORTGAGE
RECORDING FEES \$7.00

PRESENTED & RECORDED:
08-05-2010 12:11 PM

JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTY

BK:MORT 2265
PG:129-130

LOAN NO. 0021232020

In Witness Whereof, SAND CANYON CORPORATION FKA OPTION ONE MORTGAGE CORPORATION

caused these presents to be signed by MELISSA HIVELY
its VICE PRESIDENT and MELANIE HANSON
its ASSISTANT VICE PRESIDENT this 2nd day of JULY
2010, but effective the 29th day of MARCH, 2006

SAND CANYON CORPORATION FKA OPTION ONE MORTGAGE CORPORATION

[Signature]
Witness CARMEN RIVERA

BY [Signature]
MELISSA HIVELY
VICE PRESIDENT

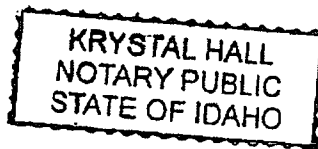
[Signature]
Witness MISTYLIN HANSEN

BY [Signature]
MELANIE HANSON
ASSISTANT VICE PRESIDENT

STATE OF IDAHO)
) SS
COUNTY OF BONNEVILLE)

On JULY 2, 2010 before me, KRYSTAL HALL,
personally appeared MELISSA HIVELY
and MELANIE HANSON personally known to me
(or proved to me on the basis of satisfactory evidence) to be the persons
who executed the within instrument as VICE PRESIDENT
and ASSISTANT VICE PRESIDENT or on behalf of the Corporation
therein named and acknowledged to me that the Corporation executed it.

[Signature]
KRYSTAL HALL (COMMISSION EXP. 11-14-11)
NOTARY PUBLIC



(NMRI.SC.2)
C=s.383.0002
P=S.002.00120.21

Citation of Authorities from Previous Pleadings

Pg. 7-9

TABLE OF AUTHORITIES

CASES

Bowen v. Needles Nat. Bank, 94 F 925, 36 CCA 553; certiorari denied in 20 S Ct 1024, 176, U.S. 682, 44 LED 637

Carpenter v. Logan, 83 U.S. 271 (1873)

Chet Adams Co. v. James F. Pederson Co., 413 SE 2D 827- S.C.: SUPREME Court (1992)

Deutsche Bank Nat. Trust Co., v. Heinrich, Dt 2011-CP-10-1060, Ninth Judicial Circuit Ct. Charleston, S.C., (July 2013)

Dearman v. Trimmier, 26 S.C. 506, 513, 2 S.E. 501, 505 (S.C. 1887)

Doe v. Marion, 361 S.C. 463, 470, 605 S.E.2d 556, 560 (Ct. App. 2004),

Duckworth v. McKinney, 58 S.C. 418, 36 S.E. 730 (1900)

Farmers and Miners Bank v. Bluefield Nat Bank 11 F 2d 83, 271 U.S. 669

Fina Supply, Inc. v. Abilene Nat. Bank, 726 S.W. 2d 537, (1987)

Hodges v. Lake Summit Co., 155 S.C. 436, 447, 152 S.E. 658, 662 (S.C. 1930)

Patterson v. Rabb, 38 S.C. 138, 17 S.E. 463 (1893)

Talbert v. Talbert, 97 S.C. 136, 145, 81 S.E. 644 (S.C. 1914)

Williams v. Condon, 347 S.C. 227, 233, 553 S.E.2d 496, 499 (Ct. App. 2001).

STATUTES

S.C. Code Ann § 29-3-330
S.C. Code Ann § 33-15-101(a)
S.C. Code Ann § 33-15-102
S.C. Code Ann § 33-15-102(a)
S.C. Code Ann § 33-15-102(d)
S.C. Code Ann § 33-23-140(B)
S.C.UCC Code § 36-3
S.C. Code Ann §36-3-603(1)

OTHER AUTHORITIES

Bank One, N.A. v. Dave, State of Michigan Circuit Court, Chagrin Falls, Ohio (2003)

Barnsdall Refining Corn. F. Birnam Wood Oil. Co. 92 26 817 S.C. 435, 357 S.E. 2d 20 (1987)

Cost of Wisconsin v. Shaw, 292 S.C. 435, 357 S.E. 2d 20 (1987),

Memorandum & Order. ELOISA COSAJA Y v. MERS, US District Court, Rhode Island, C. A. No. 1 0-442-M, (2014)

GILBERTO SALDIVAR, SANDRA CANALES SALDIVAR, Chapter 13, Debtor(s). GILBERTO T SALDIVAR, et al., Plaintiff(s), v. JPMORGAN CHASE BANK, N.A., et al., Defendant(s). Case No. 11-10689, Adversary No. 12-01010. United States Bankruptcy Court, S.D. Texas, Brownsville Division (June 5. 1913)

H & H Glass Co. v. Wynne, 289 S.C. 389 S.E. 2d 523 346 (1986)

Hoover v. Hoover, 271 S.C. 177, 246 S.E. 2d 179 (1978)

Hot Roll Mfs. Co. v. Cerone Equipment Co., 38 A.D. 2d 339, 329 N.Y.S. 2d 466

(1972)

U.S. v. Throckmorton, 98 U.S. 61, at pg. 65

Video Engineering Co. b. Foto-Video Electronics, Inc., 207 Va. 1027, 154 S.E. 2d 7 (1967)

WELLS FARGO BANK, N.A., AS TRUSTEE FOR ABFC 2006-OPT3 TRUST, ABFC ASSET-BACKED CERTIFICATES, SERIES 2006-OPT3, Plaintiff, v. ROTIMI EROBOBO, THE CITY OF NEW YORK ENVIRONMENTAL CONTROL BOARD, "JOHN DOE" AND "JANE DOE" SAID NAMES BEING FICTITIOUS, IT BEING THE INTENTION OF Plaintiff TO DESIGNATE ANY and ALL OCCUPANTS OF THE PREMISES BEING FORECLOSED HEREIN, Defendants. 31648/2009. Supreme Court, Kings County. (April 29, 2013)

Whipp v. Iverson, 43 Wis 2d 166.

Defendant's Exhibits from Lower Court Pleadings, Transcript, etc. – See Attached

1. Bank One, N.A. v. Dave, State of Michigan Circuit Court
Case# 03-047448-CZ, (2003)See Divider
2. Chet Adams Co. v. James F. Pederson Co., 413 SE 2D 827- S.C.:
SUPREME Court (1992)See Divider
3. Deutsche Bank v. Heinrich, Charleston, SC, Ct of Common Pleas,
9th District, Case. No. 2011-CP-10-1060, July (2013).....See Divider
4. Deed of Full ReconveyanceSee Divider
 - A, Mortgage Satisfied, dated 3/17/2010.and, again on
 - B. Mortgage Satisfied, dated 2/19/2013
5. Certificate of No Record – The State of South Carolina See Divider
6. Examination of Assignments of Mortgage Conducted in the Essex
Southern District Registry of Deeds, by M McDonnell, CFE
7. Executive Summary – Forensic Professionals Group USA, Inc (2011)
8. Fannie Mae Loan Lookup Results See Divider
9. Full Securitization Audit for Elbey – Loan Securitization Audit Report
10. SC Assignment filed by Plaintiff with Robo-Signers..... See Divider
11. SC Chief Justices' Administrative Order issued June 5, 1992
sham document described by Special Referee to Foreclose... See Divider
12. Mortgage, Note & Allonge See Divider

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

BANK ONE, N.A.,)	Case No. 03-047448-CZ
)	
Plaintiff,)	Hon. E.. Sosnick
)	
v.)	AFFIDAVIT OF WALKER F. TODD,
)	EXPERT WITNESS FOR DEFENDANTS
HARSHAVARDHAN DAVE and)	
PRATIMA DAVE, jointly and severally,)	
)	
Defendants.)	

Harshavardhan Dave and Pratima H. Dave	Michael C. Hammer (P41705)
C/o 5128 Echo Road	Ryan O. Lawlor (P64693)
Bloomfield Hills, MI 48302	Dickinson Wright PLLC
Defendants, <i>in propria persona</i>	Attorneys for Bank One, N.A.
	500 Woodward Avenue, Suite 4000
	Detroit, Michigan 48226
	(313) 223-3500

Now comes the Affiant, Walker F. Todd, a citizen of the United States and the State of Ohio over the age of 21 years, and declares as follows, under penalty of perjury:

1. That I am familiar with the Promissory Note and Disbursement Request and Authorization, dated November 23, 1999, together sometimes referred to in other documents filed by Defendants in this case as the "alleged agreement" between Defendants and Plaintiff but called the "Note" in this Affidavit. If called as a witness, I would testify as stated herein. I make this Affidavit based on my own personal knowledge of the legal, economic, and historical principles stated herein, except that I have relied entirely on documents provided to me, including the Note, regarding certain facts at issue in this case of which I previously had no direct and personal knowledge. I am making this affidavit based on my experience and expertise as an attorney, economist, research writer, and teacher. I am competent to make the following statements.

PROFESSIONAL BACKGROUND QUALIFICATIONS

2. My qualifications as an expert witness in monetary and banking instruments are as follows. For 20 years, I worked as an attorney and legal officer for the legal departments of the Federal Reserve Banks of New York and Cleveland. Among other things, I was assigned responsibility for questions involving both novel and routine notes, bonds, bankers' acceptances, securities, and other financial instruments in connection with my work for the Reserve Banks' discount windows and parts of the open market trading desk function in New York. In addition, for nine years, I worked as an economic research officer at the Federal Reserve Bank of Cleveland. I became one of the Federal Reserve System's recognized experts on the legal history of central banking and the pledging of notes, bonds, and other financial instruments at the discount window to enable the Federal Reserve to make advances of credit that became or could become money. I also have read extensively treatises on the legal and financial history of money and banking and have published several articles covering all of the subjects just mentioned. I have served as an expert witness in several trials involving banking practices and monetary instruments. A summary biographical sketch and resume including further details of my work experience, readings, publications, and education will be tendered to Defendants and may be made available to the Court and to Plaintiff's counsel upon request.

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

3. Banks are required to adhere to Generally Accepted Accounting Principles (GAAP).

GAAP follows an accounting convention that lies at the heart of the double-entry bookkeeping system called the Matching Principle. This principle works as follows: When a bank accepts bullion, coin, currency, checks, drafts, promissory notes, or any other similar instruments (hereinafter "instruments") from customers and deposits or records the instruments as assets, it must record offsetting liabilities that match the assets that it accepted from customers. The liabilities represent the amounts that the bank owes the customers, funds accepted from customers. In a fractional reserve banking system like the United States banking system, most of the funds advanced to borrowers (assets of the banks) **are created by the banks themselves** and are not merely transferred from one set of depositors to another set of borrowers.

RELEVANCE OF SUBTLE DISTINCTIONS ABOUT TYPES OF MONEY

4. From my study of historical and economic writings on the subject, I conclude that a common misconception about the nature of money unfortunately has been perpetuated in the U.S. monetary and banking systems, especially since the 1930s. In classical economic theory, once economic exchange has moved beyond the barter stage, there are two types of money: money of *exchange* and money of *account*. For nearly 300 years in both Europe and the United States, confusion about the distinctiveness of these two concepts has led to persistent attempts to treat money of account as the equivalent of money of exchange. In reality, especially in a fractional reserve banking system, a comparatively small amount of money of exchange (e.g., gold, silver, and official currency notes) may support a vastly larger quantity of

business transactions denominated in money of account. The sum of these transactions is the sum of credit extensions in the economy. With the exception of customary stores of value like gold and silver, the monetary base of the economy largely consists of credit instruments. Against this background, I conclude that the Note, despite some language about “lawful money” explained below, clearly contemplates both disbursement of funds and eventual repayment or settlement in money of account (that is, money of exchange would be welcome but is not required to repay or settle the Note). The factual basis of this conclusion is the reference in the Disbursement Request and Authorization to repayment of \$95,905.16 to Michigan National Bank from the proceeds of the Note. That was an exchange of the credit of Bank One (Plaintiff) for credit apparently and previously extended to Defendants by Michigan National Bank. Also, there is no reason to believe that Plaintiff would refuse a substitution of the credit of another bank or banker as complete payment of the Defendants’ repayment obligation under the Note. This is a case about exchanges of money of account (credit), not about exchanges of money of exchange (lawful money or even legal tender).

5. Ironically, the Note explicitly refers to repayment in “lawful money of the United States of America” (see “Promise to Pay” clause). Traditionally and legally, Congress defines the phrase “lawful money” for the United States. Lawful money was the form of money of exchange that the federal government (or any state) could be required by statute to receive in payment of taxes or other debts. Traditionally, as defined by Congress, lawful money only included gold, silver, and currency notes redeemable for gold or silver on demand. In a banking law context, lawful money was only those forms of money of exchange (the forms just mentioned, plus U.S. bonds and notes redeemable for gold) that constituted the reserves of a national bank prior to 1913

(date of creation of the Federal Reserve Banks). *See*, Lawful Money, *Webster's New International Dictionary* (2d ed. 1950). In light of these facts, I conclude that Plaintiff and Defendants exchanged reciprocal credits involving money of account and not money of exchange; no lawful money was or probably ever would be disbursed by either side in the covered transactions. This conclusion also is consistent with the bookkeeping entries that underlie the loan account in dispute in the present case. Moreover, it is puzzling why Plaintiff would retain the archaic language, "lawful money of the United States of America," in its otherwise modern-seeming Note. It is possible that this language is merely a legacy from the pre-1933 era. Modern credit agreements might include repayment language such as, "The repayment obligation under this agreement shall continue until payment is received *in fully and finally collected funds*," which avoids the entire question of "In what form of money **or credit** is the repayment obligation due?"

6. Legal tender, a related concept but one that is economically inferior to lawful money because it allows payment in instruments that cannot be redeemed for gold or silver on demand, has been the form of money of exchange commonly used in the United States since 1933, when domestic private gold transactions were suspended (until 1974).. Basically, legal tender is whatever the government says that it is. The most common form of legal tender today is Federal Reserve notes, which by law cannot be redeemed for gold since 1934 or, since 1964, for silver. *See*, 31 U.S.C. Sections 5103, 5118 (b), and 5119 (a).

Note: I question the statement that fed reserve notes cannot be redeemed for silver since 1964. It was Johnson who declared on 15 March 1967 that after 15 June 1967 that Fed Res Notes would not be exchanged for silver and the practice did stop on 15 June

1967 – not 1964. I believe this to be error in the text of the author's affidavit.

7. *Legal tender under the Uniform Commercial Code (U.C.C.)*, Section 1-201 (24) (Official Comment), is a concept that sometimes surfaces in cases of this nature. The referenced Official Comment notes that the definition of money is not limited to legal tender under the U.C.C. Money is defined in Section 1-201 (24) as “a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.” The relevant Official Comment states that “The test adopted is that of sanction of government, whether by authorization before issue or adoption afterward, which recognizes the circulating medium as a part of the official currency of that government. The narrow view that money is limited to legal tender is rejected.” Thus, I conclude that the U.C.C. tends to validate the classical theoretical view of money.

HOW BANKS BEGAN TO LEND THEIR OWN CREDIT INSTEAD OF REAL MONEY

8. In my opinion, the best sources of information on the origins and use of credit as money are in Alfred Marshall, *MONEY, CREDIT & COMMERCE* 249-251 (1929) and Charles P. Kindleberger, *A FINANCIAL HISTORY OF WESTERN EUROPE* 50-53 (1984). A synthesis of these sources, as applied to the facts of the present case, is as follows: As commercial banks and discount houses (private bankers) became established in parts of Europe (especially Great Britain) and North America, by the mid-nineteenth century they commonly made loans to borrowers by extending their own credit to the borrowers or, at the borrowers' direction, to third parties. The typical form of such extensions of credit was drafts or bills of exchange drawn upon themselves (claims on the credit of the drawees) instead of disbursements of bullion,

coin, or other forms of money. In transactions with third parties, these drafts and bills ~~came to serve most of the ordinary functions of money.~~ The third parties had to determine for themselves whether such “credit money” had value and, if so, how much. The Federal Reserve Act of 1913 was drafted with this model of the commercial economy in mind and provided at least two mechanisms (the discount window and the open-market trading desk) by which certain types of bankers’ credits could be exchanged for Federal Reserve credits, which in turn could be withdrawn in lawful money. Credit at the Federal Reserve eventually became the principal form of monetary reserves of the commercial banking system, especially after the suspension of domestic transactions in gold in 1933. Thus, credit money is not alien to the current official monetary system; it is just rarely used as a device for the creation of Federal Reserve credit that, in turn, in the form of either Federal Reserve notes or banks’ deposits at Federal Reserve Banks, functions as money in the current monetary system. In fact, a means by which the Federal Reserve expands the money supply, loosely defined, is to set banks’ reserve requirements (currently, usually ten percent of demand liabilities) at levels that would encourage banks to extend new credit to borrowers on their own books that third parties would have to present to the same banks for redemption, thus leading to an expansion of bank-created credit money. In the modern economy, many non-bank providers of credit also extend book credit to their customers without previously setting aside an equivalent amount of monetary reserves (credit card line of credit access checks issued by non-banks are a good example of this type of credit), which also causes an expansion of the aggregate quantity of credit money. The discussion of money taken from Federal Reserve and other modern sources in paragraphs 11 et seq. is consistent with the account of the origins of the use of bank credit as money in this paragraph.

ADVANCES OF BANK CREDIT AS THE EQUIVALENT OF MONEY

9. Plaintiff apparently asserts that the Defendants signed a promise to pay, such as a note(s) or credit application (collectively, the "Note"), in exchange for the Plaintiff's advance of funds, credit, or some type of money to or on behalf of Defendant. However, the bookkeeping entries required by application of GAAP and the Federal Reserve's own writings should trigger close scrutiny of Plaintiff's apparent assertions that it lent its funds, credit, or money to or on behalf of Defendants, thereby causing them to owe the Plaintiff \$400,000. According to the bookkeeping entries shown or otherwise described to me and application of GAAP, the Defendants allegedly were to tender some form of *money* ("lawful money of the United States of America" is the type of money explicitly called for in the Note), securities or other capital equivalent to money, funds, credit, or something else of value in exchange (money of exchange, loosely defined), collectively referred to herein as "money," to repay what the Plaintiff claims was the *money* lent to the Defendants. **It is not an unreasonable argument to state that Plaintiff apparently changed the economic substance of the transaction from that contemplated in the credit application form, agreement, note(s), or other similar instrument(s) that the Defendants executed, thereby changing the costs and risks to the Defendants.** At most, the Plaintiff extended its own *credit* (money of account), but the Defendants were required to repay in *money* (money of exchange, and *lawful money* at that), **which creates at least the inference of inequality of obligations** on the two sides of the transaction (*money*, including *lawful money*, is to be exchanged for *bank credit*).

MODERN AUTHORITIES ON MONEY

11. To understand what occurred between Plaintiff and Defendants concerning the alleged loan of *money* or, more accurately, *credit*, it is helpful to review a modern Federal Reserve description of a bank's lending process. See, David H. Friedman, MONEY AND BANKING (4th ed. 1984)(apparently already introduced into this case): "The commercial bank lending process is similar to that of a thrift in that the receipt of cash from depositors increases both its assets and its deposit liabilities, which enables it to make additional loans and investments. . . . When a commercial bank makes a business loan, it accepts as an asset the borrower's debt obligation (the promise to repay) and creates a liability on its books in the form of a demand deposit in the amount of the loan." (Consumer loans are funded similarly.) Therefore, the bank's original bookkeeping entry should show an increase in the amount of the asset credited on the asset side of its books and a corresponding increase equal to the value of the asset on the liability side of its books. **This would show that the bank received the customer's signed promise to repay as an asset, thus monetizing the customer's signature and creating on its books a liability in the form of a demand deposit or other demand liability of the bank.** The bank then usually would hold this demand deposit in a transaction account on behalf of the customer. Instead of the bank lending its *money* or other assets to the customer, as the customer reasonably might believe from the face of the Note, the bank *created* funds for the customer's transaction account without the customer's permission, authorization, or knowledge and delivered the *credit* on its own books representing those funds to the customer, meanwhile alleging that the bank lent the customer *money*. If Plaintiff's response to this line of argument is to the effect that it acknowledges that it lent credit or issued credit instead of money, one might refer to Thomas P. Fitch, BARRON'S

BUSINESS GUIDE DICTIONARY OF BANKING TERMS, "Credit banking," 3. "Bookkeeping entry representing a deposit of funds into an account." But Plaintiff's loan agreement apparently avoids claiming that the bank actually lent the Defendants *money*. They apparently state in the agreement that the Defendants are obligated to repay Plaintiff principal and interest for the "Valuable consideration (money) the bank gave the customer (borrower)." The loan agreement and Note apparently still delete any reference to the bank's receipt of actual cash value from the Defendants and exchange of that receipt for actual cash value that the Plaintiff banker returned.

12. According to the Federal Reserve Bank of New York, money is anything that has value that banks and people accept as money; money does not have to be issued by the government. For example, David H. Friedman, I BET YOU THOUGHT. . . . 9, Federal Reserve Bank of New York (4th ed. 1984)(apparently already introduced into this case), explains that banks create new money by depositing IOUs, promissory notes, offset by bank liabilities called checking account balances. Page 5 says, "Money doesn't have to be intrinsically valuable, be issued by government, or be in any special form. . . ."

13. The publication, Anne Marie L. Gonczy, MODERN MONEY MECHANICS 7-33, Federal Reserve Bank of Chicago (rev. ed. June 1992)(apparently already introduced into this case), contains standard bookkeeping entries demonstrating that *money* ordinarily is recorded as a bank *asset*, while a bank *liability* is evidence of *money* that a bank owes. The bookkeeping entries tend to prove that banks accept cash, checks, drafts, and promissory notes/credit agreements (assets) as *money* deposited to create credit or checkbook money that are bank *liabilities*, which shows that, absent any right of setoff, banks owe *money* to persons who deposit *money*.. **Cash (money of**

exchange) is money, and credit or promissory notes (money of account) become money when banks deposit promissory notes with the intent of treating them like deposits of cash. See, 12 U.S.C. Section 1813 (l)(1) (definition of “deposit” under Federal Deposit Insurance Act). The Plaintiff acts in the capacity of a lending or banking institution, and the newly issued credit or money is similar or equivalent to a promissory note, which may be treated as a deposit of money when received by the lending bank.. Federal Reserve Bank of Dallas publication MONEY AND BANKING, page 11, explains that when banks grant loans, they create new money. The new money is created because a new “loan becomes a deposit, just like a paycheck does.” MODERN MONEY MECHANICS, page 6, says, “What they [banks] do when they make loans is to accept promissory notes in exchange for credits to the borrowers’ transaction accounts.” The next sentence on the same page explains that the banks’ assets and liabilities increase by the amount of the loans.

COMMENTARY AND SUMMARY OF ARGUMENT

14. Plaintiff apparently accepted the Defendants’ Note and credit application (money of account) in exchange for its own credit (also money of account) and deposited that credit into an account with the Defendants’ names on the account, as well as apparently issuing its own credit for \$95,905.16 to Michigan National Bank for the account of the Defendants. One reasonably might argue that the Plaintiff recorded the Note or credit application as a loan (money of account) from the Defendants to the Plaintiff and that the Plaintiff then became the borrower of an equivalent amount of money of account from the Defendants.

15. The Plaintiff in fact never lent any of its own pre-existing money, credit, or assets as consideration to purchase the Note or credit agreement from the Defendants. (Robertson Notes: I add that when the bank does the forgoing, then in that event, there is an utter *failure of consideration* for the “loan contract”.) When the Plaintiff deposited the Defendants’ \$400,000 of newly issued credit into an account, the Plaintiff created from \$360,000 to \$400,000 of new money (the nominal principal amount less up to ten percent or \$40,000 of reserves that the Federal Reserve would require against a demand deposit of this size). The Plaintiff received \$400,000 of credit or money of account from the Defendants as an asset. GAAP ordinarily would require that the Plaintiff record a liability account, crediting the Defendants’ deposit account, showing that the Plaintiff owes \$400,000 of money to the Defendants, just as if the Defendants were to deposit cash or a payroll check into their account.

16. The following appears to be a disputed fact in this case about which I have insufficient information on which to form a conclusion: I infer that it is alleged that Plaintiff refused to lend the Defendants Plaintiff’s own money or assets and recorded a \$400,000 loan from the Defendants to the Plaintiff, which arguably was a \$400,000 deposit of money of account by the Defendants, and then when the Plaintiff repaid the Defendants by paying its own credit (money of account) in the amount of \$400,000 to third-party sellers of goods and services for the account of Defendants, the Defendants were repaid their loan to Plaintiff, and the transaction was complete.

17. I do not have sufficient knowledge of the facts in this case to form a conclusion on the following disputed points: None of the following material facts are disclosed in the credit application or Note or were advertised by Plaintiff to prove that the

Defendants are the true lenders and the Plaintiff is the true borrower. The Plaintiff is trying to use the credit application form or the Note to persuade and deceive the Defendants into believing that the opposite occurred and that the Defendants were the borrower and not the lender. The following point is undisputed: The Defendants' loan of their credit to Plaintiff, when issued and paid from their deposit or credit account at Plaintiff, became money in the Federal Reserve System (subject to a reduction of up to ten percent for reserve requirements) as the newly issued credit was paid pursuant to written orders, including checks and wire transfers, to sellers of goods and services for the account of Defendants.

CONCLUSION

18. Based on the foregoing, Plaintiff is using the Defendant's Note for its own purposes, and it remains to be proven whether Plaintiff has incurred any financial loss or actual damages (I do not have sufficient information to form a conclusion on this point). In any case, the inclusion of the "lawful money" language in the repayment clause of the Note is confusing at best and in fact may be misleading in the context described above.

AFFIRMATION

19. I hereby affirm that I prepared and have read this Affidavit and that I believe the foregoing statements in this Affidavit to be true. I hereby further affirm that the basis of these beliefs is either my own direct knowledge of the legal principles and historical facts involved and with respect to which I hold myself out as an expert or statements made or documents provided to me by third parties whose veracity I reasonably assumed.

Further the Affiant sayeth naught.

At Chagrin Falls, Ohio

December 5, 2003

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NOTARY'S VERIFICATION

At Chagrin Falls, Ohio

December 5, 2003

On this day personally came before me the above-named Affiant, who proved his identity to me to my satisfaction, and he acknowledged his signature on this Affidavit in my presence and stated that he did so with full understanding that he was subject to the penalties of perjury.

Notary Public of the State of Ohio

Note: Emphasis added.

**Chet Adams Co. v. James F. Pederson Co., 413 SE 2d 827 -
SC: Supreme Court 1992**

307 S.C. 33 (1992)
413 S.E.2d 827

CHET ADAMS COMPANY, Petitioner
v.
JAMES F. PEDERSON COMPANY, and Heil Quaker Corporation, f/d/b/a
Zoneaire Corporation, Respondents.

Supreme Court of South Carolina.

Heard December 2, 1991.
Decided January 13, 1992.

34*34 *Robert T. Lyles, Jr., of Wall and Shoun, Charleston, for petitioner.*

T.E. Pederson, Charleston, for respondents.

Heard Dec. 2, 1991.

Decided Jan. 13, 1992.

HARWELL, Justice:

The sole issue on appeal is whether the Court of Appeals erred in remanding this case to me circuit court for a determination of issues arising out of petitioner Chet Adams' failure to comply with S.C. Code Ann. § 33-15-102(a) (1990).^[1] We reverse and remand the case to the Court of Appeals for a decision on the merits.

I. FACTS

Petitioner Chet Adams Company, a **foreign corporation**, brought this action against respondent James F. Pederson Company to recover monies allegedly owed on an account as the result of the sale of air conditioning equipment.^[2] After a non-jury trial, the circuit court judge entered judgment in favor of Chet Adams. Pedersen appealed and the case was assigned to the Court of Appeals.

In its reply brief to the Court of Appeals, Pedersen claimed that the case should be dismissed because Chet Adams had not obtained a certificate of authority as required by Section 33-15-102(a). At the oral argument in front of the Court of Appeals, Chet Adams submitted a certificate of registration 35*35 which it had obtained that day. After some discussion regarding this issue, the parties argued the merits of the appeal.

On April 11, 1991, the Court of Appeals issued a per curiam, unpublished decision holding that, since the registration issue was raised for the first time on appeal and had not been ruled on by the circuit court, the case should be remanded so the circuit court could address the issue. On remand, the Court of Appeals ordered the circuit court to determine three issues:

- (1) whether Pederson waived the right to complain about Chet Adams' not having the required certificate by not raising the issue until the case was on appeal; or
- (2) whether the fact Chet Adams did not have the certificate deprived the Court of subject matter jurisdiction to entertain the suit; and
- (3) whether Chet Adams should be allowed to remove, *ex post facto*, the impediment to maintaining the proceeding by obtaining the certificate after judgment was rendered.

We granted petitioner Chet Adams' petition for writ of certiorari to review the Court of Appeals' decision to remand the case to the circuit court.

II. DISCUSSION

The primary question in this case is whether Section 33-15-102 is jurisdictional or whether it merely affects a party's capacity to **sue**. We find that our prior case law, as well as the Official Comments to Section 33-15-102, demonstrate that the failure to comply with Section 33-15-102 does not affect a court's subject matter jurisdiction.

In *Cost of Wisconsin v. Shaw*, 292 S.C. 435, 357 S.E. (2d) 20 (1987), Cost of Wisconsin, a **foreign corporation** that was not registered to do business in South Carolina, sought to foreclose a mechanics' lien filed against property owned by Theme Golf, Inc. Theme Golf moved to dismiss the action on the ground that Cost of Wisconsin lacked **standing** to maintain the suit because it was not authorized to do business in South Carolina as required by S.C. Code Ann. § 33-23-140(B) (Supp. 36*36 1986).^[3] We held that a **foreign corporation** could qualify under Section 33-23-140(B) after commencement of the suit.

This holding is consistent with the Official Comments to our current statute, which provide that:

[Section 33-15-102] authorizes a court to stay a proceeding to determine whether a **corporation** should have qualified to transact business and, if it concludes that qualification is necessary, it may grant a further stay to permit the **corporation** to do so. Thus, the **corporation** will not be compelled to re-file a suit if the **corporation** qualifies to transact business within a reasonable period. The purpose of these provisions is to encourage corporations to obtain certificates of authority and to eliminate the temptation to raise [Section 33-15-102] defenses only after applicable statutes of limitation have run.

Acts by a court as to a matter over which it has no jurisdiction are void. *Hoover v. Hoover*, 271 S.C. 177, 246 S.E. (2d) 179 (1978). Accordingly, if the failure of a **foreign corporation** to comply with Section 33-15-102 deprived a court of jurisdiction, a court-ordered stay such as is authorized by the above cited authorities would be impossible; once a lack of jurisdiction was determined, the court would have to dismiss the action and could not order a stay *See* Rule 12(h)(3), SCRPC ("Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.").

Courts from other jurisdictions which have addressed this issue have also concluded that statutes such as Section 33-15-102, known as "door-closing" statutes, affect a **foreign corporation's** capacity to **sue** rather than a court's subject matter jurisdiction. *See, e.g., Hot Roll Mfg. Co. v. Cerone Equipment Co.*, 38 A.D. (2d) 339, 329 N.Y.S. (2d) 466 (1972); *Video Engineering Co. v. Foto-Video Electronics, Inc.*, 207 Va. 1027, 154 S.E. (2d) 7 (1967).

Thus, we hold that a **foreign corporation's** failure to comply with the provisions of Section 33-15-102 does not affect a court's subject matter jurisdiction. Instead, 37*37 compliance with this statute affects a **foreign corporation's** capacity to **sue**. Further, the defense of capacity to **sue** can be waived by a defendant if not raised. *H & H Glass Co. v. Wynne*, 289 S.C. 389 346 S.E. (2d) 523 (1986) (Where lack of capacity to **sue** is not timely raised by demurrer or answer, it is waived.). *See also*, Rule 9(a), SCRPC (In order to raise an issue as to the capacity of a party to **sue**, a party must have a specific negative averment to that effect.). In this case, Chet Adams' failure to register was not raised as a defense by Pedersen in its pleadings, at the trial of the case, or as an exception on appeal. It was raised for the first time in Pedersen's reply brief. Accordingly, Pedersen has waived its right to complain that Chet Adams lacks capacity to **sue**.

In sum, we conclude that the Court of Appeals erred in remanding this case to the circuit court. Instead, it should have determined that the circuit court was not deprived of jurisdiction and that Pedersen waived its right to complain as to Chet Adams' lack of capacity to **sue**. Accordingly, we reverse and remand the case to the Court of Appeals for a decision on the merits.

Reversed and remanded.

GREGORY, C.J., and CHANDLER, FINNEY and TOAL, JJ., concur.

[1] Section 33-15-102(a) requires a **foreign corporation** transacting business in this State to obtain a certificate of authority before it can maintain a proceeding in any court in this State.

[2] Originally, Chet Adams also named Heil Quaker **Corporation**, f/d/b/a Zoneaire **Corporation**, as a defendant. However, Heil Quaker filed a crossclaim against Pedersen and assigned its cause of action to Chet Adams, leaving Pedersen as the only remaining defendant.

[3] Section 33-23-140(B), the predecessor of Section 33-15-102(a), provided that a **foreign corporation** could not maintain a suit until it was authorized to do business in this State.

This Hon. Court may allow Plaintiffs time to properly registered, which in my opinion would be futile. The Plaintiff already by their actions have shown through their actions and through their counsel that they have no respect for this Hon. Court, the people of South Carolina and their stockholders by their actions. Plaintiff holds a fiduciary duty to the stockholders to ensure that all parties that have an interest in the property were signed upon the original

mortgage and promissory note. Plaintiffs' are not the real party in interest, meaning not being the holder in due course, and have now by Plaintiffs' actions involved officers of the Court, and officers of the county to do actions unbecoming to their oaths. Defendant has reported these actions to the necessary agencies, including the Atty. Gen. of South Carolina. If this case goes any further Defendant has a duty to protect this Hon. Court, as well as Plaintiff's counsel. Defendant is under the opinion that the Plaintiff have not registered with the purpose and intent to defraud and commit Fraud in the Factum, Fraud in the Inducement, and Fraud in the Execution. Defendant is under the opinion that Plaintiffs have also not register within the State in order to not have to pay any state income tax on their actions, in which, the State is in desperate need, of and once a corporation properly registered to do business in said state. It would be necessary to look into all the state actions involving Federal National Mortgage Association thru this Hon. Court that have ever been filed in order to determine whether or not properly Federal National Mortgage Association have filed state income taxes.

Plaintiff claims to be the holder due course and claims to be the real party in interest under Fed Rule 17 (a) Ratification of Commencement and Real Party of Interest, (the original lender has to appear in court and grant power of attorney to a servicer in order for a servicer to commence a foreclosure action in court. Plaintiff claim to be original party and Holder in Due Course but if a servicer takes a note by transfer and is **Entitled or Authorized to Receive Payments from the borrower is called a note holder, Art. 3-301 of the UCC Statue.** A mortgage servicer and a bank trustee would have no interest in this note. The only party with authority to enforce this note is the same party entitled to the borrowers payments under the Pooling and Servicing Agreement, and since Plaintiff has never demonstrated or produced a "PSA" Plaintiff

does not have the ability to invoke the jurisdiction of this Hon. Furthermore if the alleged loan has been securitized then the only person entitled to collect, whom would also be the only party able to bring forth a foreclosure proceeding is the true certificate holder of the original note and original mortgage together, for a separation of the two would cause a nullity of all contractual obligations (please provide proof). It was not disclosed what form of credit was created off of my signature such as M1 and 2 or M3. It was not disclosed that the bank cannot lend its own credit, nor could it have lent the stockholders credit (Banks and Banking Title 12 U.S.C., Chapter II, Subchapter IV § 83), that would be a violation and bank fraud (ENRON Case), it was not disclosed that the bank had nothing to lend upon the signing of the promissory note. The bank proceeded to do a double book entry, entering my promissory note and mortgage upon their books to pad and show that they had money, the credit that was created off my signature was purported to be lent to me at that time. They also were allowed to lend 10 times the amount of credit that was created by fractionalizing of my signature. Once again "off of my signature" I am in fact the true creditor and Lender is entitled to a processing fee. Original lender also did not disclose the monetization of the original note and mortgage. Once the original mortgage and promissory note had been monetized any obligation that may have existed no longer exists. Attached hereto and incorporated herein, See the affidavit of Walker Todd exhibit B.

Plaintiffs did not file the original mortgage and promissory note with the County Recorder's Office in which it was recorded and returned to the Original Bank to invoke Fed Rule 17(a). Plaintiffs have now involved this Hon. Court and the County recorder in actions that are unbecoming of a public office, all elected and appointed officials have/or should have taken an

oath of office to uphold the Constitution of the United States and also the Constitution of South Carolina. By placing a copy of a securities instrument within this claim and not having or being the holder in due course as required under the UCC's, have violated Title 18 sections 470 to 473 and 474.

In *Fina Supply, Inc. v. Abilene Nat. Bank*, 726 S.W.2d 537, 1987 it says "Party having superior knowledge who takes advantage of another's ignorance of the law to deceive him by studied concealment or misrepresentation can be held responsible for that conduct."

"In the federal courts, it is well established that a national bank has no power to lend its credit to another by becoming surety, indorser, or guarantor for him." *Farmers and Miners Bank v. Bluefield Nat 'l Bank*, 11 F 2d 83, 271 U.S. 669; "A national bank has no power to lend its credit to any person or corporation." *Bowen v. Needles Nat. Bank*, 94 F 925, 36 CCA 553, certiorari denied in 20 S.Ct 1024, 176 US 682, 44 LED 637

The Counterfeit Detection Act of 1992, Public Law 102-550, in Section 411 of Title 31 of the Code of Federal Regulations, permits color illustrations of U.S. currency provided:

The illustration is of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of the item illustrated

- The illustration is one-sided

- All negatives, plates, positives, digitized storage medium, graphic files, magnetic medium, optical storage devices, and any other thing used in the making of the illustration that contain an image of the illustration or any part thereof are destroyed and/or deleted or erased after their final use

Other Obligations and Securities

- Photographic or other likenesses of other United States obligations and securities and foreign currencies are permissible for any non-fraudulent purpose, provided the items are reproduced in black and white and are less than three-quarters or greater than one-and-one-half times the size, in linear dimension, of any part of the original item being reproduced. Negatives and plates used in making the likenesses must be destroyed after their use for the purpose for which they were made.

Title 18 USC § 472 Uttering counterfeit obligations or securities Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be fined under this title or imprisoned not more than 20 years, or both.

Title 18 USC § 473 Dealing in counterfeit obligations or securities Whoever buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, with the intent that the same be passed, published, or used as true and genuine, shall be fined under this title or imprisoned not more than 20 years, or both.

Title 18 USC § 474 Plates, stones, or analog, digital, or electronic

images for counterfeiting obligations or securities Whoever, with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any obligation or other security of the United States is guilty of a class B felony.

"Fraud vitiates the most solemn Contracts, documents and even judgments" [U.S. vs. Throckmorton, 98 US 61, at pg. 65].

"It is not necessary for rescission of a contract that the party making the misrepresentation should have known that it was false, but recovery is allowed even though misrepresentation is innocently made, because it would be unjust to allow one who made false representations, even innocently, to retain the fruits of a bargain induced by such representations." [Whipp v. Iverson, 43 Wis 2d 166].

"Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." Barnsdall Refining Corn. v. Birnam Wood Oil Co. 92 26 817.

I believe that this Hon. Court and the County Recorder would have not intentionally participated, and have unknowingly violated their oaths of office. By violating my rights to Due Process of Law, I have now rescinded all contracts due to the fraudulent inducement with the alleged promissory note and mortgage. Attached hereto and incorporated herein rescission of contract exhibit C.

Plaintiffs have violated [FDCPA] by their actions as a third-party debt collector Defendant has not been given notice and opportunity to validate any alleged debt. Attached hereto and incorporated herein demand for debt validation under the [FDCPA].

Plaintiff's counsel has violated his/her disciplinary rules and ethical canons by the filing of this alleged action having an obligation to ensure that the party they represent, are properly registered as a Real Party in Interest within the State of South Carolina and in order to have standing to sue in the first instance, not to mention counsel of Plaintiff also had a duty to protect this Hon. Court from any void or voidable actions.

WHEREFORE: Defendant requests that this Hon. Court dismiss this action for lack of standing. This Hon. Court does not possess Personum Jurisdiction over a foreign entity not possessing a foreign certificate of authority to be able to commence an action in S.C. court, and not simply defending an action against said Bank. This Hon. Court may have jurisdiction of the Subject Matter to be the proper court to hear this issue. However this Hon. Court does not possess Jurisdiction Over Subject Matter if one of the parties being a foreign corporation does not possess a Foreign Certificate of Authority to be able to maintain an action in this S.C. Court, the foreign corporation without Foreign Certificate of Authority does not need to have it to defend against an action in this S.C. Court. Due to the prima facie evidence that the Plaintiff is not now, nor was ever the Real Party in Interest and definitely not registered with the Secretary of State in order to have standing or lawfully conduct and transact business in this State. I, Pray for any and all other relief this court may deem just via Sua Sponte of the Court in regards to matter such as this. Defendant requests that this Hon. Court dismiss this case with prejudice due to the fraud, and that all parties uphold their oaths of office and not violated the Federal, and State constitutionally protected rights. Equality Under the Law Is paramount And a Must.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Deutsche Bank National Trust Company, as
Trustee of the IndyMac INDX Mortgage Trust
2007-FLX3, Mortgage Pass-Through
Certificates, Series 2007-FLX3 under the
Pooling and Servicing Agreement dated April 1,
2007

Plaintiff,

vs.

Scott J. Heinrich; Dinah K. Heinrich; OneWest
Bank, FSB; County of Charleston,

Defendants.

(514773-00572 JJH)

IN THE COURT OF COMMON PLEAS
OF THE NINTH JUDICIAL CIRCUIT

DOCKET NO.: 2011-CP-10-1060

FILED
2013 JUL 31 AM 9:17
JULIE J. ARMSTRONG
CLERK OF COURT
BY

John J. Hearn
GRANT
ORDER ~~DISMISSING~~ DEFENDANTS SCOTT
J. HEINRICH AND DINAH K.
HEINRICH'S MOTION TO DISMISS

JCH

This case came before me on May 13, 2013 on Defendants' pre-Answer Motion to Dismiss this case pursuant to Rules 12(b)(6) and 12(b)(7), SCRPC. Defendants, Scott J. Heinrich and Dinah K. Heinrich ("Defendants"), were represented by William H. Sloan of the Sloan Law Firm, PA in Summerville, and Plaintiff was represented by John J. Hearn of Rogers Townsend & Thomas, PC in Columbia.

I. Rule 12(b)(6), SCRPC

Defendants claim that the Complaint should be dismissed pursuant to Rule 12(b)(6), SCRPC, because Plaintiff "lacks the necessary standing to file this action prior to acquiring and recording an Assignment of Mortgage" and fails to mention how they are the owner of the Note and Mortgage in this case under our fact-based pleading scheme. Plaintiff admits that the assignment of mortgage into Plaintiff was recorded February 23, 2011, about two weeks after this action was filed. Plaintiff claims to have no obligation to record the assignment into itself prior to filing this action.

Plaintiff has possession of the original Note, which is indorsed in blank at the time of the hearing before me on May 13, 2013. Plaintiff claims that the note is a negotiable instrument under the South Carolina Uniform Commercial Code, S.C. Code §36-3 et seq. which would entitle them certainly to sue on the note in this action. However, Plaintiff is seeking to foreclose on the mortgage that is attached to the real property as opposed to simply suing on the promissory note.

The idea that the Mortgage follows the Note is one which has been repeatedly confirmed by our courts: "South Carolina recognizes the 'familiar and uncontroverted proposition' that 'the assignment of a note secured by a mortgage carries with it an assignment of mortgage. However, *Carpenter v. Longan*, 83 U.S. 271, 16 Wall. 271, 21 L.Ed. 313 (1872), quoted by Plaintiff's counsel in this oral argument and brief, clearly supports the notion that the Plaintiff must clearly own the Note and the Mortgage to foreclose on the property. Plaintiff failed to show that it owned ^{gcn} the Mortgage at the time the Complaint was filed. ^{IN gcn} In its Complaint, Plaintiff merely contends in §3 of its Complaint that it is a holder and has the right to enforce. Further, the mortgage of this case shows Mortgage Electronic Registration Systems, Inc. (MERS) to be the mortgagee. This was confirmed by Plaintiff's counsel in oral argument. MERS is never mentioned on the Note, and therefore, ~~the Note and Mortgage of this case have been separated permanently.~~ ^{gcn}

Our state court of appeals made a recent decision in *BAC Home Loan Servicing, L.P. v. Kinder*, 398 S.C. 619, 731 S.E.2d 547 (Ct. App. 2012.) "[T]he assignment of a mortgage does not need to be recorded, and failure to do so has no effect on the rights of the assignee." *Id.* at 623. However, I distinguish the facts of *Kinder* from this case as the Assignment of Mortgage in

Kinder was after the foreclosure was already complete and the issue at dispute in that case was the surplus funds going to the Assignee. *Filing is not the issue but ownership of the note. JCR*

It is clear that to have standing in this foreclosure case, Plaintiff must not only be the holder *OWNER JCR* of the original Note, but also the Mortgage as well. Plaintiff's Complaint in this case fails to meet this criteria. Plaintiff lacks the standing to initiate and prosecute the foreclosure, and dismissal pursuant to Rule 17(a) and Rule 12(b) (6) SCRPC is appropriate.

II. Failure to Join Necessary Parties under Rule 12(b)(7), SCRPC

Rule 12(b)(7) provides that one defense to an action is the failure to join a party under Rule 19 of the South Carolina Rules of Civil Procedure. Rule 19 provides that:

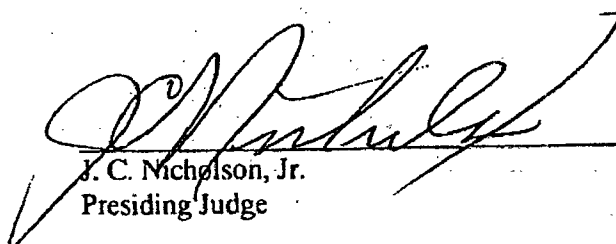
A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be afforded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party.

Defendants claim that Mortgage Electronic Registration Systems, Inc. ("MERS") and IndyMac Bank, FSB ("IndyMac") are necessary parties to this action, and that the court must join them as parties to protect the Defendants from "double or triple liability" on the Note and Mortgage at issue. Again, Defendants misapprehend the applicable law by advancing this argument. Under South Carolina law, Defendants would not be subject to duplicative payment obligations because Plaintiff's foreclosure judgment will discharge Defendants' liability to other claimants. See S.C. Code Ann §36-3-603(1) (2003) (explaining the circumstances under which cancellation or satisfaction filed by the holder of a negotiable instrument will discharge liability for other claims on same instrument.)

There is no reason that the absence of MERS or IndyMac would prevent this court from issuing a foreclosure judgment establishing Plaintiff's sole authority to enforce the Note and Mortgage at issue here. Further, even if it is determined that these were necessary parties. Rule 12(b)(7) does not call for dismissal of the action, and instead only requires that the parties be joined. On a Rule 12(b)(7) motion, "the proper course for the trial court is to determine the necessity of adding a new party under Rule 19 to insure a full adjudication of the controversy." *Bancohio National Bank v. Neville*, 310 S.C. 323, 328, 426 S.E.2d 773, 776 (1993). As such, Defendants' motion to dismiss pursuant to Rule 12(b)(7) is denied. However, In find this issue moot as I have dismissed this case pursuant to Defendants' Heinrich's Motion to Dismiss under Rule 12(b)(6), SCRPC.

And it is so ordered that this case be dismissed without prejudice.

IT IS SO ORDERED!


J. C. Nicholson, Jr.
Presiding Judge

July
~~May~~ 30, 2013

RECORDING REQUESTED BY

SATISFIED
MTG BK 2175 PG 343
DATE 3-17-2010
REGISTER OF DEEDS
LANCASTER COUNTY, SC

2010002834

SATISFACTION MORTGAGE
RECORDING FEES

\$5.00

PRESENTED & RECORDED:
03-17-2010 11:06 AM

JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTY

BK: MORT 2220
PG: 72-77

AND WHEN RECORDED, MAIL THIS DEED AND, UNLESS
OTHERWISE SHOWN BELOW, MAIL TAX STATEMENT TO:

Name: Ziraili M Elbey
Street Address: 13132 Wilburn Park LN.
City, State & Zip code: Fort Mill SC 29707-1598

TITLE ORDER NO. _____ ESCROW NO _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF FULL RECONVEYANCE

Whereas, Ziraili M Elbey, the Trustee is under the Deed of Trust dated March 29 2008, made and executed by ZIRAILI M ELBEY as Trustor(s) to Ziraili M Elbey as beneficiary and recorded as Instrument No. 2009014158 on OCTOBER 29, 2009, in Book 2175 at Page 343-350 of the Office Records in the Office of the Recorder of Lancaster County, State of South Carolina having received from Beneficiary is under said Deed of Trust a written request to reconvey, reciting that all sums secured by said Deed of Trust have been fully paid, and said Deed of Trust and the note or notes secured thereby having been surrendered to the Trustee is for cancellation, do I hereby reconvey, without warranty, to the person or persons legally entitled thereto, all right, title and interest heretofore acquired and now held by said Trustee under said Deed of Trust, in the real property commonly know as 13132 Wilburn Park LN situated in the County of LANCASTER, State of SOUTH CAROLINA, and more particularly described as follows:
SEE ATTACHED

REGISTERED TO BE A TRUE COPY
REGISTER OF DEEDS
COUNTY OF LANCASTER, SC

Date: 03-16-2010

Ziraili Elbey
Ziraili Elbey
Ziraili Elbey, as Trustee

STATE OF SC
COUNTY OF York

On March 16 2010 before me, Angela A. Johnson, a Notary Public, personally appeared Ziraili Elbey who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

RIGHT THUMBPRINT (Optional)



CAPACITY CLAIMED BY SIGNER(S)

- INDIVIDUAL(S) Ziraili Elbey
- CORPORATE
- OFFICER(S) _____
- PARTNER(S) LIMITED
- ATTORNEY IN FACT GENERAL
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

Witness my hand and official seal.
Signature: Angela A. Johnson (SEAL)



Name: Ziraili M. Elbey

Address: 13132 Wilburn Park Lane
Ft. Mill, SC 29707

Parcel #: 0006M-0A-261.00

Deed Bk Pg: 0307-200

Plat: 0047

Legal description:

ALL THAT CERTAIN PIECE, PARCEL, OR LOT OF LAND LOCATED IN LANCASTER COUNTY, SOUTH CAROLINA, AND BEING DESIGNATED AS LOT 261 ON THAT CERTAIN PLAT OF CLAIREMONT, PHASE 2, MAP 5, PREPARED BY YARBROUGH, WILLIAMS & HOULE, INC. DATED JANUARY 18, 2005, AND RECORDED JANUARY 28, 2005, AS PLAT DOC #2005 AT PAGE 0047 IN THE OFFICE OF THE CLERK OF COURT FOR LANCASTER COUNTY, SOUTH CAROLINA.

ALSO BEING SHOWN AS LOT 261 OF CLAIREMONT ON A PLAT OF ZIRAILI ELBEY PREPARED BY HUCKS AND ASSOCIATES, PC, DATED MARCH 3, 2006, AND RECORDED IN PLAT DOC 2006 AT PAGE 198.

SECURITY AGREEMENT

NON-NEGOTIABLE -- NON-TRANSFERABLE

Parties:

DEBTOR' (S)

**ZIRAILI ELBEY
13132 WILBURN PARK LN
FORT MILL, SC 29707-1598**

SECURED PARTY

**Ziraili Elbey
13132 Wilburn Park Ln
Fort Mill, SC Republic State**

This Security Agreement ("Agreement") is made by and between Ziraili Elbey; herein after known as SECURED PARTY and ZIRAILI ELBEY; herein after known as DEBTOR.

NOW, THEREFORE, it is hereby agreed as follows:

In consideration for the DEBTOR agreeing to provide certain Collateral and goods, identified herein below, and certain accommodations to the DEBTOR, including, but not limited to, allow the DEBTOR to act as an instrument, functioning primarily as a transmitting utility, for the purpose of conducting commercial activity for the benefit of the SECURED PARTY; and, as security for payment of all sums due, or to become due or owing by DEBTOR to SECURED PARTY, DEBTOR hereby grants to SECURED PARTY a security interest in the Collateral described herein below and agrees to provide to SECURED PARTY the Indemnification Bond also contained herein below.

The security interest granted herein secures any and all indebtedness and liabilities, whatsoever, owed by DEBTOR to SECURED PARTY, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and howsoever evidenced. This security interest is also given to secure any other debts that may be owed by DEBTOR to SECURED PARTY from time to time as stated herein below.

COLLATERAL

CERTIFICATION OF BIRTH STATE FILE NO: 2977-245
SOCIAL SECURITY CARD NO xxxx- AND ALL ATTACHMENTS
EMPLOYE IDENTIFICATION NO: XXXXX AND ALL ATTACHMENTS
NORTH CAROLINA STATE IDENTIFICATION CARD NO XXXX
UCC File No. 2009-2418334-06, 2009-010195

All Property of DEBTOR, is hereby the property and security of the SECURED PARTY, and before any of the property can be exchanged, sold, tendered or in any manner disposed of, must be compensated to the SECURED PARTY for the property. This property now owned and hereafter acquired includes, but is not limited to: All Assets, All Accounts, Contract Rights, Documents, Chattel Paper, General Intangibles, Inventory, Letters of Credit, Lines of Credit, Equipment and Fixtures; whether owned now or acquired later; all accessions, additions, replacements, and substitutions; all records of any kind relating to any of the foregoing; all proceeds (including insurance, bonds, stocks, general intangibles and accounts proceeds), together with all the other real and personal property including but not limited to: 13132 Wilburn Park Lane., Fort Mill, SC 29707 Tax Lot 261 Book 2175, Page 343-350 and Any property not specifically listed, named or listed by make, model, serial number, etc. is included as the same.

The DEBTOR agrees to notify all employers and creditors of the same, as all DEBTOR'S wages are property of the SECURED PARTY and are noticed accordingly.

The DEBTOR'S rights include the use of said Collateral as may be needed from time to time.

INDEMNITY CLAUSE

KNOW ALL MEN BY THESE PRESENTS, that I, ZIRAILI ELBEY (DEBTOR), am held firmly bound unto Ziraili Elbey, (SECURED PARTY) in the sum of present Collateral Values and any debts or losses claimed by any and all persons against the Commercial Transactions and Investments of aforesaid Collateral up to the penal sum of One Hundred Billion Dollars (100,000,000,000.00) in functional currency of the united states of America, for the payment of which, well and truly be made, I bind myself, my heirs, executors, administrators and third party assigns, jointly and severally and firmly by these presents.

The conditions of the above bond is, that whereas the Collateral described herein above and utilized for the purpose of transmitting goods in Commercial Activity by the DEBTOR are in pursuance of the Statutes in such case made and provided indentured to the SECURED PARTY by which indenture the said SECURED PARTY covenanted to do certain things as stated in this agreement.

The conditions of this obligation are such that if the SECURED PARTY suffers any loss of Vested Rights in the said Collateral Property or Monetary Losses due to debts claimed against the aforesaid Collateral Property, or the DEBTOR, who binds himself by this obligation to make advance payments from the DEBTOR'S treasury, IMF, BMF, IRAF, EPMF (temporary, permanent and current) accounts to any and all who make debt claims against any of the Collateral or Vested Rights in said Collateral of the SECURED PARTY. This obligation shall bind the DEBTOR in all respects, to fully and faithfully comply with all applicable provisions of law.

This bond shall effect as of the date hereon and shall remain in full force and effect until the surety (DEBTOR) is released from liability by the written order of the UNITED STATES and provided that the surety may cancel this bond and be relieved of further liability hereunder by delivery within thirty (30) days, written notice to the SECURED PARTY. Such cancellation shall not affect any liability incurred or accrued by DEBTOR hereunder prior to the termination of said thirty (30) day period. The DEBTOR will promptly reissue a bond before the end of the thirty (30) day period of an amount equal to or greater than the value of this instrument unless the parties agree otherwise.

The DEBTOR, without the benefit of discussion or division, does hereby agree, covenant and undertake to indemnify, defend and hold the SECURED PARTY harmless, from and against any and all claims, losses, liabilities, costs, interests and expenses (herein after referred to as "claims" or a "claim") including, without restriction, all legal costs, interests, penalties and fines suffered or incurred by the Indemnified Party arising as a result of the Indemnified Party having it's personal guarantee with respect to any loan or generally any indebtedness of the DEBTOR, including, without in any way restricting, the generality of the foregoing amount owing by the DEBTOR to all creditors.

The Indemnified Party (SECURED PARTY) shall promptly advise the Indemnifying Party (DEBTOR) of any Claim and provide the same with full details thereof, including copies of any document, correspondence, suit or action received by or served upon the Indemnified Party. The Indemnified Party shall fully cooperate with the Indemnifying Party in any discussion, negotiations or other proceedings relating, to any Claim.

DEFAULT

The following shall be events of default hereunder: (a) failure by DEBTOR to pay any debt secured hereby when due; (b) failure by DEBTOR to perform any obligations secured hereby when the same should be performed.

This document represents the agreement between the DEBTOR and SECURED PARTY and may not be modified unless agreed upon by both parties in writing and signed by both parties.

This Security Agreement is NOT dischargeable in bankruptcy court and holder in due courses' property is exempt from third party levy.

Should any portion of this agreement be judicially determined to be illegal, the remainder of the agreement shall not be affected by such determination and shall remain in full force and effect.

State of SC

) ss.

County of York

SUBSCRIBED AND AFFIRMED: On this 16 day of March, 2010 AD, before me appeared Ziraili Elbey known to me or proved to me on the basis of satisfactory evidence to be the man whose name is subscribed on this Statute Staple Securities instrument. Witnessed by my hand and official stamp, signed, sealed, and delivered by hand or by private, registered, or certified mail, drafted by the above Secured Party Creditor with attached property description and definitions.

NS: Amelia G. Johnson
Signature of Notary Public

Executed and sealed by the voluntary act of my own hand, this 16 day of March, 2010

Wynne E. Messinger witness

My Commission expires: 4/6/2016

Roy Brown witness

SIGNATURES

The SECURED PARTY accepts the SECURED PARTYS signature in accord with Uniform Commercial Code: 3-401 & 3-419.

Ziraili Elbey -Secured Pa rty
Power of Attorney in Fact

ZIRAILI ELBEY
ZIRAILI ELBEY- DEBTOR

RECORDING REQUESTED BY

AND WHEN RECORDED, MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENT TO:

Name: Ziraili M Elbey
Street Address: 9789 Charlotte Hwy, Ste 400-191
City, State & Zip code: Ft. Mill, South Carolina 29707

TITLE ORDER NO. _____ ESCROW NO. 9723536795

2013002511

DEED NO CHARGE RECORDING FEES

\$0.00

PRESENTED & RECORDED:
02-19-2013 12:22 PM

JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE PHILLIPS DEPUTY
BK: DEED 715
PG: 233-251

2013002512

SATISFACTION MORTGAGE RECORDING FEES

\$5.00

PRESENTED & RECORDED:
02-19-2013 12:23 PM

JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE PHILLIPS DEPUTY
BK: MORT 2618
PG: 242-260

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SATISFIED
MTG BK 2600 PG 270
DATE 2-19-2013
REGISTER OF DEEDS
LANCASTER COUNTY, SC

DEED OF FULL RECONVEYANCE

EXHIBIT A

Whereas, Ziraili M Elbey, the Trustee is under the Deed of Trust dated March 19, 2008, made and executed by ZIRAILI M ELBEY as Trustor(s) to Ziraili M Elbey as beneficiary and recorded as Instrument No. 2013002645 on 01/14/2013, in Book 2600 at Page 270-280 of the Office Records in the Office of the Recorder of LANCASTER County, State of South Carolina having received from Beneficiary is under said Deed of Trust a written request to reconvey, reciting that all sums secured by said Deed of Trust have been fully paid, and said Deed of Trust and the note or notes secured thereby having been surrendered to the Trustee is for cancellation, do I hereby reconvey, without warranty, to the person or persons legally entitled thereto, all right, title and interest heretofore acquired and now held by said Trustee under said Deed of Trust, in the real property commonly know as 13132 Wilburn Park Lane situated in the County of LANCASTER, State of South Carolina, and more particularly described as follows:
SEE ATTACHED

Date: 2/19/13

First Witness Keldin J...
Second Witness ...
... as Trustee/Trustor

STATE OF South Carolina
COUNTY OF York

On 2/19/13 before me, Kisha White, a Notary Public, personally appeared Ziraili M Elbey who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of South Carolina that the foregoing paragraph is true and correct.

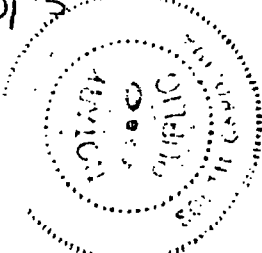


CAPACITY CLAIMED BY SIGNER(S)
 INDIVIDUAL(S) Ziraili M Elbey
 CORPORATE
OFFICER(S) _____
 PARTNER(S) LIMITED GENERAL
 ATTORNEY IN FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: Secured Party Creditor

Witness my hand and official seal.

Signature Kisha White (SEAL)

sharis Sept 10, 2013



SIGNER IS REPRESENTING:
Name of Person(s) of Entity(ies)

From: Ziraili Elbey
#9723536795
To: NATIONSTAR MORTGAGE LLC

Subj: CONDITIONAL ACCEPTANCE AND REQUEST REGARDING AUTHENTIC STATEMENT
REGARDING ACCOUNTING

Encl: (1) Request regarding Authentic Statement of Account

1. I am in receipt of your payoff letter dated 11/15/2012 and I conditionally accept your bill for \$241,940.00 upon my receipt of a verified claim to my office signed by an authorized representative from your Company, submitted with the following proofs for consideration:

(a) Proof. I agree to pay your claim of \$241,940.00 upon proof that the account no 597002327 is not satisfied and paid in full and reflecting a zero balance due. To validate your claim you are required within 14 days to correct the following true statements; or rebut the following statements as being untrue; or agree, consent, and assent to the statements as fact, by remaining silent.

STATEMENT OF FACTS

(1) On November 15, 2012 an offer for discount payoff price of \$241,936.00 was sent to the law firm of Brett M. Shockley, attorney with McGuireWoods LLP, 201 N. Tryon Street, Suite 3000, Charlotte, NC 28202 on behalf of NATIONSTAR MORTGAGE, LLC.

(2) On November 27, 2012 Brett M. Shockley, attorney with McGuireWoods, LLP, 201 N. Tryon Street, Suite 3000, Charlotte, N.C. 28202 on behalf of NATIONSTAR MORTGAGE, LLC payoff statement was sent to us by email. On December 13, 2012 the payoff statement was printed-out and delivered to accounts payable.

(3) On December 24, 2012 payment was posted and mailed by **REGISTERED MAIL** to NATIONSTAR MORTGAGE, LLC, Attn: Payoff Department, 350 Highland Drive, Lewisville, TX 75067. See **PS Form 3806, Receipt for Registered Mail** [exhibit A]; and **Form 3811 Domestic Return Receipt RA270704656US** [exhibit B]

(4) There exists no evidence or certification of dishonour to the tender and therefore the facts establish that the final credit to the account is made and the balance is adjusted to zero

(5) The account for the total sum of 241,940.00 is now paid in full.

(b) Verification. Your claim must be verified to prove the validity, by presenting the alleged obligation under oath or notary

JURAT/ACKNOWLEDGMENT

State of South Carolina)
) ss
Lancaster County)

On this 18th day of JANUARY AD 2013 Signor did personally appear before me, is known to be the person operating in the requisite capacity for signature described herein, who executed the foregoing, acknowledged the contents thereof; and executed the same as her free act and deed. Subscribed, sworn and agreed to before the undersigned.

Kausha Cook
Notary Public

Commission Expires Apr 4 2022

Embossed Hereon is My
State of South Carolina Notary Public Seal
My Commission Expires April 4, 2022
KAUSHA COOK

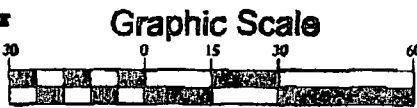


SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature Nationstar Mail Room</p> <p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery JAN 22 2013</p>
<p>1. Article Addressed to:</p> <p>NATIONSTAR MORTGAGE LLC Payoff Department 350 Highland Drive Lewisville, TX 75067</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7010 2780 0002 1524 4373</p>
<p>PS Form 3811, February 2004 Domestic Return Receipt 102335-02-M-1540</p>	

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only. No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 40.65
Certified Fee	\$ 2.95
Return Receipt Fee (Endorsement Required)	\$ 2.35
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 45.95
<p>7010 2780 0002 1524 4373</p> <p>Sorry to NATIONSTAR MORTGAGE LLC - Payoff Department Street, Apt. No., or PO Box No. 350 Highland Drive City, State, Zip+4 Lewisville, TX 75067</p>	

2010006295

PLAT SHALL RECORDING FEES \$5.00
RECORDED & ENCLOSED:
36-11-2010 12:08 PM
JOHN LAKE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTY
BK: PLAT 2010
PG: 251-251

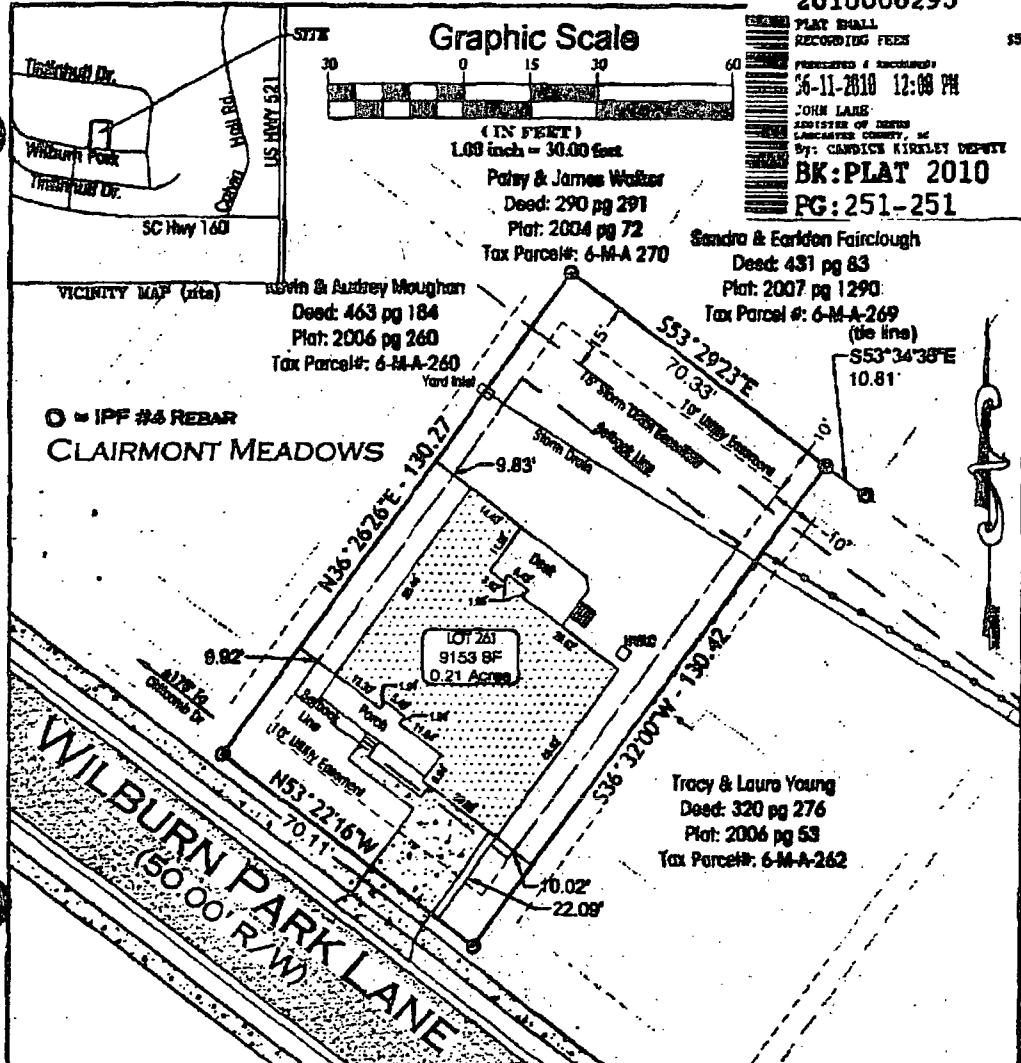


(IN FEET)
1.00 inch = 30.00 feet

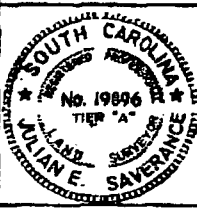
Patry & James Walter
Deed: 290 pg 291
Plat: 2004 pg 72
Tax Parcel#: 6-M-A 270

Sandra & Earleton Fairclough
Deed: 431 pg 83
Plat: 2007 pg 1290
Tax Parcel #: 6-M-A-269

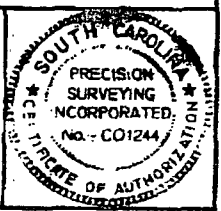
Kevin & Aubrey Moughan
Deed: 463 pg 184
Plat: 2006 pg 260
Tax Parcel#: 6-M-A-260



SURVEYOR'S METES AND BOUNDS DESCRIPTION OF PARCEL 261 - CLAIMMONT MEADOWS - SUBDIVISION
All that certain piece, parcel, or lot of land being described as lot 261 of Claimmont Meadows subdivision, about 3 miles east of Fort Mill, South Carolina being more particularly described as follows: Commencing at a point, a 1/2" Rebar (POB) representing the northeastern property monument of said parcel, located 175' Southeast of the intersection of Wilburn Park Lane and Calzadito Drive thence bearing N 36-36'-25" E a distance of 130.27 feet to a 1/2" Rebar; thence bearing S 53-29'-23" E a distance of 70.33 feet to a 1/2" Rebar; thence bearing S 36-31'-59" W a distance of 130.42 feet to a 1/2" Rebar; thence bearing N 53-22'-16" W a distance of 70.12 feet along the roadway right of way to the point of beginning. Said described parcel contains 9152.84 square feet (0.210 acres), more or less, subject to any and all easements, reservations, restrictions and covenants of record.



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE IRRIGATOR'S STANDARD MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SHOWN THEREIN. ALSO, THERE ARE NO ENCROACHMENTS, PROJECTIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.
- This plat is certified only to the party (parties) listed below. The unauthorized reproduction of this Plat is illegal and could result in legal action by Copyright Holder ©.
NO NEW PROPERTY LINES, EASEMENTS, OR RIGHTS OF WAY ESTABLISHED.



DATE: APRIL 21, 2010
4-21-2010
PLAT
OF
BOUNDARY SURVEY
COUNTY OF LANCASTER
STATE OF SOUTH CAROLINA

THE SAME BEING OF PROPERTY SHOWN ON 2006 PG 199 AND RECORDED IN DEED ON 370 PG 10
IN THE OFFICE OF THE CLERK OF COURT FOR LANCASTER COUNTY. CURRENT TAX MAP NUMBER IS 6-M-A-261

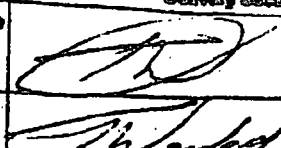
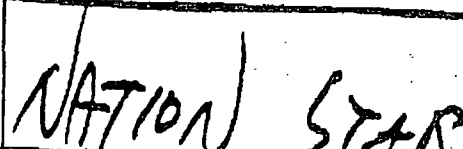
SURVEYED FOR
J.E. Saverance
ZIRAILI M. ELBEY ETAL TRUSTEES
CONDUCTED BY
PRECISION SURVEYING, INC.
1801 TARA TRAIL - LANCASTER, SC - 29730 - (803)-283-3022

**COPIED TO BE A TRUE COPY
REGISTER OF DEEDS
COUNTY OF LANCASTER, SC**



Track/Confirm - Intranet Item Inquiry
Item Number: RA27 0704 656U S

This item was delivered on 01/02/2013 at 11:35

Signature:	Delivery Section
	
Address:	

Enter Request Type and Item Number:

Quick Search Extensive Search

Version 1.0

Inquire on multiple items.

Go to the Product Tracking System Home Page.

The State of South Carolina



Office of Secretary of State Mark Hammond

Certificate of No Record

I, Mark Hammond, Secretary of State of South Carolina Hereby certify that:

At this time, this office can find no record of a corporation using the name:
H&R BLOCK BANK, FSB

Given under my Hand and the Great
Seal of the State of South Carolina this
18th day of October, 2013,


Mark Hammond, Secretary of State

**EXAMINATION OF ASSIGNMENTS OF MORTGAGE
CONDUCTED IN THE
ESSEX SOUTHERN DISTRICT REGISTRY OF DEEDS**

By Marie McDonnell, CFE

*Protocols and Practical Applications for Classifying Assignments of Mortgage
According to the Prescribed Definitions of Terms*

VALID ASSIGNMENT OF MORTGAGE

Non-Foreclosure Situation

A *valid assignment* is recognizable when the originating Lender lawfully assigns borrower's loan (note & mortgage) at or near origination.

1. Example: Barnes — On 4/15/2010, Salem Five Mortgage Company, LLC *assigns mortgage* to JPMorgan Chase Bank, N.A. at settlement and immediately records it after the mortgage.

Where it can be established that the signer and the notary are persons duly authorized pursuant to M.G.L. c. 183 § 54B.

Where the assignment is duly acknowledged in compliance with M.G.L. c. 183, s. 30, 33 and 41 as applicable.

Where the originating lender appears to have continuously held the borrower's loan (note & mortgage) from the date of execution until the date the assignment is made as there are no subsequent assignments on record, and no forensic evidence of any prior transfer of the loan.

Where there is no forensic evidence available suggesting there were any intervening transfer(s) by the Lender or Assignee of record who is executing the assignment at issue.

Foreclosure Situation

A party other than the originating Lender seeking to conduct a non judicial foreclosure under the "power of sale" contained in a mortgage in Massachusetts must comply with the following:

Interpreting G.L. c. 267, s. 1, *Commonwealth v. O'Connell*, 55 Mass. App. Ct. 100 (2002) states:

"[fn6] To make out its case on forgery, the Commonwealth must prove that the defendant falsely made all or part of a document with the intent to defraud. G.L. c. 267, § 1. *Commonwealth v. Apalakis*, 396 Mass. 292, 295-296 (1985) [fn7] See Model Penal Code § 224.1 (1980) ("A person is guilty of forgery if . . . the actor: (a) alters any writing of another without his authority; or (b) makes . . . any writing so that it purports to be the writing of another who did not authorize the act") (emphasis supplied); 18 Pa. Cons. Stat. § 4101 (2001); *State v. Mason*, 79 Haw. 175, 180 (Ct. App. 1995); *People v. Piening*, 99 A.D.2d 583, 584 (N.Y. 1984); *Lewis v. Commonwealth*, 213 Va. 156 (1972). See also *Owen v. People*, 118 Colo. 415, 421 (1948), and cases cited.

The phrase "falsely makes" was examined in the case of *Commonwealth v. Apalakis*, 396 Mass. 292 (1985) and found to be essentially synonymous with "forgery".

Accordingly, forgery is the false making or material alteration of a written instrument with the intent to injure or defraud. *Commonwealth v. Apalakis*, supra at 298. The focus for forgery is upon the *false making* of the document(s) and/or instrument(s), not their *publication*. It is not necessary to show that anyone actually was defrauded. *Commonwealth v. Analetto*, 326 Mass. 115, 118 (1950).

One who falsely makes a written instrument with the requisite intent to injure or defraud, even if they never show that document(s) and/or instrument(s) to another, is guilty of forgery.

Uttering:

Where document(s) and/or instrument(s) have been fraudulently or "falsely made" and are thereafter published (i.e. recorded or registered on the public land records), the crime of "uttering" has been committed and may be punished under G.L. c. 267, s. 5.

G.L. c. 267, s. 5 states:

"Whoever, with *intent to injure or defraud*, utters and publishes as true a false, forged or altered record, deed, instrument or other writing mentioned in the four preceding sections, knowing the same to be false, forged or altered, shall be punished by imprisonment in the state prison for not more than ten years or in jail for not more than two years."

The crime of uttering punishes the *publication*, with *intent to injure or defraud*, of an instrument known to be *forged*. *Commonwealth v. Levin*, 11 Mass. App. Ct. 482, 496-97 (1981).

12. Example: Miller — On 10/12/2010, *Robo-signer Tom Croft of Carrington Mortgage Services, LLC* as attorney in fact for New Century Mortgage Corporation executed and caused to be recorded an Assignment of Mortgage from New Century Mortgage Corporation to Wells Fargo Bank, N.A. as Trustee for Carrington Mortgage Loan Trust, Series 2006-NC4. New Century has been in a liquidation bankruptcy since 2007 and had divested itself of its loans years before. The Miller loan had to be conveyed into the subject trust within 90 days of when the deal closed in 2006.

A *fraudulent assignment* of mortgage may also become *criminally fraudulent* when it violates at least one of several Massachusetts laws related to the preparation and/or the preparation and then recordation on the public land records of various legal documents associated with mortgages (in this context):

Formerv:

"Falsely making" document(s) and/or instrument(s) with knowledge that such document(s) and/or instrument(s) have been executed with an "intent to injure or defraud" is a crime in Massachusetts typically reviewed under the "forgery" statute at G.L. c. 267, s. 1.

G.L. c. 267, s. 1 states:

"Whoever, with intent to injure or defraud, falsely makes, alters, forges or counterfeits a public record, or a certificate, return or attestation of a clerk or register of a court, public register, notary public, justice of the peace, town clerk or any other public officer, in relation to a matter wherein such certificate, return or attestation may be received as legal proof; or a charter, deed, will, testament, bond or writing obligatory, power of attorney, policy of insurance, bill of lading, bill of exchange or promissory note; or an order, acquittance or discharge for money or other property or a credit card or an instrument described as a United States Dollar Traveller's Check or Cheque, purchased from a bank or other financially responsible institution, the purpose of which is a source of ready money on cashing the instrument without identification other than the signature of the purchaser; or an acceptance of a bill of exchange, or an endorsement or assignment of a bill of exchange or promissory note for the payment of money; or an accountable receipt for money, goods or other property; or a stock certificate, or any evidence or muniment of title to property; or a certificate of title, duplicate certificate of title, certificate issued in place of a duplicate certificate, the registration book, entry book, or any indexes provided for by chapter one hundred and eighty-five, or the docket of the recorder; shall be punished by imprisonment in the state prison for not more than ten years or in jail for not more than two years."

Bank of America assigned the bid to Federal National Mortgage Association (Fannie Mae), the real party in interest.

FRAUDULENT ASSIGNMENT OF MORTGAGE

An *invalid assignment* may be determined to be a *fraudulent assignment* where pattern and practice evidence exists that the party executing the assignment does so knowingly and willfully with intent to deceive.

8. Example: Berger — On 11/28/2008, **Andrew S. Harmon**, a known principal and attorney at Harmon Law Offices, PC, acting as an attorney as well as a purported MERS Certifying Officer, prepared, executed, and caused to be recorded on the public land records an Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. to Wells Fargo Bank, N.A. Forensics established however that Fannie Mae is the current owner of the mortgage obligation.
9. Example: Griffin — On 1/7/2010, **Andrew S. Harmon**, a known principal and attorney at Harmon Law Offices, PC, acting as an attorney as well as a purported MERS Certifying Officer, prepared, executed, and caused to be recorded on the public land records an Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. to Wells Fargo Bank, N.A. Forensics established however that Fannie Mae is the current owner of the mortgage obligation.
10. Example: Green — On 8/6/2010, **Andrew S. Harmon**, a known principal and attorney at Harmon Law Offices, PC, acting as an attorney as well as a purported MERS Certifying Officer, prepared, executed, and caused to be recorded an Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. to Wells Fargo Bank, N.A. Forensics established however that Fannie Mae is the current owner of the mortgage obligation.

CRIMINALLY FRAUDULENT ASSIGNMENT

A *fraudulent assignment* may become *criminally fraudulent* when it violates the Massachusetts Residential Mortgage Fraud statute, M.G.L. c. 266 § 35(A)(b)(4) and was recorded on the public land records on or after August 7, 2010.

11. Example: McGrath — On 10/6/2010, **Andrew S. Harmon of Harmon Law Offices, P.C.**, acting as an attorney as well as a purported MERS Certifying Officer, prepared, executed, and caused to be recorded an Assignment of Mortgage from Mortgage Electronic Registration Systems, Inc. to Wells Fargo Bank, N.A. Forensics established however that Fannie Mae is the current owner of the mortgage obligation.

(See *U.S. Bank National Association v. Ibanez*, 458 Mass. 637 (2011); *HSBC Bank USA, N.A. v. Haro*, Suffolk County District Court, Chelsea Division, Case No. 201014SU000264, 6/15/2011; and *Eaton v. Federal National Mortgage Association*, Suffolk County Superior Court, Civil Action No. 11-1382, 6/17/2011)

An assignment executed by a purported MERS "Certifying Officer" that attempts to convey the mortgage from MERS to the foreclosing entity is typically ineffective and invalid for the reasons stated above.

- An assignment from MERS is limited by the agency status contained in the mortgage between MERS and its principal whereby MERS has limited power(s) to act solely as "nominee" for the originating Lender and for the Lender's successors and assigns.¹

An assignment from MERS as nominee for the Lender or the Lender's successors and assigns that fails to validly assign the mortgage to the current note holder will not comport with the requirement that the note and mortgage be held in the same ownership by the foreclosing entity. Accordingly, the Assignee will not have the legal authority to foreclose the mortgage non judicially and the assignment will be considered invalid when used for that purpose.

Where the assignment is being prepared by the Loan Servicer or a Foreclosing Law Firm to prosecute a non judicial foreclosure *and where* forensic analysis establishes that the Assignor is not the current owner (i.e., the assignment appears to contain false statements or representations), it is considered invalid. In such cases, the Assignor lacks ownership and/or authority to assign the mortgage; moreover, recorded assignments that contain false statements are considered forgeries and utterings in Massachusetts.

Assignments of Bid post-foreclosure are considered invalid when analysis determines that the foreclosing entity was not the legal owner of the note and mortgage at the time the foreclosure took place.

7. Example: Odolomerun — On 12/13/2004, Bank of America originated the loan and sold it to Fannie Mae. According to Fannie Mae's Selling and Servicing Guide, this conveyance required Bank of America to prepare, execute and deliver an Assignment of Mortgage to Fannie Mae, *but not record same*. On 4/9/2010, Bank of America filed a Complaint to Foreclose Mortgage in the Massachusetts Land Court and obtained a judgment on 9/15/2010. The following day, 9/16/2010,

¹ MERS' unilateral statement that it is the "mortgagee" under a typical MERS mortgage does not automatically confer the legal status of a mortgagee upon MERS simply because the document states so.

INVALID ASSIGNMENT OF MORTGAGE

Non-Foreclosure Situation

An *invalid assignment* results, for example, when the originating Lender purports to assign the note and mortgage directly to the Issuing Entity of a securitized trust. Such a transfer violates the Pooling and Servicing Agreement governing the trust, New York Trust and other New York state laws, as well as I.R.S. REMIC rules and is, therefore, presumptively invalid.

Where an assignment from Mortgage Electronic Registration Systems, Inc. fails to identify the Principal Member who is purporting to assign the mortgage, there is no "grant" from a person who can be confirmed as an authorized signer pursuant to M.G.L. c. 183 § 54B and therefore, the assignment is presumptively invalid.

— Moreover, an assignment from MERS conveys only the agency status that MERS has established in the mortgage whereby it has limited powers to act solely as nominee for the Lender and for the Lender's successors and assigns. See (Agard; BONY v. Silverberg)

Where a known Robo-Signer executes the assignment without proper authority or personal knowledge of the document's contents and legal effect.

Where a Surrogate-Signer executes the assignment there may be forgery, uttering, and notary fraud.

Where the Execution Date on the assignment and Notary Date are not the same.

Foreclosure Situation

A party other than the originating Lender seeking to conduct a non judicial foreclosure under the "power of sale" contained in a mortgage in Massachusetts must comply with the following:

- a.) The foreclosing party must be the lawful owner of the note;
- b.) The foreclosing party must be in possession of the original promissory note;
- c.) The foreclosing party must be the Mortgagee (as that term is defined by statute and under the common law) by way of a valid assignment(s) at the time the foreclosure sale is noticed (and at the time any sale is conducted) pursuant to M.G.L. c. 244 § 14.

If challenged, the foreclosing entity must be able to prove that it has a complete, unbroken chain of title from the originating Lender together with valid documentation of all intervening Assignees.

3. Example: Clain — On 10/26/2010, Wells Fargo Bank, N.A. *assigns mortgage* directly to U.S. Bank National Association as Trustee for Structured Asset Securities Corporation Trust 2005-WF2. Under the stated terms of the Pooling and Service Agreement to the Trust therefore, there are three (3) obviously Missing Assignments:
- a.) Wells Fargo Bank, N.A. to the Seller/Sponsor;
 - b.) Seller/Sponsor to the Depositor/ and;
 - c.) Depositor to U.S. Bank National Association as Trustee for Structured Asset Securities Corporation Trust 2005-WF2.

QUESTIONABLE ASSIGNMENT OF MORTGAGE

A questionable assignment is one where bank failures and/or mergers & acquisitions make it nearly impossible to validate conveyances.

4. Example: Hodgkins — On 9/16/2010, Bank of America, N.A. as S/B/M/T Fleet National Bank as S/B/M/T BayBank Middlesex *assigns mortgage* to JPMorgan Chase Bank, N.A.
5. Example: Norris — On 3/19/2010, Chase Home Finance LLC S/B/M to Chase Manhattan Mortgage Corp. A/I/F for Bank of America F/K/A Fleet National Bank F/K/A BankBoston NA SBM the First National Bank of Boston SBM Pioneer Financial, A Cooperative Bank Consolidated with Malden Co-Operative Bank *assigns mortgage* to JPMorgan Chase Bank, N.A. Successor in Interest from Federal Deposit Insurance Corporation as Receiver for Washington Mutual Bank, FA.

Where the mortgage is being assigned years after a discharge in an attempt to correct a skip or gap in the chain of title.

6. Example: Beck — On 10/22/1998, Beck granted a Mortgage to Homeside Lending, Inc.; Mortgage Electronic Registration Systems, Inc. discharged the mortgage on 5/30/2003. Six (6) years later, on July 23, 2009, Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc. as Attorney in Fact for U.S. Bank National Association as successor Trustee to Wachovia Bank, N.A. f/k/a First Union National Bank, as Trust Administer *assigns the mortgage* to Mortgage Electronic Registration Systems, Inc.

Where the Assignment is suspected to be invalid because of a preponderance of evidence gathered involving the parties to the transfer.

- a.) The foreclosing party must be the lawful owner of the note;
- b.) The foreclosing party must be in possession of the original promissory note;
- c.) The foreclosing party must be the Mortgagee (as that term is defined by statute and under the common law) by way of a valid assignment(s) at the time the foreclosure sale is noticed (and at the time any sale is conducted) pursuant to M.G.L. c. 244 § 14.

If challenged, the foreclosing entity must be able to prove that it has a complete, unbroken chain of title from the originating Lender together with valid documentation of all intervening Assignees.

(See U.S. Bank National Association v. Ibanez, 458 Mass. 637 (2011); HSBC Bank USA, N.A. v. Haro, Suffolk County District Court, Chelsea Division, Case No. 201014SU000264, 6/15/2011; and Eaton v. Federal National Mortgage Association, Suffolk County Superior Court, Civil Action No. 11-1382, 6/17/2011)

Accordingly, if an assignment is being prepared in order to pass title into the foreclosing Mortgagee, the following must be *true*:

The Assignor is the originating Lender or a lawful successor in interest, or became the Mortgagee through one or more valid Assignment(s) of Mortgage *and* the forensic evidence indicates that the Assignee is the current lawful owner of the note (and is in possession of the original thereof) *or* is silent.

MISSING ASSIGNMENT OF MORTGAGE

A *missing assignment* may be detected where there is a skip or "gap" in the chain of title because the last known Lender/Mortgagee/Assignee is not the current owner or holder of the mortgage obligation as determined through forensic examination.

2. Example: Costa — On 9/3/2010, Bank of America, N.A. as Lender *assigns* mortgage to BAC Home Loans Servicing, LP; research established that Fannie Mae owns the loan. Therefore, there is a Missing Assignment to Fannie Mae.

The securitization model popularized over the past decade usually requires two (2) "true sales" to distance the originating Lender from the Issuing Entity in order to create a so-called "bankruptcy remote" transaction. This involves at least three (3) assignments of the mortgage in question. When there is an assignment from the originating Lender directly into the Trust, which is typically a prohibited act pursuant to virtually all Pooling and Servicing Agreements, there are usually at least three (3) Missing Assignments. *(See Securitization Flow Chart)*

EXECUTIVE SUMMARY



Forensic Professionals Group USA, Inc.

ATTN: LINA

1 THRU 10 &

PG 8 ON FICTITIOUS
TRANSACTIONS

EXECUTIVE SUMMARY

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Based upon my personal investigation and the facts discovered I can testify that this foreclosure appears to have been conducted unlawfully. It includes foreclosure-related documents signed in a manner that are not lawful; reverse engineered false and inaccurate documents, undisclosed and manipulated conflicts of interest, and purposeful deceit in falsifying faulty chains of title. Designs in this manner make a mockery of our courts.

1. This loan has been securitized,
2. Subsequent sales or transfers of the loan have not been revealed,
3. The ELBEY's Note and Mortgage presented
 - a. have been paid in full in 2006,
 - b. have been separated (bifurcated)
4. The documents submitted as the basis of this foreclosure are fictitious and faulty,
5. The chain of ownership is deceitful and faulty,
6. The evidence reveals "robo-signing" has also taken place.
 - a. Documentation asserting claims without knowledge of the facts, or confirming their accuracy.
 - b. Employees of foreclosure trustees are signing documents posing as the corporate officer of multiple banks and Mortgage servicers.
 - c. Reverse-engineering the chain of title in the Assignment to make it appear as though the loan was passed from company to company when in fact it was not.
7. The documentation has been reverse engineered,
8. Federal loan modification requirements have not been met, and
9. Consumer protection requirements have not been followed.
10. A chain of ownership for the loan or the security interest that has been falsely manipulated and reverse engineered to appear lawful when in fact it is not;

Such deceptive processes may violate state laws, and individual Attorney Generals have requested suspension of questionable foreclosures and investigation into the underlying cases in which judges and courts have not yet confirmed the following:

- that all foreclosure-related documents were lawfully signed,
- that the chain of ownership is clear and has been revealed to y

EXHIBIT

BROCK & SCOTT KNEW BEFORE FILING INITIAL COMPLAINT THAT RESPONDENTS MORTGAGE WAS PAID IN-FULL. BROCK & SCOTT SHOULD BE SCANDINAVIAN FOR VIOLATION OF "SCRCP" RULE 11

Note: Special Referee, Clerk of Court, and Law Firm Full 2nd Forensic Audit from Respondent

NOTICE TO PRINCIPAL IS NOTICE TO AGENT NOTICE TO AGENT IS NOTICE TO PRINCIPAL

EXECUTIVE SUMMARY

ATTN: LINE

1 THRU 10 &

PG 8 ON FICTITIOUS DIAGRAM OF THE FICTITIOUS TRANSACTION TRANSACTIONS

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Ziraili M. Elbey
MORTGAGOR
\$197,186.00
Loan originated: March 29, 2006
Option One Mortgage Corporation, Inc.

Option One Mortgage Corporation, Inc.
ORIGINATOR
Originates the loan with borrower. Initial loan docs: Note not endorsed, Mortgage not assigned - indicates portfolio loan

Sand Canyon Corporation FKA Option One Mortgage
ASSIGNMENT OF REAL ESTATE MORTGAGE
Docs dated July 2, 2010
Transferred to H& R Block
Signed by Melissa Hively, VP (robo-signer)
Melanie Hanson, Assistant VP (robo-signer)
Notarized by Krystal Hall (robo signer)
Fabricated, Robo-Signed, Reverse engineered

12/4/2007 Option One Announces Shut Down of Lending Operations
01/31/2008 OOMC ceases all loan origination activities.
4/30/2008 OOMC sells Servicing to AHMSI for \$1.3b
03/18/2009 BK: Sand Canyon no longer engaged in servicing,
has no servicing rights, and
does not own any residential real estate loans.

H&R Block Bank
COURT CASE
HRB relying on bogus fictitious Assignment above to obtain ownership and deficiency judgment.

UNKNOWN
TRUST FUND - ISSUING ENTITY
Holds Pool Of Loans; Issues Certificates
Closing Date: Unknown

BROCK & SCOTT KNEW BEFORE FILING INITIAL COMPLAINT THAT RESPONDENT'S MORTGAGE WAS PAID-IN-FULL
BROCK & SCOTT SHOULD BE SCANTIONED FOR VIOLATION OF "SCRCJ" VE 11

Note: Special Referee, Clerk of Court, and Law Firm Full 2nd Forensic Audit from Respondent

NOTICE TO PRINCIPAL IS NOTICE TO AGENT NOTICE TO AGENT IS NOTICE TO PRINCIPAL



About Us | Fannie Mae Help | Loan Lookup | Questions | En Español

Rent Buy Refinance Modify Avoid Foreclosure Find Resources

Home > Loan Lookup > Fannie Mae Loan Lookup Results: No Match Found

Fannie Mae Loan Lookup Results: No Match Found

It appears that Fannie Mae does not own your loan, based on the information you entered:

ZIRAILI ELBEY
13132 Wilburn Park Ln.
Fort Mill, SC 29715
Last 4 Digits of Social Security Number: ****

FORECLOSURE CONSEQUENCES

What can happen if you are foreclosed on? Find out here so you can be prepared.

[GO TO OUR FORECLOSURE PAGE](#)

Next Steps

Search Again

Re-enter your information in the Loan Lookup Tool or, if there is a co-borrower on the mortgage, try entering the co-borrower's information.

Explore KnowYourOptions.com

Review the useful information and tools on this site to learn more about your options.

Contact Your Mortgage Company

Confirm these results and obtain additional information regarding your mortgage by contacting your mortgage company. Remember, data entered in the Loan Lookup Tool that does not match our records exactly may return inaccurate results.

See if Your Loan is Owned by Freddie Mac

Go to MakingHomeAffordable.gov

Learn more about the Making Home Affordable program—other investors (who might own your loan) may participate in this program.

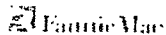
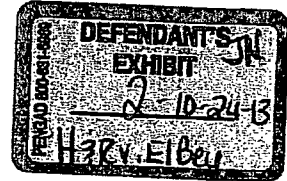
Contact the Homeowner's HOPE™ Hotline

Get free housing counseling and immediate assistance by contacting the Homeowner's HOPE™ Hotline at 888-995-HOPE (4673) or www.995HOPE.org.

Visit HUD.gov

Find for more information about avoiding foreclosure.

[Search Again](#) [Explore Now](#)



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FPG

FPG-USA

USA

Forensic Professionals Group USA, Inc.
Mortgage Analysis as Part of a Credible Defense Against Foreclosure

Highly Qualified Experts www.fpg-usa.com ph: 786-329-5588 fax: 305-675-7676 info@fpg-usa.com

S1-TNID-IF-Judicial

FORENSIC LENDER DISCOVERYsm

STAGE ONE

LOAN SECURITIZATION AUDIT REPORT

Date of Issuance	March 14, 2011
Borrower	Ziraili M. Elbey
Property Address	13132 Wilburn Park LN, Fort Mill, SC 29715
Borrower's Attorney	TBD

USE OF THIS REPORT

This report is authorized for use by both the borrower and attorney designated above. The content constitutes written evidentiary findings testimony by the expert whose name appears at the bottom of this report. The expert issuing this report is considered a 35 year veteran "highly qualified" independent party with no financial interest in the outcome of this case and attaches his/her declarations. The expert stands ready to testify before any State or Federal court as an expert witness in support of the attorney's foundation of evidence and judicial notice. This report is based upon facts, documentation, investigation and review of the evidence. A sworn oath is provided.

Disclaimer Notice

FPG-USA provides forensic lender securitization and compliance analysis, research, discovery and reporting services. Our research and examinations are based upon facts, written documentation, established government compliance guidelines, rules, regulations. Our principal qualifying expert has over thirty five years experience in mortgage backed securitization, real estate, finance and mortgage lending. FPG-USA reports are designed for use in court by attorneys. We offer veteran highly qualified expert witness testimony in support of our findings. FPG-USA is an independent third party with no financial interest in the outcome of cases in which our reporting is used. FPG-USA does not provide legal, accounting, real estate or mortgage lending advice and nothing issued or received should be construed as such. If you need those services, contact duly licensed professionals in the area of your concern. FPG-USA aggressively pursues our intellectual property rights, all material is copyright protected and where noticed, is service marked, trademarked and patent or patent pending. No unauthorized use of any materials is allowed without express written permission before the fact. See our website for additional information <http://www.fpg-usa.com>.



ABOUT THE AUTHOR AND QUALIFYING EXPERT

Richard Merrill Kahn is considered a veteran highly qualified expert in private and public mortgage backed securities syndication; real estate acquisition, management and disposition; residential and commercial mortgage lending; and mortgage analysis in the process. He is the author of *Winning Against Foreclosure*. His experience spans more than thirty-five years from his beginnings on Wall Street working as Merrill Lynch C.E.O. Donald Regan's National Real Estate Tax Sheltered Product Manager. Mr. Kahn's resume is online at http://www.fpg-usa.com/RK_Resume.cfm.

Mr. Kahn was on the mortgage banking, investment banking and lending side until 2008 when he turned his experience to become a qualifying expert of his firm FPG-USA to supply forensic mortgage analysis as part of a credible defense against foreclosure in court.

ABOUT FPG-USA

FPG-USA provides highly qualified expert forensic mortgage analysis, discovery, investigation and reporting. Our reports are more than informational—we provide expert witness services to back them up in court. Anything less will not get serious attention by lenders or in court. Our senior qualifying expert has over 35 years in mortgage backed securitization, real estate lending and finance.

We service all states, judicial and non-judicial process. Civil and Bankruptcy. Pre-Foreclosure and Foreclosure. We only work for the borrower side of transactions. We specialize in working with attorneys and supporting the evidence process for judicial notice. We do not work for the lender side in foreclosures. FPG-USA accepts new clients and cases selectively.

AUTHENTICATE THIS REPORT: Attach report and send to info@fpg-usa.com for authentication.

PURPOSE AND FINDINGS

FPG-USA has been hired to investigate the referenced foreclosure documentation and investigate the legitimacy of claims being made by the party seeking to foreclose. The borrower(s) took a loan and are in default. A wrongful foreclosure can have disastrous results to the borrower(s) in the future. The borrower's attorney ordered outside third party expert investigation to answer four simple questions.

1. Has the party seeking to foreclose demonstrated true beneficial ownership?
2. Have claims of financial interest been fully disclosed and represented truthfully?
3. Have all beneficial owners and parties been voluntarily disclosed?
4. Have all material facts, documents and agreements that govern the transaction been disclosed?

If the answer to any of the above questions is "no," then we are to report our findings based on facts and documentation which should not be objectionable because they pertain to material issues and the documentation upon which they rely is of a source considered credible and reliable. Whereby we present this report and are prepared to support the findings in court.



TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
TIMELINE AND DOCUMENTATION	5
DIAGRAM OF THE FICTITIOUS TRANSACTION	8
EXAMINATION OF THE FICTITIOUS TRANSACTION REVEALS FATAL DEFECTS	9
IN CONCLUSION OF OUR EXAMINATION PRESENTED ABOVE	14
DECLARATION OF THE EXPERT, RICHARD KAHN	17
PROJECTED UNDISCLOSED SECURITIZATION MODEL OF ELBEYS LOAN	18
PROJECTED UNDISCLOSED SUBSEQUENT SALE SUMMARY OF ELBEYS LOAN	19
PROJECTED UNDISCLOSED SUBSEQUENT SALE DETAIL OF ELBEYS LOAN	20
PROJECTED UNDISCLOSED SUBSEQUENT SALE ESSENTIAL	21
GOVERNING DOCUMENTATION OF ELBEYS LOAN	
PROJECTED UNDISCLOSED OUTSOURCED LOAN SERVICING ON ELBEYS LOAN	22

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EXECUTIVE SUMMARY

1
2
3 Based upon my personal investigation and the facts discovered I can testify that this foreclosure
4 appears to have been conducted unlawfully. It includes foreclosure-related documents signed
5 in a manner that are not lawful; reverse engineered false and inaccurate documents,
6 undisclosed and manipulated conflicts of interest, and purposeful deceit in falsifying faulty
7 chains of title. Designs in this manner make a mockery of our courts.

- 8
9 1. This loan has been securitized,
10 2. Subsequent sales or transfers of the loan have not been revealed,
11 3. The ELBEY's Note and Mortgage presented
12 a. have been paid in full in 2006,
13 b. have been separated (bifurcated)
14 4. The documents submitted as the basis of this foreclosure are fictitious and faulty,
15 5. The chain of ownership is deceitful and faulty,
16 6. The evidence reveals "robo-signing" has also taken place.
17 a. Documentation asserting claims without knowledge of the facts, or confirming
18 their accuracy.
19 b. Employees of foreclosure trustees are signing documents posing as the
20 corporate officer of multiple banks and Mortgage servicers.
21 c. Reverse-engineering the chain of title in the Assignment to make it appear as
22 though the loan was passed from company to company when in fact it was not.
23 7. The documentation has been reverse engineered,
24 8. Federal loan modification requirements have not been met, and
25 9. Consumer protection requirements have not been followed.
26 10. A chain of ownership for the loan or the security interest that has been falsely
27 manipulated and reverse engineered to appear lawful when in fact it is not;
28

29 Such deceptive processes may violate state laws, and individual Attorney Generals have
30 requested suspension of questionable foreclosures and investigation into the underlying cases
31 in which judges and courts have not yet confirmed the following:

- 32 • that all foreclosure-related documents were lawfully signed,
33 • that the chain of ownership is clear and has been revealed to you in full,



- 1 • that state consumer protection requirements have been followed and have been
2 processed according to state law.

3
4 South Carolina Attorney General (AG) Alan Wilson is a member of the National Attorney
5 General Deed of Trust Foreclosure Multistate Group¹. The Attorney Generals are investigating
6 lenders, Deed of Trust servicers and local trustees for questionable practices such as those I find
7 in this case, and asking that foreclosures be suspended while investigation into the underlying
8 transaction and its legality can be established. This loan appears to have multiple issues of
9 concern enumerated by the joint AG task force.

10

11 All references in this report to the Note and Mortgage refer to those executed by ELBEY on
12 August 29, 2006.

13

14 I am available through the borrower's attorney for mediation and litigation support.

15

16 Richard M. Kahn, made 3/14/2011

17

18

19

¹ [http://www.naag.org/joint-statement-of-the-Deed of Trust-foreclosure-multistate-group.php](http://www.naag.org/joint-statement-of-the-Deed-of-Trust-foreclosure-multistate-group.php) If not available on the NAAG website, please find printout attached. _Ex_20101013_joint-statement-of-the-Deed of Trust-foreclosure.pdf



TIMELINE AND DOCUMENTATION

03/29/2006 NOTE

Loan Number: 571007388
Servicing Number: 002123202-0
\$197,186.00 7.999%, 30 year FR
Lender: Option One Mortgage Corporation, a California corporation
First Payment: May 01, 2006
Make payments to:
Option One Mortgage Corp
P.O Box 92103, Los Angeles, Ca 90009
Monthly payment: \$1,446.74
Signed by Ziraili M Elbey
Single family home
5% late charge is noted for late payment after 15 calendar days
No PPP
No MERS or Fannie Mae records

03/29/06 Mortgage

Loan Number: 571007388
Recordation top right of page one
2006004370
Presented and & recorded: 04-07-2006 9:46 AM
Same terms as Note
Servicing Number: 002123202-
When RECORDED MAIL TO:
OPTION ONE MORTGAGE CORPORATION
P.O. BOX 57096
IRVINE, CA 92619-7096
Lender is: Option One Mortgage Corporation, a California Corporation
Lender address: 3 Ada, Irvine, CA 92618
Property Address: 13132 WILBURN PARK LN,
FORT MLL, South Carolina 29715 -15 98
NO MERS FOUND
NO ASSIGNMENT
BORROWER SIGNATURES DIFFER FROM THOSE ON NOTE

09/08/2009 MORTGAGE STATEMENT

Statement date: 09/08/2009
Account Number: 072979775
H&R Block Bank
Customer Service PO Box 5179, Van Nuys, CA 91410-0229



1 Balance: \$190,797
2 Monthly payment \$1,446.74
3 30y Conventional 7.999%; remaining 26y 7mos
4 Make check payable to
5 H&R Block bank
6 Attn Remittance Processing
7 PO BOS 650070
8 Dallas, TX 75265-0070
9 Recorded: 2010008401
10 Assignment of Mortgage
11 Recording Fees \$7.00
12 08/05/2010 12:11 PM
13 BK: Mort 2265
14 PG: 129-130
15 Notation at bottom of page: J=HR8010109A1.s.02249
16 Barcode at bottom left of page 1 has Loan No. BLANK
17
18 **01/14/2010 LIS PENDENS, COURT PROCEEDING**
19
20 **02/01/2010 NOTICE OF COLLECTIONS ACT**
21
22 **04/06/2010 SLS - SPECIALIZED LOAN SERVICING, LLC LETTER**
23 Debt collector disclosure at top.
24 Loan Number: 1001901264
25 Responding to QWR request by borrower
26
27 **04/27/2010 HR BLOCK LETTER**
28 Loan Mod and Contact HRB letter.
29
30 **05/03/2010 SLS - SPECIALIZED LOAN SERVICING, LLC LETTER**
31 Debt collector disclosure at top.
32 Loan Number: 1001901264
33 Responding to QWR request by borrower
34
35 **06/04/2010 LIS PENDES, COURT PROCEEDING**
36
37 **06/30/2010 HR BLOCK LETTER**
38 Refusal to respond to QWR
39
40 **08/05/2010 ASIGNMENT OF MORTGAGE**
41 SOUTH CAROLINA
42 Return to: Security Connections, Inc
43 240 Technology Dr.
44 Idaho Falls, ID 83401



1 Ph: 208-528-9895

2 ATT: Karleen Maughan

3 County of Lancaster

4 Pool N: BLANK

5 Loan Number: **0021232020**

6
7 Sand Canyon Corporation fka Option One Mortgage Corporation

8 Located: 7595 Irvine Center Drive, Suite 100, Irvine, CA 92618

9 Transfers, assigns and sets over to

10 H&R Block Bank FSB

11 Located: One H&R Block Way, 8th Floor, Kansas City, MO 64105

12 Signed by witnesses

13 Notary Public: Krystal Hall (com exp 11-14-110 Idaho

14 Page 2 of Assignment of Mortgage

15 Witness Sand Canyon Corporation fka Option One Mortgage Corporation

16 By Melissa Hively VP and Melanie Hanson AVP on July 2, 2010 but
17 effective March 29th 2006 (4 years post dated):

18 Notary IDAHO County of BONNEVILLE

19 July 2, 2010 before Notary Krystal Hall

20 Signature spelling appears to misspell Hall "HULL"

21 Signature is illegible

22 Krystal Hall – Notary Public – State of Idaho (Comm exp 11-15-11)

23 Appearing personally: Melissa Hively VP and Melanie Hanson VP *typed*

24

25

26 **10/21/2010 HR BLOCK LETTER**

27 Account # **72929775**

28 Short Sale Offer from HR Block to Borrower

29 \$189,911.32 per final HUD by Jan 21, 2011

30

31 **1/13/11 COURT OF COMMONS PLEA**

32 Submitted by RONALD F Johnson, SC BAR #16931

33 Brian L Campbell #74521

34 Address:

35 Brock & Scott, PLLC

36 38000 Fernandina Rd, suite 110

37 Columbia, SC 29210

38 Attorney for Plaintiff


39

Phone# 888-726-9953



DIAGRAM OF THE FICTITIOUS TRANSACTION

Ziraili M. Elbey
MORTGAGOR
 \$197,186.00
 Loan originated: March 29, 2006
 Option One Mortgage Corporation, Inc.

 Option One Mortgage Corporation, Inc.
ORIGINATOR
 Originates the loan with borrower. Initial loan
 docs: Note not endorsed, Mortgage not
 assigned - indicates portfolio loan

Sand Canyon Corporation FKA Option One Mortgage
ASSIGNMENT OF REAL ESTATE MORTGAGE
 Docs dated July 2, 2010
 Transferred to H& R Block
 Signed by Melissa Hively, VP (robo-signer)
 Melanie Hanson, Assistant VP (robo -signer)
 Notarized by Krystal Hall (robo.signer)
Fabricated, Robo-Signed, Reverse engineered

12/4/2007 Option One Announces Shut Down of Lending Operations
 01/31/2008 OOMC ceases all loan origination activities.
 4/30/2008 OOMC sells Servicing to AHMSI for \$1.3b
 03/18/2009 BK: Sand Canyon no longer engaged in servicing,
 has no servicing rights, and
 does not own any residential real estate loans.

H&R Block Bank
COURT CASE
 HRB relying on bogus fictitious Assignment above
 to obtain ownership and deficiency judgment.

UNKNOWN
TRUST FUND - ISSUING ENTITY
 Holds Pool Of Loans; Issues Certificates
 Closing Date: Unknown

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EXAMINATION OF THE FICTITIOUS TRANSACTION REVEALS FATAL DEFECTS

1. Ziraili M. Elbey took a \$197,186 mortgage with Option One Mortgage Corporation (OOMC) on March 29, 2006.
2. The initial original loan's Note and Mortgage has no endorsement on the face of the Note and no assignment on the bottom of the mortgage. These documents are being submitted as the current holder in due course originals evidencing current ownership when in fact, the Note and Mortgage evidenced by this documentation was sold in a securitization and paid in full back in 2006.
3. Option One was owned by H&R Block, the largest U.S. Income tax preparation company (HRB:NYSE). Option One was a subprime lender that originated loans and immediately sold them into large pools of loans that were securitized and sold to investors.
4. The initial loan documentation suggests Option One held this loan as a "portfolio" loan and ownership of the loan was transferred to an asset by option one to Sand Canyon Corporation fka Option One Mortgage Corporation in an Assignment of Real Estate Mortgage prepared by Security Connections Inc. August 5, 2010. The undisputable facts discovered disprove these claims.
 - a. Option One securitized all of its mortgages. It retained loan servicing rights on many mortgages. Loan servicing the day to day operations of loan administration was performed for a fee that approximated 1/3 of 1% of loan amount per year or \$333 per year per \$100,000 of loan amount. On the Elbey loan that annual loan servicing fee approximated \$600 per year. This is the entire financial interest of the loan servicer in the Elbey loan.
 - b. The initial mortgage was issued March 29, 2006.
 - c. H&R Block announced Option One's intention to shut down lending operations Dec 4, 2007.
 - d. Option One ceased all loan origination activities January 31, 2008 according to H&R Block annual report.
 - e. On April 30, 2008 H&R Block consummated the sale of all Option One loan service to American Home Mortgage Servicing Inc. (AHMSI).



1 f. On March 18, 2009 in a Chapter 13 bankruptcy case (07-11862 EWM) before the
2 Eastern District of Louisiana New Orleans case the president of Sands Canyon
3 Corporation (Sand Canyon) Mr. Dale M. Sugimoto made declarations filed with
4 the court. In pertinent part these included statements that pertain to this case:

5 i. I am the president of Sand Canyon Corporation f/k/a (formerly known as)
6 Option One Mortgage Corporation (OOMC). H&R Block is the parent of
7 Sand Canyon. H&R Block is wholly owned by HRB a publicly traded
8 corporation

9 ii. Effective April 30, 2008 HRB sold OOMC's mortgage loan servicing
10 business to American Home Mortgage-Servicing Inc. (AHMSI).

11 iii. Quoting HRB's 2008 Annual Report states "during our third fiscal quarter
12 ended January 31, 2008 OOMC ceased all loan origination activities and
13 initiated a plan to sell its servicing operations."

14 iv. April 30, 2008 OOMC sold its loan servicing assets to an affiliate of W.L.
15 Ross & Co. LLC (RL Ross). [this affiliate is AHMSI – added by author]

16 v. "Accordingly, Sand Canyon is no longer engaged in the servicing of
17 residential mortgage loans. Sand Canyon has no servicing rights."

18 vi. "Sand Canyon also does not own any residential real estate mortgages."

19 vii. "Sand Canyon's present business involves dealing with litigation claims,
20 including title issues or litigation relating to servicing prior to the sale of
21 OOMC's serving rights to AHMS"

22 viii. "I declare under penalty of perjury that the foregoing is true and correct".

23 5. When we now turn to the Assignment of Mortgage filed by Sands Canyon on August 5,
24 2010 we find fatal flaws.

25 a. On July 2, 2010 Sand Canyon did not own any residential real estate mortgages.
26 Nor did it own any mortgage loan servicing rights.

27 b. Undisclosed conflicts of interest exist in the parties making the Assignment.

28 i. Security Connections Inc (SCI) prepared the Assignment.



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Vice President of Sand Canyon corporation as the assignment is signed.

4. Both Hively and Hanson are listed as SCI employee appointees on a July 2, 2009 American Home Mortgage Secretary's Certificate
5. We also have a Georgia District Court Case Ziemba v. American Home Mortgage Servicing and Option One Corporation where Hively lists herself as VP AHMSI and Hanson as AVP. 10-CV-02781-RWS
6. It may be pertinent to note that the notary in this case, Krystal Hall, the notary has participated in any number of signings changing place with Hively as Vice President and with Hively in the Notary position.
 - a. One example is the case of Michael G. Dustin on 10/18/2010 Loan number 10218953 where Hall is signing as Assistant Secretary of MERS and Hively is swearing as Idaho Notary.
6. Now we find a non-jury Complaint In the South Carolina County of Lancaster in the Court of Common Pleas for a deficiency judgment by H & R Block based upon the bogus Assignment mentioned in the item above. Certain claims in this action can be referenced based upon the revelation of facts discovered in this case.
 - a. The referenced loan was paid for in full by currently undisclosed parties when OOMC securitized the loan back when it was issued in March 2006.
 - b. The claim to ownership in the bogus falsified Assignment by H & R Block is a bald claim. Given the undisputable nature of the facts discovered, bald claims of ownership are not prima facie evidence of ownership. Documentation other



- 1 than the bogus Assignment made by robo-signing parties with undisclosed
- 2 conflicts of interest on companies that were out of business on the dates the
- 3 claims were made does not meet accepted guidelines for establishing
- 4 undisputable ownership of a loan and security interest.
- 5 c. The reference to ownership by H & R Block is the assignment of August 5th 2010
- 6 that was recorded in official records. The recordation of falsified records may be
- 7 a legal matter for consideration in this case.
- 8 d. Claim 9 in the complaint stating that this loan is owned or guaranteed by Fannie
- 9 Mae is a bald claim. Fannie Mae is NOT reporting this loan as owned.

10



The Fannie Mae Loan Lookup enables mortgage borrowers to quickly determine if Fannie Mae owns their loan by providing a street address, unit, city, state, and zip code.

Street Address * 13132 WILBURN PARK LN Unit

City FORT MILL State SC Zip Code * 29707

888-995-HOPE
 Homeowner's HOPE™ Hotline
 888-995-HOPE (4673)
 877-304-9709 TTY

I confirm that I am the owner of this property, or have the consent of the owner to look up this information.

If you have questions about the program that your servicer cannot answer or need further counseling, you can call the Homeowner's HOPE™ Hotline at 1-888-995-HOPE (4673) or via a TTY at 877-304-9709. The Hotline can help with questions about the program and offers free HUD-certified counseling services in English, Spanish, and other languages.

Working conditions

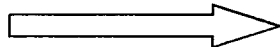
* Required Fields

Type the two words



**Know Your Options -
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No Match Found.

Based on the property information you entered, it appears Fannie Mae does not own a loan at this address

Please contact your mortgage lender or servicer (the organization to whom you make your monthly mortgage payments) to confirm these results and obtain additional information regarding your mortgage. Information that does not match our records exactly may return inaccurate results. Your loan may be held by Freddie Mac or another investor eligible for participation in the Making Home Affordable program.

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- 11
- 12 e. Our records show that Freddie Mac is not claiming ownership of this loan either.
- 13 f. Plaintiff's HAMP allegations of not qualifying are bald claims, we find none of the
- 14 documentation normally used to prove that a HAMP loan modification was



1 performed or considered. FPG-USA provides pre HAMP modification
2 consultation and we were not provided with any documentation from which to
3 work with the borrower to effectuate a HAMP loan modification.

4 g. Item 11 discusses failure to pay under initial original loan documentation. As
5 previously disclosed, that initial loan Note and Mortgage were paid in full by
6 investors when the loan was securitized. Any loan ownership evidenced post
7 that initial sale will expect to find properly endorsed and assigned note and
8 mortgage evidence.

9 h. It is pertinent to add that the bogus falsified Assignment of Mortgage is not
10 assignment of the Note evidencing ownership. Notes are endorsed, are not
11 assigned and are not recorded.

12 i. It becomes quite clear by the evidence that the Note and Mortgage were paid in
13 full and H & R Block is relying on what we find as a fraudulent misrepresented
14 chain of title. We fail to see the documentary evidence to base a claim of a
15 lawsuit at all, nonetheless a deficiency judgment.

16 7. I see no evidence to support that AHMSI has any authority to service the ELBEY loan. At
17 this juncture the proof is that the ELBEY loan documentation referenced was paid in full
18 and sold with all rights, title and interest. In light of the other falsified allegations of
19 ownership and authority, claims of servicing authority absent written servicing agreements
20 and proof are not prima facie evidence.

21
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24
25 **IN CONCLUSION OF OUR EXAMINATION PRESENTED ABOVE**

26 It is the opinion of the expert in this case that this mortgage foreclosure was wrongful, questionable and
27 based upon the evidence as the result of our investigations, we believe the borrower ELBEY has the
28 basis upon which to win a verdict in their favor.



1 In light of OOMC's program of securitizing all OOMC Mortgage loans, the ELBEY loan was securitized,
2 meaning pooled with hundreds of millions of dollars of other loans and sold in the secondary market as
3 a Mortgage Backed Security to heretofore undisclosed investors.

4
5 I have included several diagram charts at the end of this report to indicate what the evidence indicates
6 truthfully transpired with the ELBEY loan.

7
8 The securitization has not been revealed, neither have the subsequent real true sales that took place
9 after the initial originals evidenced were originated and closed. True sales that included all rights title
10 and interest. H&R Bank likely knew about these as they are the ultimate owner of OOMC and Sand
11 Canyon and knew that attempting to transfer or assign ownership after both companies divested
12 themselves of all loan servicing and loan assets was a fabricated misrepresentation with knowledge
13 beforehand.

14
15 Not divulging the securitization hides the details of subsequent ownership and current true ownership
16 from the court. If the court were to order full disclosure of the securitization, we could acquire all the
17 legally filed sworn U.S. Securities and Exchange documentary filings and discern all the details necessary
18 to provide a detailed diagram and history of this loan after it was sold.

19
20 Based upon personal experience of reviewing trillions of dollars of mortgage backed securities pool
21 documents and loan ownership, the likelihood of motive for not disclosing the true ownership and chain
22 of title in this case is the onerous reality of repurchasing a defective loan from the MBS pool.

23
24 The SEC filings will be clear to the details, should H&R Bank ever be forced to reveal what they have
25 painstakingly hidden from the court in this case: the true rightful owner of the ELBEY loan. In general
26 with OOMC MBS, the automatic repurchase includes full mortgage loan value in the amount the loan
27 was sold into the pool. In ELBEY's case that would put what is now the deficiency wrongfully put upon
28 ELBEY in this wrongful foreclosure, straight onto H&R Bank, the party that seeks to foreclose because
29 they would be required to buy this defaulted loan back from the MBS investors prior to effectuating a
30 legal foreclosure.

31 One can only imagine the glee the parties who have falsely designed this foreclosure before the court
32 reveling in their nefarious design to strip a home from a borrower by deceit in court and not being



1 caught in the process. Foreclosure of the typical OOMC MBS severs the risk of repurchasing a defective
2 chain of title loan from the pool and takes that onerous reality off the table. Instead, a successful
3 foreclosure by the questionable means we find in this case puts a party, H&R Bank in the
4 unsubstantiated ownership position to exercise predatory collections upon this borrower for years to
5 come by deficiency judgment.

6

7 As a result of my personal mortgage foreclosure fraud examinations in this case, it pains me to see
8 institutions we expect to come to court with just the truth, coming with a host of manipulative fictitious
9 documentation and claims making a mockery of the court.

10

11 I declare under penalty of perjury that to the best of my knowledge the foregoing findings are
12 true, correct and based upon evidentiary findings retained for our records. I submit these
13 findings in affidavit form as they are presented. Should the borrower retain an attorney, I offer
14 my services to testify in person via phone or video conference to the court at their convenience
15 and answer any and all questions pertaining to this investigation. Should the truth be known I
16 feel there is an overwhelming chance for the borrower to win a verdict in their favor.

Richard M. Kahn, Signed on March 14, 2011

Principal Mortgage Fraud Forensic Investigator

Senior Qualifying Expert for FPG-USA



Forensic Professionals Group USA, Inc.



Forensic Professionals Group USA, Inc.

Mortgage Analysis as a Part of a Credible Defense against Foreclosure – All Courts – All States

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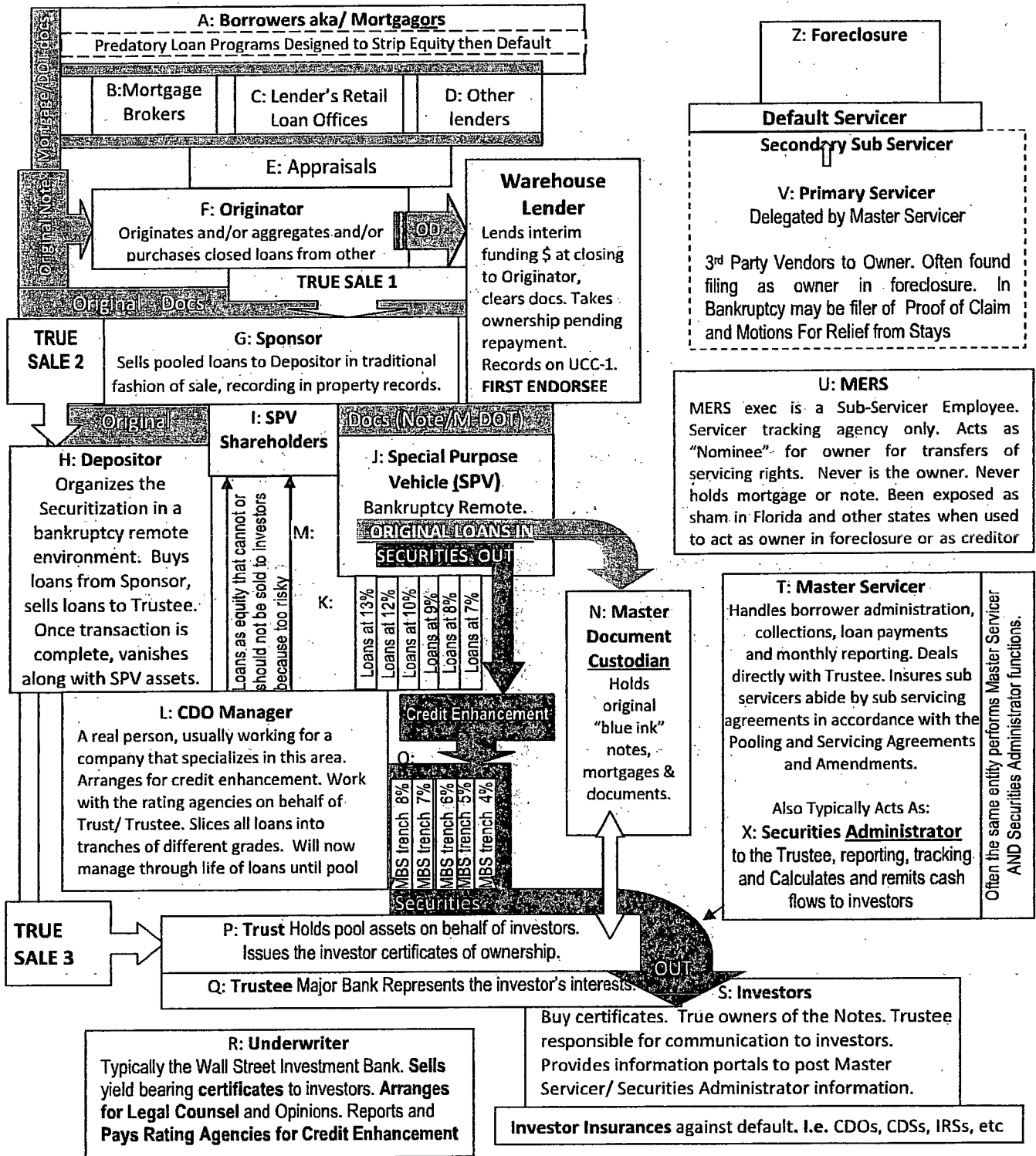
DECLARATION OF RICHARD KAHN

- A. I, Richard M Kahn, am an experienced mortgage analyst and my firm of which I am the principal and Senior Qualifying Expert, Forensic Professionals Group USA, Inc. ("FPG-USA"), specializes in providing third party forensic mortgage analysis to attorneys to use fighting foreclosure in court.
- B. I have been actively involved in and earned my living in the fields of mortgage backed securitization, real estate, mortgage lending and mortgage analysis for more than 30 years. My resume may be obtained from http://www.fpg-usa.com/RK_Resume.cfm
- C. I am the author of Winning Against Foreclosure, a Strategy Guide, written for attorneys, available on Amazon.com. More information is available at http://www.fpg-usa.com/WAF_Winning.cfm. This the first book in a series. My second book is expected to be released 2011.
- D. FPG-USA specializes in securitized loan audits and provides mortgage analysis and reporting services in all U.S. States. I offer my services as expert witness on my evidentiary findings issuances for a nominal fee via teleconference and/or video conference.
- E. I have performed dozens of forensic mortgage analysis, securitization and loan audits for attorneys fighting foreclosure in various State and Federal courts including civil and bankruptcy. 2010 included such states as Arizona, California, Florida, Georgia, Idaho, Illinois, Maryland, Minnesota, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Texas, Utah, Virginia and Washington State.
- F. My evidentiary findings reports are intended as written testimony based upon research and discover. They seek to present facts which are undisputable due to the quality of the source and not objectionable because they pertain to material issues. They are intended to serve as evidence or proof and may include my personal clarification for the purpose of establishing the basis of facts contained therein.
- G. Our fees are collected upon the placing of an order(s) without contingency of their results. Neither FPG-USA nor I have any financial interest in the outcome of this case. In all regards, I am a disinterested person within the meaning of 11 U.S.C. §101(14).

By my signature below, I declare under penalty of perjury that the foregoing declarations are true and correct.

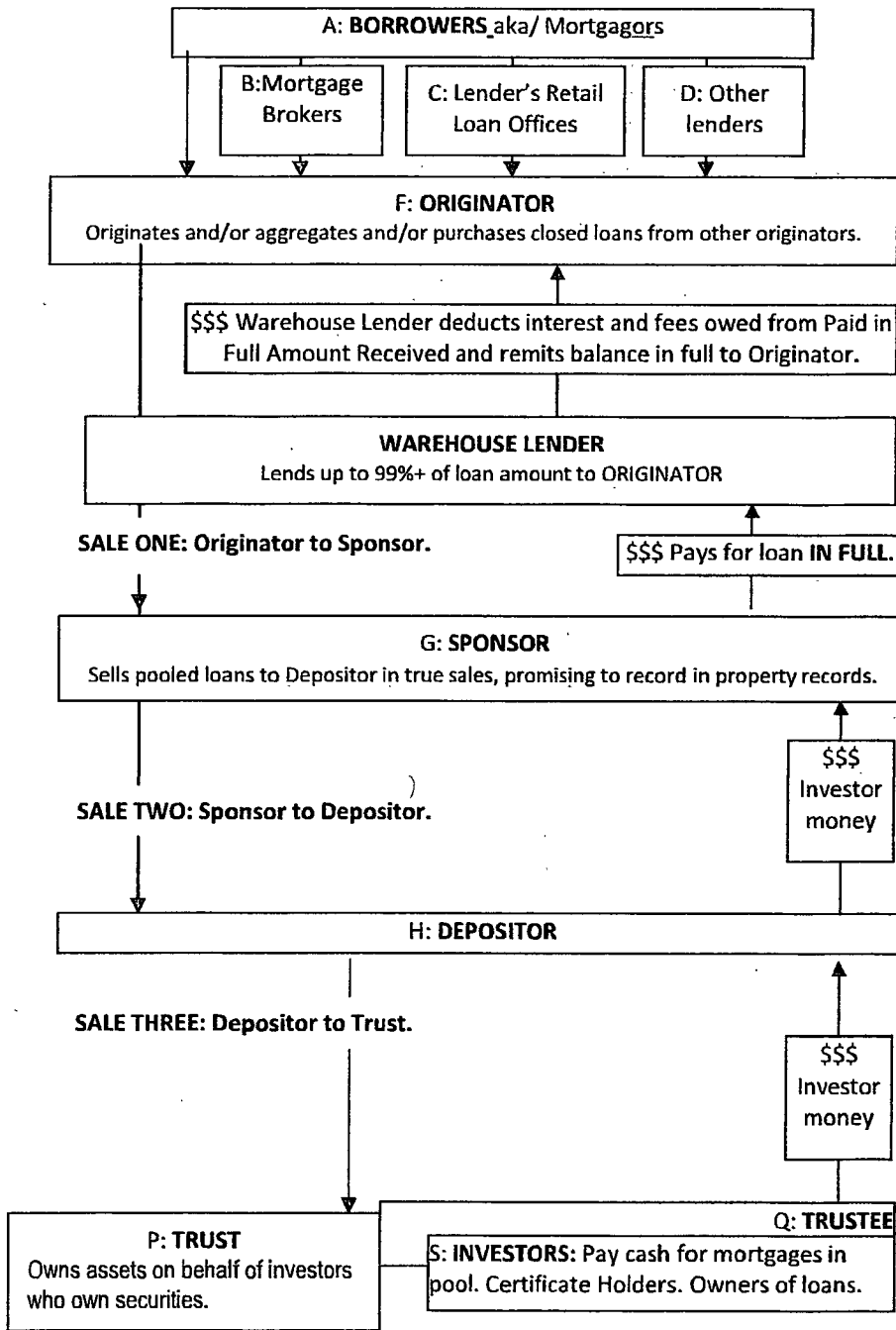
Richard M. Kahn, Signed on January 1, 2011
Principal, Sr. Qualifying Expert

PROJECTED UNDISCLOSED SECURITIZATION MODEL OF ELBEYS LOAN



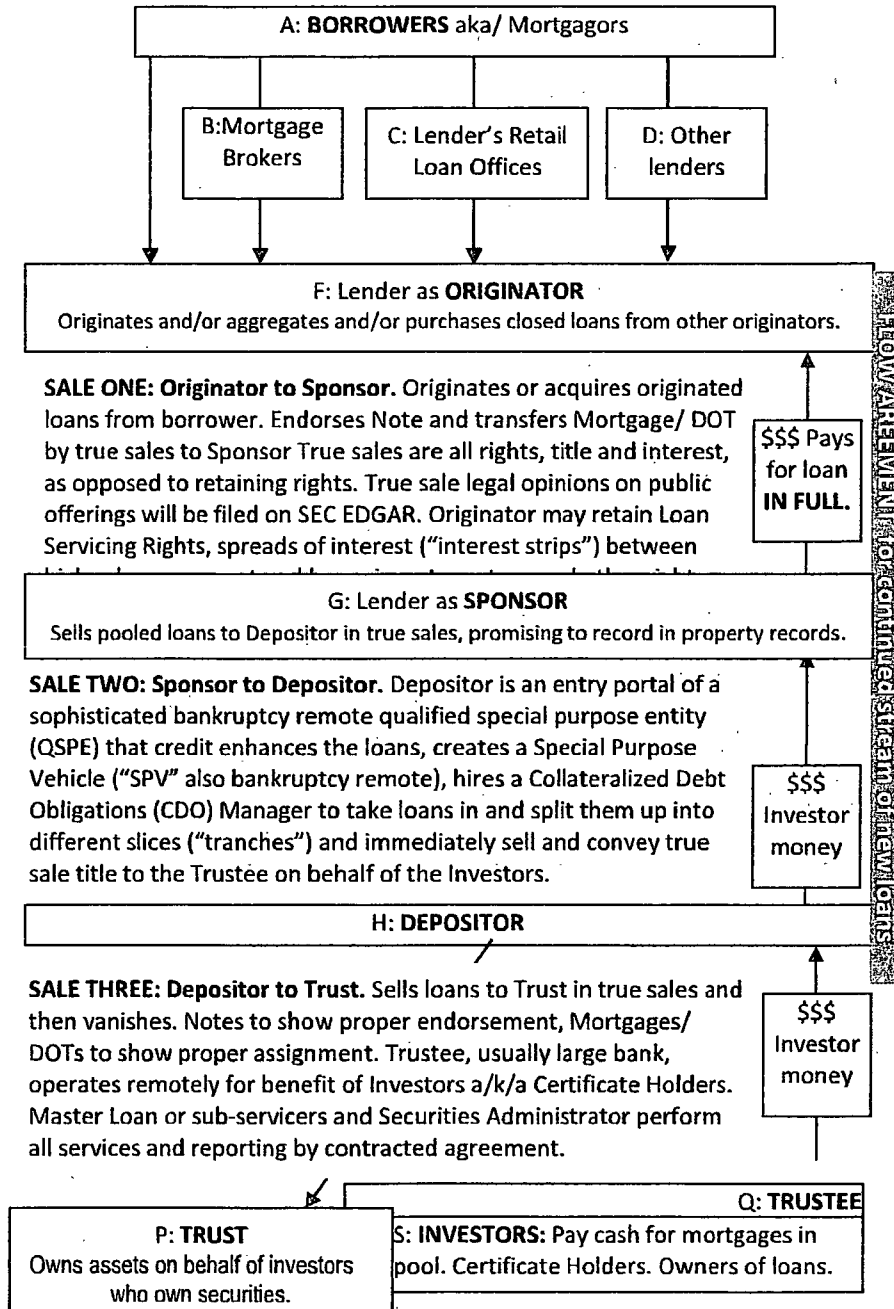


Projected Undisclosed Subsequent Sale Summary of ELBEYs Loan





Projected Undisclosed Subsequent Sale Detail of ELBEYs Loan





Projected Undisclosed Subsequent Sale Essential Governing Documentation of ELBEYs Loan

F: Lender as ORIGINATOR
Originates and/or aggregates and/or purchases closed loans from other originators.

FLOW AGREEMENT – Originator promises to keep loan flowing for this deal and all deals under time, terms and payment specific terms.

MORTGAGE PURCHASE AGREEMENT – Stipulates conveyance and form of endorsement of Notes and assignment of Mortgages/ DOTs. Makes representations and warranties including provision of repurchase by Originator of defective loans.

G: Lender as SPONSOR
Sells pooled loans to Depositor in true sales, promising to record in property records.

MORTGAGE PURCHASE AGREEMENT – Stipulates conveyance and form of endorsement of Notes and assignment of Mortgages/ DOTs. Makes representations and warranties including provision of repurchase by Originator of defective loans.

H: DEPOSITOR

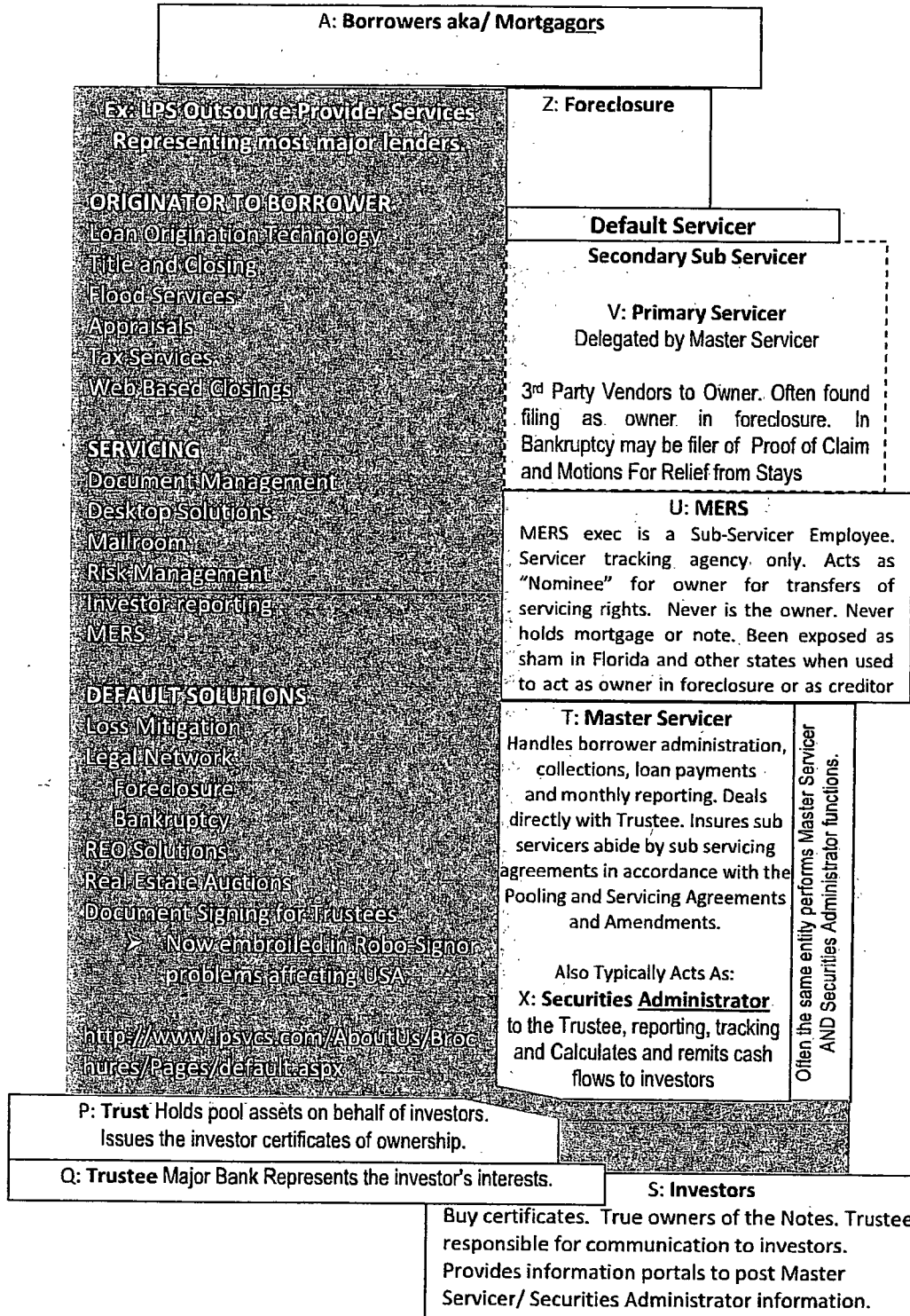
POOLING AND SERVICING AGREEMENT – Stipulates conveyance and form of endorsement of Notes and assignment of Mortgages/ DOTs. Makes representations and warranties including provision of repurchase by Originator of defective loans. Specifies loan servicing policies and procedures and rights of investor owners.

MASTER DOCUMENT CUSTODIAN AGREEMENT – Identifies party who will take custody of, protect and ensure safety of all the properly endorsed Notes and assigned mortgages. Because sometimes these are made in blank, the originals may be bearer instruments payable to anyone who holds the “blue ink” originals. Extreme care and procedures are required of this responsible party.

Q: TRUSTEE



PROJECTED UNDISCLOSED OUTSOURCED LOAN SERVICING ON ELBEYS LOAN



OUTH CAROLINA

PREPARED BY SECURITY CONNECTIONS, INC.
WHEN RECORDED MAIL TO:
SECURITY CONNECTIONS INC.
240 TECHNOLOGY DRIVE
IDAHO FALLS, ID 83401
PH: (208) 528-9895
ATT: KARLEEN MAUGHAN

COUNTY OF LANCASTER
POOL NO.
LOAN NO. 0021232020



Assignment-Interv.-Recorded

ASSIGNMENT OF REAL ESTATE MORTGAGE

For value received SAND CANYON CORPORATION FKA OPTION ONE MORTGAGE CORPORATION

located at 7595 IRVINE CENTER DRIVE, SUITE 100, IRVINE, CA 92618

by transfers, assigns and sets over without recourse unto
R BLOCK BANK FSB

located at ONE H & R BLOCK WAY, 8TH FLOOR, KANSAS CITY, MO 64105

its successors and assigns forever, that certain mortgage executed by
ZIRAILI M ELBEY
to OPTION ONE MORTGAGE CORPORATION

dated MARCH 29, 2006 and recorded in the Clerk's office LANCASTER
County, South Carolina, on APRIL 7, 2006, in Mortgage Book MORT 1486,
Page 1, together with the note thereby secured conditioned for the
payment of the full and just sum of \$197,186.00 Dollars,
according to the terms as set forth in said note and mortgage.



Loan No.

(NMRI.SC)
C=s.383.0002
P=s.002.00120.21

Page 1 of 2

J=HR8010109AI.s.02249

2010008401

ASSIGNMENT OF MORTGAGE
RECORDING FEES \$7.00

PRESENTED & RECORDED:
08-05-2010 12:11 PM

JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTY

BK:MORT 2265

PG:129-130

LOAN NO. 0021232020

In Witness Whereof, SAND CANYON CORPORATION FKA OPTION ONE MORTGAGE CORPORATION

caused these presents to be signed by MELISSA HIVELY
its VICE PRESIDENT and MELANIE HANSON
its ASSISTANT VICE PRESIDENT this 2nd day of JULY,
2010, but effective the 29th day of MARCH, 2006

SAND CANYON CORPORATION FKA OPTION ONE MORTGAGE CORPORATION

Carmen Rivera
Witness CARMEN RIVERA

BY Melissa Hively
MELISSA HIVELY
VICE PRESIDENT

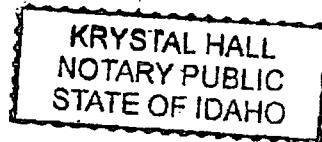
Mistylin Hansen
Witness MISTYLIN HANSEN

BY Melanie Hanson
MELANIE HANSON
ASSISTANT VICE PRESIDENT

STATE OF IDAHO)
) SS
COUNTY OF BONNEVILLE)

On JULY 2, 2010 before me, KRYSTAL HALL
personally appeared MELISSA HIVELY
and MELANIE HANSON personally known to me
(or proved to me on the basis of satisfactory evidence) to be the persons
who executed the within instrument as VICE PRESIDENT
and ASSISTANT VICE PRESIDENT or on behalf of the Corporation
therein named and acknowledged to me that the Corporation executed it.

Krystal Hall
KRYSTAL HALL (COMMISSION EXP. 11-14-11)
NOTARY PUBLIC



(NMRI.SC.2)
C=s.383.0002
P=S.002.00120.21

2012014233



MORTGAGE RECORDING FEES \$41.00

PRESENTED & RECORDED:

10-24-2012 03:59 PM

JOHN LANE REGISTER OF DEEDS LANCASTER COUNTY, SC By: CANDICE PHILLIPS DEPUTY

BK:MORT 2563

PG:194-228

Return Address: Ziraili M Elbey 13132 Wilburn Park Lane Indian Land, SC 29707

NOTICE OF FRAUD

This is a written transcript and testimony by above property owner Ziraili M Elbey, Indigenous, Natural woman of the land who has found a fraudulent ASSIGNMENT notarized by Krystal Hall recorded with the Register of Deeds in the county and city a Lancaster, South Carolina. I refuse to contract with any and all fraudulent documents in reference to the property address above or the State of South Carolina. The "robo-signing" of affidavits and Assignments of Mortgage and all other mortgage foreclosure documents served to cover up the fact that loan servicers cannot demonstrate the facts required to conduct a lawful foreclosure. If it turns out that robo-signers did indeed sign off on loans without review, they committed fraud by claiming knowledge of a financial matter of which they had no personal knowledge. It could also mean that some people are wrongly being evicted from their houses. See a certified deposition of Krystal Hall where she acknowledges signing about 400 mortgage ASSIGNMENT a day employed by Security Connection, Incorporated.

First Witness

Ziraili M Elbey, Property Owner "All Rights Reserved"

Second Witness

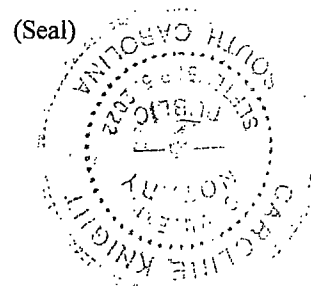
I, Full Name, certify that these Documents have been witnessed on this 24 day of October, 2012, and all the Documents being attachments are stamped true and correct to the best of my knowledge.

State of South Carolina)
) ss.
County of Lancaster)

Subscribed and sworn to (or affirmed) before me on this 24 day of October, 2012 by Full Name, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public

Commission Expires 09/05/2022



CAROLINE KNIGHT
Notary Public - State of South Carolina
My Commission Expires September 5, 2022

Fraudulent Document

EXHIBIT
A

SOUTH CAROLINA National Robo-signers

PREPARED BY SECURITY CONNECTIONS, INC.
WHEN RECORDED MAIL TO:
SECURITY CONNECTIONS INC.
240 TECHNOLOGY DRIVE
IDAHO FALLS, ID 83401
PH: (208) 528-3895
ATT: KAREN MAUGHAN

Fraud on this Court

COUNTY OF LANCASTER
POOL NO.
LOAN NO. **0012200200**
0012200200
Assignment - Intery, Recorded

ASSIGNMENT OF REAL ESTATE MORTGAGE

For value received SAND CANYON CORPORATION FROM OPTION ONE MORTGAGE CORPORATION

located at 7595 IRVINE CENTER DRIVE, SUITE 100, IRVINE, CA 92618
hereby transfers, assigns and sets out without recourse unto
H & R BLOCK BANK FSB

located at ONE H & R BLOCK WAY, 2ND FLOOR, KANSAS CITY, MO 64105

with successors and assigns forever, that certain mortgage executed by
ZIRAILY H KIBBY
to OPTION ONE MORTGAGE CORPORATION

dated MARCH 29, 2006 and recorded in the Clerk's office LANCASTER
County, South Carolina on APRIL 7, 2006, in Mortgage Book MORT 1486,
Page 1, together with the note thereby secured conditioned for the
payment of the full and just sum of \$197,186.00 Dollars,
according to the terms as set forth in said note and mortgage.

REFUSED
(AMRI-SC)
C#-383.0062
P#S.002.00120.21

Page 1 of 2

J#RR8010109AI.s.02249

2010008401
ASSIGNMENT OF MORTGAGE
RECORDING FEES \$7.00
REGISTERED & RECORDED:
08-05-2010 12:11 PM
JOHN LANE
REGISTERED CLERK
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTY
BK:MORT 2265
PG:129-130

Fraud on this Court

Book 2265 Page 429
~~Fraudulent Document~~

National Robo-signers

Pa 1

Fraudulent Document

LOAN NO. [REDACTED]
National Robo-signers

In Witness Whereof, SAID COMPANY CORPORATION FRA OFFICER ONE MICHELLE CORPORATION

caused these presents to be signed by MELISSA HIVELEY
its VICE PRESIDENT and MELANIE HANSON
its ASSISTANT VICE PRESIDENT this 2nd day of JULY
2010, but effective the 29th day of MARCH, 2006

Fraud on this Court

Fraud on this Court

SAID COMPANY CORPORATION FRA OFFICER ONE MICHELLE CORPORATION

[Signature]
Witness CARMEN RIVERA

BY [Signature]
MELISSA HIVELEY
VICE PRESIDENT

[Signature]
Witness MISTYLIN HANSEN

BY [Signature]
MELANIE HANSON
ASSISTANT VICE PRESIDENT

STATE OF IDAHO
COUNTY OF BONNEVILLE

On JULY 2, 2010 before me, KRYSTAL HALL
personally appeared MELISSA HIVELEY
and MELANIE HANSON personally known to me
(or proved to me on the basis of satisfactory evidence) to be the persons
who executed the within instrument as VICE PRESIDENT
and ASSISTANT VICE PRESIDENT or on behalf of the Corporation
therein named and acknowledged to me that the Corporation executed it.

[Signature]
KRYSTAL HALL, (COMMISSION EXP. 11-14-11)
NOTARY PUBLIC

KRYSTAL HALL
NOTARY PUBLIC
STATE OF IDAHO

(NMRI / S...
C=S.383.0002
P=S.002.00120.21

Page 2 of 2
J-HR8010109AI.S.02249

Book 2265 Page 431

Fraudulent Document

National Robo-signers



Commonwealth of Massachusetts

SOUTHERN ESSEX DISTRICT REGISTRY OF DEEDS
SHETLAND PARK
45 CONGRESS STREET
SUITE 4100
SALEM, MASSACHUSETTS 01970

JOHN L. O'BRIEN, JR.
Register of Deeds
(978) 542-1704
Fax: (978) 542-1706

A division of the Secretary of the Commonwealth
WILLIAM FRANCIS GALVIN, SECRETARY

e-mail: southernsexcustomerservice@sec.state.ma.us
www.salemdeeds.com

Ziraili M. Elbey
13132 Wilburn Park Lane
Ft. Mill, SC 29707

Dear Ziraili,

In an attempt to provide you with more assistance, I have enclosed, an affidavit signed by me, as Register of the Southern Essex District Registry of Deeds, attesting to the presence of a robo-signed signature on your document as listed on McDonnell Property Analytics Approved Robo-signers List. If you are currently being foreclosed upon, this affidavit may be presented to your attorney, the lender, or the court to show that your chain of title has been corrupted. For those of you who are not in foreclosure, the affidavit may be presented to your current lender to show that a robo-signed document has in fact been recorded in your chain of title and be part of a request to investigate how this happened and what the lender is going to do to correct it.

Thank you for contacting us concerning your robo-signed document. Should you have any further questions or need assistance, please contact my Customer Service Department at 978-542-1704.

With Regards,

A handwritten signature in black ink, appearing to read "John O'Brien".

John O'Brien
Register of Deeds

AFFIDAVIT OF JOHN L. O'BRIEN, REGISTER OF DEEDS
SOUTHERN ESSEX DISTRICT

1. I, John L. O'Brien, Register of the Southern Essex District Registry of Deeds, do hereby swear or aver as follows:
2. As of June 2011 it has been my policy as follows:
 - a. IF THERE ARE VARIATIONS OF AN ALLEGED ROBO-SIGNER ON RECORD AT MY REGISTRY – I require that all documents sent for recording that are executed by that alleged robo-signer, be independently verified by an affidavit that the signature is in fact the signature of the named individual, prior to recording. (See Exhibit B attached hereto).
 - b. IF THERE ARE NO VARIATIONS OF AN ALLEGED ROBO or SURROGATE SIGNER ON RECORD AT MY REGISTRY – I record the documents and forward them to the Massachusetts Attorney General's Office for review and possible violation of a Crime Against Property, specifically MGL Chapter 266, Section 35A (b) (4).
3. I have instituted this policy based on the opinion of our forensic analyst, Marie McDonnell of McDonnell Property Analytics who has provided me with a list of robo and surrogate signers.

McDonnell defines a "robo-signer" as: *The person on a legal document processing assembly line whose only task is to sign previously prepared documents affecting title to real property in a robotic-like fashion without reading the documents or verifying the facts contained therein by reviewing primary source evidence. The robo-signer's mission is to expedite the documents' recordation in the public land records or in court proceedings. Additionally, robo-signers regularly fail to establish or simply do not have the authority to execute these documents on behalf of the legal title holder or principal on whose behalf they purport to act.*

McDonnell defines a "surrogate signer" as: *A person who signs a legal document on behalf of and in the name of another without reading it or understanding the document's contents; surrogate-signers are not authorized to execute these documents on behalf of the legal title holder or principal on whose behalf they purport to act.*

4. I am aware that MELISSA HIVELY is an alleged robo or surrogate signer.

Signed this 14th day of November 2012, under the pains and penalties of perjury.



John L. O'Brien, Register

AFFIDAVIT OF JOHN L. O'BRIEN, REGISTER OF DEEDS
SOUTHERN ESSEX DISTRICT

1. I, John L. O'Brien, Register of the Southern Essex District Registry of Deeds, do hereby swear or aver as follows:

2. As of June 2011 it has been my policy as follows:
 - a. IF THERE ARE VARIATIONS OF AN ALLEGED ROBO-SIGNER ON RECORD AT MY REGISTRY – I require that all documents sent for recording that are executed by that alleged robo-signer, be independently verified by an affidavit that the signature is in fact the signature of the named individual, prior to recording. (See Exhibit B attached hereto).
 - b. IF THERE ARE NO VARIATIONS OF AN ALLEGED ROBO or SURROGATE SIGNER ON RECORD AT MY REGISTRY - I record the documents and forward them to the Massachusetts Attorney General's Office for review and possible violation of a Crime Against Property, specifically MGL Chapter 266, Section 35A (b) (4).

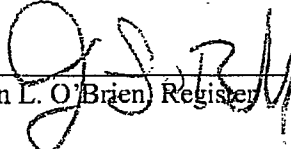
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McDonnell defines a "surrogate signer" as: *A person who signs a legal document on behalf of and in the name of another without reading it or understanding the document's contents; surrogate-signers are not authorized to execute these documents on behalf of the legal title holder or principal on whose behalf they purport to act.*

4. I am aware that KRYSTAL HALL is an alleged robo or surrogate signer.

Signed this 14th day of November 2012, under the pains and penalties of perjury.


John L. O'Brien Register

DEPOSITION OF KRYSTAL HALL - 11/30/2009

SHEET 1 PAGE 1
 IN THE DISTRICT COURT IN AND FOR MIAMI-DADE, FLORIDA

BANK OF AMERICA, NATIONAL ASSOCIATION,
 Plaintiff,
 vs.
 Defendant.

Case No.
 09-20389 CA (15)

THE TELEPHONIC DEPOSITION OF KRYSTAL HALL
 Monday, November, 2009, 1:07 P.M.
 Idaho Falls, Idaho

M. Rainey Stockton
 CSR 746

PAGE 3

I N D E X

EXAMINATION	
WITNESS	PAGE
KRYSTAL HALL	4
EXAMINATION BY	PAGE
MR. SHUSTER	4
EXHIBITS	
NUMBER	PAGE
#1, Assignment of Mortgage	7

Page 3

PAGE 2

DEPOSITION OF KRYSTAL HALL

BE IT REMEMBERED that the telephonic deposition of KRYSTAL HALL was taken by the attorney for the Defendant, at the office of Security Connection, Inc. located at 595 University Boulevard, Idaho Falls, Idaho, before M. Rainey Stockton, Court Reporter and Notary Public, in and for the State of Idaho, on Monday, the 30th day of November 2009, commencing at the hour of 1:07 P.M. in the above-entitled matter.

A P P E A R A N C E S

For the Defendant via telephone:
 SHUSTER & SABEN
 BY: RICHARD SHUSTER, ESQUIRE
 4770 Biscayne Blvd., Suite 1030
 Miami, Florida 33137
 (305) 576-8688

For the Plaintiff via telephone:
 BUTLER & BOSCH, P.A.
 BY: NICHOLAS VANHOOK
 3185 South Conway Road
 Suite E
 Orlando, Florida 32812
 (407) 381-5200

ALSO PRESENT: Jon Maughan
 Terrill Nielson

Page 2

PAGE 4

1 (KRYSTAL HALL, after having been duly
 2 sworn, testified as follows:)
 3 (The telephonic deposition proceeded at 1:07
 4 P.M. as follows:)

EXAMINATION

5 BY MR. SHUSTER:

6 Q. Good afternoon.
 7 A. Good afternoon.
 8 Q. Ms. Hall, can you hear me okay?
 9 A. Uh-huh. (Yes)
 10 Q. My name is Richard Shuster and I
 11 represent [redacted] in a foreclosure action
 12 filed by Bank of America National Association in
 13 the case as filed in Miami-Dade County in
 14 Florida.
 15 We set your deposition because you
 16 executed an Assignment of Mortgage and I have a
 17 few questions for you about that -- about that
 18 document.
 19 A. Okay.
 20 Q. Could you state your name for the
 21 record?
 22 A. Krystal Hall.
 23 Q. And, Ms. Hall, who is your employer?
 24 A. Security Connections, Incorporated.
 25

DEPOSITION OF KRYSTAL HALL - 11/30/2009

SHEET 3 PAGE 9

PAGE 11

1 did you speak to anybody at First Franklin?
 2 A. No.
 3 Q. Okay. And before you executed this
 4 Assignment, did you confirm whether or not First
 5 Franklin had previously assigned this mortgage to
 6 somebody else?
 7 MR. VANHOOK: Objection. She doesn't
 8 work for First Franklin, as far as her job
 9 duties, to figure out what First Franklin had
 10 done in the past.
 11 MR. SHUSTER: Okay.
 12 BY MR. SHUSTER:
 13 Q. Do you know whether -- do you know
 14 whether First Franklin owned this mortgage at the
 15 time that you executed the Assignment?
 16 A. Not that I know of.
 17 MR. VANHOOK: Objection. She does not
 18 directly work for First Franklin.
 19 BY MR. SHUSTER:
 20 Q. Okay. So, basically, somebody else
 21 prepares the Assignment of Benefits and if they
 22 prepare the Assignment of Benefits and place it
 23 before you, you execute it.
 24 A. Yes.
 25 Q. Okay. And who prepares the Assignment

1 Q. I see.
 2 And why is it that you -- why is it
 3 that you believe that you have the authority to
 4 act on behalf of First Franklin?
 5 A. Because I'm on the Corporate
 6 Resolution.
 7 Q. Okay.
 8 MR. SHUSTER: And let me place a
 9 continuing objection on the record to the
 10 Corporate Resolution on the basis of that it's
 11 hearsay.
 12 BY MR. SHUSTER:
 13 Q. The Corporate Resolution that you have,
 14 you didn't witness this execution, correct?
 15 A. Correct.
 16 Q. And the Corporate Resolution you have
 17 is not notarized, correct?
 18 A. Correct.
 19 Q. Okay. And you don't have firsthand
 20 knowledge of any of the people listed on the
 21 Resolution as to whether or not they actually
 22 signed the Resolution, correct?
 23 A. Correct.
 24 Q. And the Resolution, the place where
 25 your name appears is on an exhibit that's not

PAGE 10

PAGE 12

1 of Mortgage?
 2 A. The Release Department or the
 3 Assignment Department.
 4 Q. Okay. And how does the Release
 5 Department or the Assignment Department know to
 6 know what bank the Assignment is being made to?
 7 A. I don't know because I'm not in that
 8 department.
 9 MR. VANHOOK: Objection to form.
 10 BY MR. SHUSTER:
 11 Q. Does -- do you have a -- does Security
 12 Connections have a file associated with this
 13 mortgage?
 14 A. Not that I know of.
 15 Q. What do you have in front of you other
 16 than the Assignment itself?
 17 A. The Corporate Resolution.
 18 Q. Okay. How was it that Security
 19 Connections prepared this Assignment in the first
 20 place?
 21 In other words, what was the action
 22 that sparked Security Connections to prepare this
 23 Assignment of Benefits or Assignment of Mortgage?
 24 A. I don't know because I'm not -- I
 25 wasn't in charge of that.

1 part of the exhibit attached to the Resolution,
 2 correct?
 3 A. Correct.
 4 Q. And you don't know whether the exhibit
 5 that is attached --
 6 MR. VANHOOK: Objection. Leading.
 7 BY MR. SHUSTER:
 8 Q. Do you have personal knowledge as to
 9 whether the Exhibit 1 that's attached to the
 10 Resolution in your possession is the same as the
 11 Exhibit 1 that might have existed at the time
 12 that this document was purportedly executed by
 13 four people who you don't know?
 14 MR. VANHOOK: Objection. Form.
 15 Please, rephrase.
 16 BY MR. SHUSTER:
 17 Q. Do you have knowledge as to whether the
 18 Exhibit 1 that is in your possession existed at
 19 the time or was the same at the time as the
 20 Resolution was purportedly executed?
 21 A. I don't know.
 22 Q. Okay. After you signed the Assignment
 23 of Mortgage, were you responsible for mailing
 24 this document to the law firm of Butler & Hosch?
 25 A. I believe it went to the County.

REPORTER'S CERTIFICATE

STATE OF IDAHO)
COUNTY OF BONNEVILLE) ss.
)

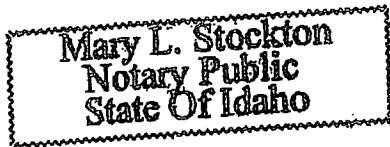
I, Mary L. Stockton, CSR and Notary Public in and for the State of Idaho, do hereby certify:

That prior to being examined KRYSTAL HALL, the witness named in the foregoing deposition, was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and that the foregoing transcript contains a full, true and verbatim record of said deposition.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 4th day of December 2009.



Mary L. Stockton

Mary L. Stockton
Idaho CSR No. 746,
Notary Public in and for
the State of Idaho.

My Commission Expires: 11-10-10

**UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS OF
FIRST FRANKLIN FINANCIAL CORPORATION
SCI Signing Authority Resolution**

The undersigned members of the Board of Board of Directors (the "Board") of First Franklin Financial Corporation (the "Corporation"), a Delaware corporation, hereby adopt, by this written consent, the following resolutions effective as of November 1, 2008:

RESOLVED, that the Corporation hereby grants to certain employees of Security Connections, Inc., with its principal place of business located at Idaho Falls, Idaho the limited authority to prepare and execute the documents described below in connection with residential first and second mortgage loans and home equity lines of credit originated by the Corporation.


FURTHER RESOLVED, that the employees of Security Connections, Inc. listed on Exhibit "A" attached to this Resolution acting in his/her capacity as such employee of Security Connections, Inc. (collectively, "SCI") are hereby granted all authority necessary to lawfully and properly prepare, execute, witness, attest and deliver assignments, endorsements, amended or corrective notes and mortgage and such other documents that will enable SCI to effect the transfer and, if applicable, reformation of Corporation's sale of mortgage-secured loans and lines of credit including, without limitation, execution and delivery of writings related to the transfer or assignment of mortgage-secured loans and lines of credit, execution and delivery of loss policy affidavits on behalf of First Franklin for the purpose of obtaining updated or missing title policies,

FURTHER RESOLVED, that all acts for and on behalf of Corporation by SCI pursuant to the limited authority granted hereby shall be with the same force and effect as if the same has been done by the Corporation but in all cases subject to the terms and conditions of the Vendor Agreement by and between FFFC and SCI dated as of September 22, 2008, as the same may be amended from time to time, and

FURTHER RESOLVED, that the foregoing Authorization shall remain in full force and effect until terminated or changed or upon termination of the Vendor Agreement with SCI.

IN WITNESS WHEREOF, the undersigned, being all of the directors of the Corporation, have affixed their signatures hereunto in acknowledgment of their consent and agreement to the adoption of the resolutions hereinabove set forth, effective as of November 1, 2008.


Joseph D'Urso


Steve Mageras


Craig Weakley


Vona Bramlage

EXHIBIT A

**Employees of Security Connections, Inc. Granted Limited Authority to Perform Functions for First Franklin
Financial Corporation**

**Shawna Allen
Brandi Beck
Sandy Carvalho
Joan Cook
Mary Enos
Krystal Hall
Mark Hatfield
Eric Hender
Caryn Killian
Onni Loftus
Mary Lou Marcum
Jon Maughan
Karleen Maughan
Terrill Nielson
Jennifer Parsons
Amy Siuda
Vicki Sorg
Tina Stucki
Angelita Swearingen**

JUNE 5, 1992

The Supreme Court of South Carolina

ADMINISTRATIVE ORDER FOR THE FAMILY COURTS

Pursuant to the provisions of Article V, Section 4 of the South Carolina Constitution, which vests the Chief Justice of the Supreme Court with administrative authority over the unified judicial system, the following administrative order affecting the Family Courts is adopted, and all rules or orders in conflict herewith are revoked. THEREFORE, IT IS ORDERED:

(a) Whenever a domestic relations or juvenile case has been filed and entered in the File Book for more than two hundred seventy (270) days without having been continued, tried or otherwise disposed of, the clerk of court shall strike the case from the File Book with leave to restore.

(b) No domestic relations or juvenile case may be continued beyond two hundred seventy (270) days from the file of filing except by written order of the Chief Administrative Judge upon a showing of good cause. Any order of continuance which continues a domestic relations or juvenile case beyond two hundred seventy (270) days shall state the reasons for the continuance and shall set the case for trial and final disposition at a time and date certain.

(c) Any case stricken from the File Book pursuant to paragraph (a) above shall be restored only upon the

Jun. 16. 2010 10:04AM

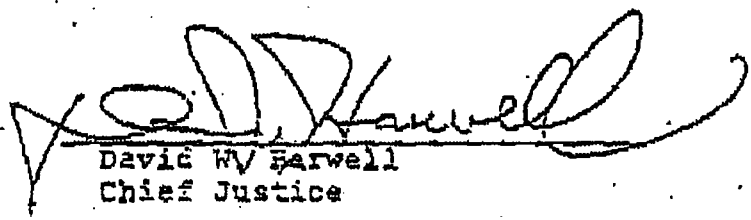
June 5, 1992

The Supreme Court of South Carolina

written order of the Chief Administrative Judge, obtained after written application is made and good cause shown why the case should be continued as a pending case, and provided that the order restoring the case to the File Book shall set the case for trial and final disposition at a time and date certain.

The striking of a case from the active docket is an administrative function only, and does not affect the merits of a case. Accordingly, all orders issued before such striking remain in full force and effect, unless limited by their terms. Additionally, voluntary or court-ordered discovery may be conducted pursuant to Rule 25, SCRFC even though a case has been struck from the File Book.

This order shall take effect immediately.


David W. Farwell
Chief Justice

June 5, 1992

Columbia, South Carolina

TAG R-11235

WHEN RECORDED MAIL TO:

OPTION ONE MORTGAGE CORPORATION
P.O. BOX 57096
IRVINE, CA 92619-7096

ATTN: RECORDS MANAGEMENT

2006004370

MORTGAGE RECORDING FEES \$14.00
04-07-2006 09:46 AM
JOHN LANE
By: CANDICE KIMBLEY DEPUTY
BK:MORT 1486
PG:1-8

DOCUMENT COPY
APPEAR TO BE
ALTERED
FROM LAW FIRM
[INITIAL NOT
BORROWERS]

Loan Number: 571007388
Servicing Number: 002123202-0

[Space Above This Line For Recording Date]

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on March 29, 2006. The mortgagor is
ZTRAILI M ELBEY

("Borrower"). This Security Instrument is given to
Option One Mortgage Corporation, a California Corporation
which is organized and existing under the laws of CALIFORNIA, and whose address is
3 Ada, Irvine, CA 92618

("Lender"). Borrower owes Lender the principal sum of ONE HUNDRED NINETY SEVEN THOUSAND ONE HUNDRED

AND NO/100THS Dollars (U.S.\$197,186.00).

This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which
provides for monthly payments, with the full debt, if not paid earlier, due and payable on

April 01, 2036. This Security Instrument secures to Lender: (a) the repayment of the debt
evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment
of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument;
and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note.
For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and
assigns the following described property located in Lancaster County, South Carolina:
0006M-0A-261.00

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART THEREOF

BROCK & SCOTT PLLC
SHOULD BE SANCTIONED
'SCRCP' RULE 11 VIOLATION
MORTGAGE & LOAN SECURITIZED & PAID-IN-FULL

Derivation Clause: Being the same property conveyed to
by Deed of dated and recorded Page
in the RNC Office for County in Book

which has the address of 13132 WILBURN PARK LN,
[Street]
FORT MILL, South Carolina 29715-1598 ("Property Address");
[City] [Zip Code]

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever,
together with all the improvements now or hereafter erected on the property, and all easements, appurtenances,
and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this
Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

EXHIBIT A

**MORTGAGE DEED AND LOAN PAID-IN-FULL
MULTIPLE TIMES—READ AUDITS CONCLUSION**

Note: Special Referee, Clerk of Court, and Law Firm have this full Forensic Audit from Respondent
NOTICE TO PRINCIPAL IS NOTICE TO AGENT NOTICE TO AGENT IS NOTICE TO PRINCIPAL

THIS INSTRUMENT WAS PREPARED BY:

WHEN RECORDED MAIL TO:
OPTION ONE MORTGAGE CORPORATION
P.O. BOX 57096
IRVINE, CA 92619-7096
ATTN: RECORDS MANAGEMENT

2006004371

MORTGAGE
RECORDING FEES \$12.00
PRESENTED & RECORDED:
04-07-2006 09:48 AM
JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: CANDICE KIRKLEY DEPUTT
BK:MORT 1486
PG:9-14

Loan Number: 571007392
Servicing Number: 002123320-0

MORTGAGE

THIS MORTGAGE is made this 29 day of March, 2006, between the Mortgagor, ZIRALLI M ELBEY

(herein "Borrower"), and the Mortgagee, Option One Mortgage Corporation, a California Corporation, a corporation organized and existing under the laws of CALIFORNIA, whose address is 3 Ada, Irvine, CA 92618

(herein "Lender"). WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$ 49,296.00, which indebtedness is evidenced by Borrower's note dated March 29, 2006 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of indebtedness, if not sooner paid, due and payable on April 01, 2036;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns the following described property located in the County of Lancaster, State of South Carolina: 0006M-0A-261.00
SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART THEREOF.

This Security Instrument is subordinate to a first lien recording concurrently herewith.

DERIVATION CLAUSE: Being the same property conveyed to by deed of dated and recorded in the RMC office of County in Book page

Which has the address of 13132 WILBURN PARK LN (Street) FORD MILL (City), South Carolina 29715-1598 [Zip Code] ("Property Address");

TO HAVE AND TO HOLD unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

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

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

- 1. Payment of Principal and Interest. Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.
- 2. Funds for Taxes and Insurance. Subject to applicable law or a written waiver by Lender, Borrower

NOTE

13132 WILBURN PARK LN, FORT MILL, SC 29715-1598

(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$197,186.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Option One Mortgage Corporation, a California Corporation.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. Interest will be calculated on the basis of a 12-month year and a 30-day month. I will pay interest at a yearly rate of 7.999%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the first day of each month beginning on May 01, 2006.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on April 01, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at Option One Mortgage Corporation P.O. BOX 92103 LOS ANGELES, CA 90009-2103 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments My monthly payment will be in the amount of U.S. \$1,446.74

(C) Application of Payments

Payments received by the Note Holder will be applied in the following order: (i) prepayment charges due under this Note; (ii) amounts payable under paragraph 2 of the Security Instrument (defined below); (iii) interest due under this Note; (iv) principal due under this Note; and (v) late charges due under this Note.

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as "prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default. If I am in default, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all interest that I owe on that amount, together with any other charges that I owe under this Note or the Security Instrument.

(C) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(D) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

Document Altered

Sent as a Copy

FROM LAW FIRM

[Question Signature???

[Never Saw People Sign

As Witnesses]

Loan # 571007388

EXHIBIT B

**COPY FROM LAW FIRM OF
ALLONGE ATTACHED TO NOTE
[NOT DISCLOSED TO BORROWER]**

Loan Number: [REDACTED]

Servicing Number: [REDACTED]

Date: 03/29/06

**ALLONGE TO NOTE
(INVESTOR)**

This allonge makes reference to the following Note:

Borrowers: ZIRALI M ELBY

Loan #: [REDACTED]

Property Address: 13132 WILBURN PARK LN, FORT WALKER, 29715-1598

Loan Amount: \$197,186.00

Note Date: 03/29/06

Therefore, in reference to the captioned note, the following applies:

Pay to the order of:

Without Recourse

**EVIDENCE
SENT FROM LAW FIRM
NOTE IS A SECURITY
NOTE PAID IN FULL
NOTE SEPARATED FROM
MORTGAGE**

Option One Mortgage Corporation
A California Corporation

By: Sheila Scott
Assistant Secretary

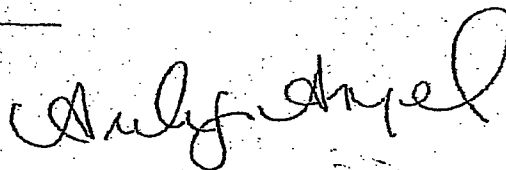


EXHIBIT D

ARELY ANGEL - NOTARY PUBLIC
County of Fairfax Commonwealth of Virginia
My Commission Expires June 29, 2008

PROOF OF SERVICE OF MOTION TO AMEND
RECORD OF APPEAL

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002-373

RECEIVED

FEB 06 2014

SC Court of Appeals

H & R Block Bank, FSB,

Respondent

v.

Ziraili M Elbey, a/k/a/ Ziraili
Mohassan El Bey,

Appellant

PROOF OF SERVICE

I certify that Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd., Ste 110, Columbia, South Carolina, 29210 received a copy of the Motion to Amend Record of Appeal by depositing a copy of it in the U.S. Mail, postage prepaid, on February 03, 2014 addressed to H & R Block Bank, FSB, its attorneys of record, Brock & Scott.

February 03, 2014

By: Ziraili M. Elbey
Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665

Certificate of Appellant

The undersigned hereby certifies that the Record on Appeal contain all material proposed to be included by any of the parties and not any other material.

February 03, 2014

By: Ziraili M. Elbey
Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665