

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

US Bank National Association as successor
Trustee to Wachovia Bank, National Association,
as Trustee for Wells Fargo Asset Securities
Corporation, Mortgage Pass-Through Certificates
Series 2005-12,

Plaintiff,

v.

Michael D. Lanier; Lori A. Lanier; Wells Fargo
Bank, N.A.; Sweetwater Hills Homeowners
Association, Inc.;

Defendant(s).

(011784-13880)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 11-CP-42-1489

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SC Court of Appeals

ORDER DENYING
MOTION TO RECONSIDER

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SPARTANBURG COUNTY
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This matter comes before the Court by way of Defendants Michael D. Lanier and Lori A. Lanier's ("Defendants") Motion to Reconsider the Court's Judgment of Foreclosure and Sale entered August 11, 2014. The Judgment of Foreclosure Sale was entered following hearing on Plaintiff's Motion for Summary Judgment on August 6, 2014.

A hearing was held before me on September 23, 2014. J. Edwin McDonnell, Esquire, appeared on behalf of the Defendants. Vance L. Brabham, III, appeared on behalf of the Plaintiff. No other parties made an appearance.

At hearing, Defendants asked the Court to reconsider its grant of summary judgment based upon the arguments that 1) Plaintiff did not present evidence that it was the real party in interest at the time the initial pleadings were filed; 2) Plaintiff's right to cure notice was defective and that the loan was therefore improperly accelerated; 3) Plaintiff's Verified Statements of Account demonstrated a lack of personal knowledge by the affiants and failed to prove the

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existence of Plaintiff's relationship with the servicer of the Mortgage; and 4) Plaintiff's Validation of Documents contained legal conclusions and should not have been considered by the Court.

After careful consideration of the Defendants' arguments, I find that my grant of summary judgment in this matter was proper. I will address Defendants' arguments in turn.

Real Party in Interest

In its motion for summary judgment, Plaintiff attached as Exhibit "B" a copy of the original note. Furthermore, at the summary judgment hearing, Plaintiff presented the original note without objection for the Court's examination. I found that the original note was indorsed in blank. As further discussed below, the blank indorsement made the note a bearer instrument. Furthermore, I found that Plaintiff was the holder of the original note. Therefore, as holder of the bearer instrument, Plaintiff had standing to enforce the note and mortgage under the terms stated therein and was a real party in interest to this action.

When indorsed in blank, a promissory note is an instrument that becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed. S.C. CODE ANN. § 36-3-205(b). A "holder" is a person or entity "who is in possession of a document or title or an instrument or a certificated investment security drawn, issued, or indorsed to him or to his order or to bearer or in blank." S.C. CODE ANN. § 36-1-201(20). Furthermore, South Carolina law "does not require both possession of the note and a written assignment of the mortgage to prove ownership." In re Woodberry, 383 B.R. 373, 376 (Bankr. D.S.C. 2008). The assignment of a mortgage does not need to be recorded, and failure to do so has no effect on the rights of the assignee. BAC Home Loan Servicing, L.P., v. Kinder, 398 S.C. 619, 731 S.E.2d 547 (2012) (citing Singleton v. Singleton, 60 S.C. 216, 235, 38 S.E. 462, 469 (1901)). Thus,

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enforcement of a note in South Carolina does not require the plaintiff to have a written assignment of the mortgage securing the note. Woodberry, 383 B.R. at 377.

At the summary judgment hearing, I found that Plaintiff's presentation of the original note, indorsed in blank, was proof that it has the right to enforce the note and mortgage. Furthermore, I found that Defendants do not dispute that Plaintiff is the present holder of the note and is entitled to enforce the mortgage.

Rather, Defendants' argue that Plaintiff failed to demonstrate that it had standing to enforce the terms of the Note and Mortgage on the date Plaintiff commenced this action. Defendants argue that Plaintiff's failure to prove it had standing when it commenced the action is fatal to the Plaintiff's Motion for Summary Judgment.

At both the hearings for the motion summary judgment and motion to reconsider, Defendants did not offer any legal authority supporting the proposition that a plaintiff in a foreclosure action must present evidence at a summary judgment hearing that it specifically had the right to enforce the note and mortgage on the date it filed its summons and complaint.

In the absence of legal authority on that point, I found that Plaintiff's demonstration that it had the right to enforce the note and mortgage at the time of the summary judgment hearing is sufficient to support a grant of summary judgment. Even if the Court was inclined to accept the Defendants' standard, no evidence was presented to show that Plaintiff lacked standing at the time the action was commenced.

While Defendants raised that the assignment of mortgage into Plaintiff was not recorded until after the commencement of this action, it is well established under South Carolina law that a recorded assignment of mortgage is not necessary for a note holder to enforce the underlying mortgage. I further find that Plaintiff's establishment of standing at the summary judgment

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hearing is evidence that tends to show it had standing at the time the action was commenced. Therefore, I find that there was no genuine issue as to any material fact in regards to Plaintiff's standing.

Right to Cure Notice

Defendants raised several arguments concerning the sufficiency of the right to cure notice at the initial summary judgment hearing. At the reconsideration hearing, Defendants elected to abandon two of their allegations made at that the summary judgment hearing.

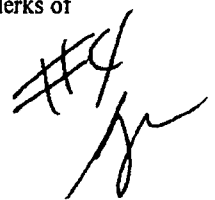
Defendants initially argued that Plaintiff's failure to send a right to cure notice to each of the Defendants rendered the subsequent acceleration of the loan invalid. At hearing on their motion to reconsider, Defendants conceded that the right to cure notice sent to Mr. Lanier constituted notice to both parties under the terms of the mortgage to the extent that the Court should find the notice to be valid in form. Secondly, after examining a copy of the right to cure notice that had not been redacted¹, Defendants also conceded that the right to cure notice properly identified the loan that was in default.

Defendants remaining allegation concerning the right to cure notice at hearing was that the language in the notice did not meet the requirements set forth by the terms of the mortgage. Specifically, Defendants referred to Paragraph 22 of the mortgage, which in pertinent part states:

[T]he notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure.

The right to cure notice sent by Plaintiff, in addition to advising Defendants of their right to reinstate after acceleration, states in pertinent part:

¹ Plaintiff attached a copy of a right to cure notice sent to Mr. Lanier at the property address as Exhibit "F" to its Motion for Summary Judgment. Plaintiff's counsel stated that the loan number was redacted in the Exhibit to comply with the South Carolina Supreme Court's directive that parties should not file documents with the Clerks of Court containing personal information such as loan numbers or social security numbers.



If acceleration is initiated, you will have the right to refute the existence of a default or offer any other defense to the acceleration you may deem appropriate. You have the right to bring a court action to assert the non-existence of a default or any other defense you may have to acceleration and sale.

The parties did not dispute the language stated in the mortgage and right to cure notice.

Defendants argued that the failure of the right to cure notice to specifically advise that they had the right to assert defenses in a "foreclosure proceeding" makes the notice and the subsequent acceleration of the debt legally ineffective.

After considering these documents at the hearing for summary judgment, I found that the right to cure notice substantially complied with the requirements set forth in the mortgage. I found that a reasonable party in receipt of the right to cure notice would understand that they had a right to assert defenses in a court action, including foreclosure proceedings. Therefore, I found Plaintiff's right to cure notice to be valid and the Plaintiff's loan was properly accelerated. Furthermore, I found that reasonable minds could not differ as to these undisputed facts. Having reconsidering the facts of this matter and arguments of each party, I find no reason to reverse the grant of summary judgment to the Plaintiff.

Sufficiency of Plaintiff's Affidavit of Debt

At the reconsideration hearing, Defendants renewed their objections to the court's acceptance of the two Affidavits of Verified Statement of Account submitted by the Plaintiff.

Plaintiff's first objection concerns the final sentence of the third paragraph of the affidavits. In that sentence, the affiants states that Plaintiff is "either the original payee of the Promissory Note or the Promissory Note has been duly indorsed." Defendants argue that the affiants' failure to describe the state of the indorsements is evidence that the affiant lacked personal knowledge of the account and failed to examine the pertinent documents. Defendants

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argue that this failure is so suggestive of a lack of knowledge that the Court should not find the affidavits to be credible evidence.

At the summary judgment hearing, I examined the affidavits and found that affiant's statements regarding the indorsement of the note do not place in question the credibility of the affiant's knowledge of the Defendants' account. While the affidavits could have more accurately stated that the note is indorsed in blank, the statement made in the affidavits is correct. Plaintiff established at hearing that it holds the original note and that it has been properly indorsed.

Furthermore, at hearing, I found that the affidavits were credible in establishing: (1) that the affiant had personal knowledge as to the matters bring sworn, (2) that the records relied upon by the affiants were made routinely and in the usual course of business, (3) that the records relied upon by the affiants were recorded near the time that the events occurred, and (4) that the records relied upon by the affiants were made in the regular course of business. Therefore, I found that Plaintiff's affidavits were credible.

Defendants' second objection concerned the fact that no documents were attached to the affidavits to support Wells Fargo Bank, N.A. ("Wells Fargo") statement that it is Plaintiff's servicing agent. Defendants argued that a copy of the servicing agreement would be necessary to establish the relationship between Wells Fargo and Plaintiff.

Previously I found Defendants' second objection be without merit. The affidavits submitted by the Plaintiff contained sworn testimony from employees of Wells Fargo establishing that Wells Fargo is the Plaintiff's loan servicer for this account. The Defendants failed to present any evidence that would call this fact into question. As discussed above, I found Plaintiff's affidavits to be credible. Absent any evidence to the contrary, I found that the affidavits establish that Wells Fargo services the loan on behalf of Plaintiff.

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After reconsidering the Defendants' allegations as to the affidavits Plaintiff submitted to the court, I find no reason to reverse my prior ruling.

It must be further noted that Defendants did not object at summary judgment or at the hearing on the motion to reconsider, to Plaintiffs use of the affidavits to prove the actual amount of the total debt. The only objections raised were to the matters addressed herein.

Plaintiff's Validation of Documents

The final issue raised by Defendants at hearing concerned Exhibit "G" to Plaintiff's Motion for Summary Judgment, which is labeled "Validation of Documents." The exhibit is an affidavit from a records custodian at Wells Fargo swearing to the authenticity of certain other documents attached as exhibits to Plaintiff's Motion for Summary Judgment. Specifically, Defendants object to certain language contained within the Validation of Documents, including testimony by the affiant that the Plaintiff has the right to enforce the negotiable instrument secured by the mortgage and that Plaintiff is the real party in interest as defined by the SOUTH CAROLINA RULES OF CIVIL PROCEDURE. Defendants argue that such testimony is an unsupported legal conclusion concerning a matter that is the for the Court's determination. Plaintiff concedes that the specific language may be a legal conclusion, but argues that it does not rely upon the exhibit to establish its right to enforce the note and mortgage.

I find that the sworn testimony in the exhibit is entirely superfluous to my ruling. The Court's determination that Plaintiff has the right to foreclose is based upon Plaintiff's presentation of the properly indorsed, original note at hearing. To the extent that the exhibit contains legal conclusions, I did not consider them when making my ruling and they are nonessential portions of the record. Therefore, I do not find this final ground for reconsideration to be persuasive.


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CONCLUSION

After consideration of the matters raised in Defendants' motion to reconsider, I find no reason to alter my ruling granting Plaintiff's Motion for Summary Judgment.

THEREFORE, Defendants' Motion is DENIED.

AND IT IS SO ORDERED.



The Honorable Gordon G. Cooper
Master in Equity for Spartanburg County

Spartanburg, South Carolina
September 26, 2014.

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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

US Bank National Association as successor
Trustee to Wachovia Bank, National Association,
as Trustee for Wells Fargo Asset Securities
Corporation, Mortgage Pass-Through Certificates
Series 2005-12,

Plaintiff,

v.

Michael D. Lanier; Lori A. Lanier; Wells Fargo
Bank, N.A.; Sweetwater Hills Homeowners
Association, Inc.;

Defendant(s).

(011784-13880)

John J. Hearn, Esquire
Attorney for the Plaintiff

J. Edwin McDonnell, Esquire
Attorney for Michael D. Lanier

J. Edwin McDonnell, Esquire
Attorney for Lori A. Lanier

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, the above-entitled matter was referred to the undersigned. Plaintiff filed a timely motion for summary judgment and a hearing was held August 6, 2014 at 02:30 PM. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on March 30, 2011.
2. The Summons and Complaint were filed on March 30, 2011.
3. Service was made upon all Defendant(s) as shown by the proof(s) of service filed herein.
4. The Defendant(s) Wells Fargo Bank, N.A. and Sweetwater Hills

IN THE COURT OF COMMON PLEAS

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SC Court of Appeals

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Deficiency Judgment Waived

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Homeowners Association, Inc. are in default.

5. The Defendant(s) Michael D. Lanier and Lori A. Lanier are not in the Military Service of the United States of America, as contemplated under The Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. seq. as shown by affidavit, certificate or order filed herein.

6. Pursuant to the South Carolina Supreme Court Administrative Order 2009-05-22-01 dated May 22, 2009, the Plaintiff set forth its belief in its Complaint or by Affidavit, which is already of record in this case, that the mortgage loan which is the subject of this foreclosure action is not eligible for modification pursuant to the terms of the Home Affordable Modification Program (HMP). Pursuant to the South Carolina Supreme Court Administrative Order dated May 22, 2009, Plaintiff's attorney has not received a counter affidavit from any Defendant(s).

7. Attorney for the Plaintiff has fully complied with the South Carolina Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011.

8. Michael D. Lanier filed an answer through his attorney, J. Edwin McDonnell, Esquire. Lori A. Lanier filed an answer through her attorney, J. Edwin McDonnell, Esquire.

9. All Pro Se Defendant(s) and all attorneys of record were notified of the time, date, and place of the hearing by letter and certificate of mailing of record herein.

10. Michael D. Lanier for value received, made, executed and delivered a(n) Fixed Rate Note dated August 31, 2005 promising thereby to pay to Plaintiff or its predecessor the sum of \$157,651.00 with interest at 5.625% per annum. Other terms and conditions are stated in the Fixed Rate Note, of record herein.

11. Additionally, the Plaintiff timely presented an affidavit from the Plaintiff itemizing the dollar amount claimed in this matter, as well as a detailed memorandum of law in support of Plaintiff's summary judgment motion. After carefully considering the facts and arguments presented, I find that Plaintiff is entitled to summary judgment and is further entitled to a judgment of foreclosure and sale.

12. To better secure the payment of the Fixed Rate Note described above, Michael D. Lanier and Lori A. Lanier made, executed, and delivered to Wells Fargo Bank, N.A. a certain real estate Mortgage in writing, dated August 31, 2005 covering real property in Spartanburg County, which is the same as that described in the Complaint. This Mortgage was filed on September 2, 2005, and is of record in the Office of RMC/ROD in Book 3511 at Page 330. This mortgage was subsequently assigned to the Plaintiff herein by assignment dated April 25, 2011 and recorded May 16, 2011 in Book 4464 at Page 64.

13. This Mortgage constitutes a purchase money first priority lien on the subject property, subject only to ad valorem taxes or other liens given priority by statute.

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14. Plaintiff has the legal right to enforce the negotiable instrument secured by the Mortgage and is the real party in interest as defined by Rule 17(a) of the South Carolina Rules of Civil Procedure.

15. Subsequently, Michael D. Lanier and Lori A. Lanier conveyed the subject property to Michael D. Lanier and Lori A. Lanier, as joint tenants with the right of survivorship, by Deed dated February 10, 2008 and recorded February 29, 2008 in Deed Book 90-U at Page 410.

16. Plaintiff established that the Note is in default for failure to make the September 1, 2009 and all subsequent payments.

17. Payment due on the Fixed Rate Note was not made as provided for therein, and Plaintiff, as the holder or nominee for the holder thereof, elected to require immediate payment of the entire amount due thereon and placed the Fixed Rate Note and Mortgage in the hands of the attorney herein for remedy by foreclosure.

18. The sum of \$4,660.00 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the terms of the Fixed Rate Note and Mortgage. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services of counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.

19. According to Plaintiff's accounting, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing on the Fixed Rate Note, with interest at the rate provided in the Fixed Rate Note, advances made by Plaintiff, and other costs and expenses of the action, including a reasonable attorney fee, all secured by the Fixed Rate Note and Mortgage, is as follows:

- | | |
|--|--------------|
| (a) Principal due September 1, 2009..... | \$157,650.00 |
| (b) Interest from August 1, 2009 through
April 14, 2014 at 5.625% per annum | \$41,928.28 |
| Interest from April 15, 2014 through
August 6, 2014 at 5.625% per annum | \$2,770.00 |

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(c)	Allowable Advances (Escrow advances, corporate charges, paid attorney fees, paid costs and expenses from the foreclosure action, and/or other charges)	\$8,370.44
(d)	Costs of collection prior to hearing (service, filing, etc.).....	\$865.00
(e)	Title Abstract Search.....	\$300.00
(f)	Attorney Fee (awarded herein, but unpaid).....	\$4,660.00
TOTAL debt secured by Fixed Rate Note and Mortgage, including interest to date shown.....		\$216,315.92

Interest shall accrue to the above stated "Total Debt" after the date of judgment at the rate of 5.625% per annum (pursuant to the terms of the Fixed Rate Note and purchase money first Mortgage). Accrued interest shall be added to the "Total Debt" and shall comprise the amount of the Plaintiff's debt secured by the purchase money first Mortgage through the date to which such interest is computed.

20. Plaintiff is seeking the usual foreclosure of the purchase money first mortgage and has in the Complaint (or subsequently thereto in writing) expressly waived the right to a personal or deficiency judgment.

21. The following Defendant(s) may claim a subordinate lien upon or subordinate legal interest in the subject property and in the event there is a surplus from the sale of the subject property, these Defendant(s) may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant(s) and such liens or legal interests are as follows:

a. Wells Fargo Bank, N.A., by virtue of a mortgage given by Michael D. Lanier and Lori A. Lanier in the amount of \$39,412.00, dated August 31, 2005, and recorded September 2, 2005 in Book 3511 at Page 349.

b. Sweetwater Hills Homeowners Association, Inc., by virtue of a Note of Lien against Michael D. Lanier and Lori A. Lanier in the amount of \$304.61, dated March 1, 2011, and recorded March 21, 2011 in Book 4448 at Page 872.

IT IS THEREFORE ORDERED:

22. Plaintiff has fully complied with The South Carolina Supreme Court Administrative Orders 2009-05-22-01 dated May 22, 2009 and 2011-05-02-01 dated May 2, 2011, and the foreclosure action may proceed.

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23. There is due on the Fixed Rate Note and purchase money first Mortgage set forth in the Complaint the sum of \$216,315.92, as set out in the Findings of Fact *supra*, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

24. The amount due in the preceding paragraph (the "Final Total Debt" as set out in the Findings of Fact *supra*) shall accrue interest at the rate of the respective note rate(s) per annum and together with such interest shall constitute the total judgment debt due Plaintiff.

25. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. §14-11-310 (1976). It may also increase to include supplemental compensation for attorneys' services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

26. The Defendant(s) liable for the aforesaid judgment debt of the Fixed Rate Note and Mortgage including interest at the rate of 5.625% per annum shall pay on or before the date of sale of the property hereinafter described, to Plaintiff or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, including with the costs and disbursements of this action.

27. On default of payment at or before the time of the sale of the property, the mortgaged property described hereinafter shall be sold by the below signed Master in Equity or Special Referee or other court-appointed or designated agent or auctioneer at public auction at the Spartanburg County Courthouse, in the City of Spartanburg, and State of South Carolina on a sales day determined by the below signed Master in Equity or Special Referee, on the following terms:

a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to costs and expense of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse either to make the required deposit at time of bid or to comply with the other terms of the bid within 20 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.

b. Interest on the balance of the bid after the deposit is applied shall be paid through the day of compliance at the note rate of 5.625%.

c. The sale shall be subject to taxes and assessments, existing easements and restrictions, and any other senior encumbrances.

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d. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.

e. Purchaser to pay for deed preparation, costs of recording the deed, and transfer taxes on the deed.

f. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity or Special Referee.

28. A personal or deficiency judgment having been waived, the bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

29. Plaintiff may waive any of its rights, including its right to a deficiency judgment in accordance with Rule 71, of the South Carolina Rules of Civil Procedure, prior to sale.

30. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the Purchaser a deed to the property sold. Plaintiff or any other party to this action may become a purchaser at such sale. If, upon such sale being made, the Purchaser should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity may advertise the said premises 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.

31. In the event an agent of Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the same terms and conditions as set forth in this Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.

32. If Plaintiff is the successful bidder at the said sale for a sum not exceeding the amount of costs and expenses of the sale, plus the indebtedness of Plaintiff in full, Plaintiff may pay to the Master in Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

33. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the permitted costs, charges, and expenses of this action, including any Guardian ad Litem fee, Servicemember Civil Relief Act attorney fee, or any other attorney's awarded under this or any other Order of this Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest or so much thereof as the purchase money will pay on the same; and the Plaintiff's attorney shall receive and disburse such funds only in absolute compliance with Plaintiff's principal, interest, allowable advances, and related calculations of this Court, including the Court's award for attorney fees.

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ATTORNEY

court permitted charges and taxable costs pursuant to Rules 54 and 71 of the South Carolina Rules of Civil Procedure and the terms of the Note and Mortgage;

NEXT: Any surplus will be held pending further Order of the Court as provided for in the South Carolina Rules of Civil Procedure, particularly Rule 71(c) of the South Carolina Rules of Civil Procedure.

34. In the event the successful bidder is someone other than the Defendant(s) in possession of the subject property, the Sheriff of Spartanburg County is ordered and directed to eject and remove from the property the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said property without delay, and to keep said successful bidder or his assigns in such peaceable possession.

35. In the event the successful bidder is other than the Defendant(s) in possession of the subject property and the occupants have voluntarily vacated the property or have been ejected from the property leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage in said property, the Purchaser is authorized to remove from the property all furnishings, fixtures and items not subject to the lien of Plaintiff's Mortgage. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the subject property by placing said personal property on the public street or highway or by any other means.

36. The Defendant(s) named herein, and all persons whosoever claiming under Defendant(s), are forever barred and foreclosed of all right, title, interest, equity of redemption or lien in the said mortgaged property so sold, or any part thereof.

37. In accordance with Rule 77(d), of the South Carolina Rules of Civil Procedure, the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure upon all parties not in default for failure to appear in this action.

38. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of the within action, and the name of the grantee. The Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

39. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

40. The following is a description of the property herein ordered to be sold:
All that certain piece, parcel or lot of land, situate, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as Lot No. 220, as shown on a plat of Sweetwater Hills, Phase 3 and recorded November 18, 2004 in Plat Book 157, Page 42, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above

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referred to plat and record thereof.

The above described property is conveyed subject to the Restrictive Covenants as recorded in Deed Book 67-F, Page 903 and Deed Book 70-P, Page 184 and Deed Book 77-Q, Page 38, RMC Office for Spartanburg County, S.C.

This being the identical property conveyed to Michael D. Lanier and Lori A. Lanier by Deed of Lazarus-Shouse Communities, LLC dated May 16, 2005 and recorded September 2, 2005 in Deed Book 83-W at Page 290. Subsequently, Michael D. Lanier and Lori A. Lanier conveyed the subject property to Michael D. Lanier and Lori A. Lanier, as joint tenants with the right of survivorship, by Deed dated February 10, 2008 and recorded February 29, 2008 in Deed Book 90-U at Page 410.

Property Address: 470 North Sweetwater Hills Dr
Moore, SC 29369

TMS# 5-31-00-730.00

S/ Gordon G. Cooper

Gordon G. Cooper
Master in Equity

3/6, 2014
Spartanburg, South Carolina

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