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STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 NATIONSTAR MORTGAGE, LLC,)
)
 Appellee,)
)
 -vs-)
)
 BARBARA A. GIBBS, MELVIN E.)
 GIBBS, And WESTBROOK PHASE IV)
 HOMEOWNERS' ASSOCIATION,)
)
 Appellants.)

IN THE COURT OF APPEALS
 OF SOUTH CAROLINA

RECEIVED
 SEP 14 2015
 SC Court of Appeals

CASE NO: 2015-001873

**MOTION FOR TEMPORARY
 RESTRAINING ORDER
 [TRO]**

Pursuant to the 14th Amendment; 18 USC § 1964(a) – 42 USC § 1986, Rule 65(b), SCRCPC and the inherent power of this Honorable Court – to protect against illegal conduct, Appellants [hereinafter Gibbs] move for a temporary restraining order enjoining Nationstar Mortgage from denying Gibbs’ mortgage applications; and/or granting mortgages identified in the accompanying Affidavit(s). In support of the instant motion, Gibbs would show as follow:

1. Appellee, Nationstar Mortgage [hereinafter Nationstar] retained the Korn Law Firm to file a foreclosure suit against Gibbs; Nationstar Mortgage knew Gibbs never missed a mortgage payment. Yet, Nationstar swore to the validity of their foreclosure filing and had the Korn Law Firm certify the foreclosure suit as being filed in good faith and was TRUE as to each allegation – **BANK FRAUD.**

2. On July 26, 2013 Appellants wrote Nationstar a letter outlining the illegal conduct by BOA, and warned Nationstar Mortgage not to join the Corrupt Organization: falsely claiming \$2,258.82 was due and owed – then falsely escalating said amount to \$8,528.09.

3. On or about October 29, 2013 Appellants learned of the foreclosure suit from a bankruptcy attorney letter of introduction. Appellants called Nationstar and advised Nationstar not to proceed with the suit in that the suit was in violation of the “mortgage;” Appellants would provide bank records to show all mortgage payments were made when due and owed.

4. On November 6, 2013 the Korn Law Firm, representing Nationstar, had Appellants served with the foreclosure suit. Appellants called the Korn Law Firm and advised “them” the suit was not valid and Gibbs would provide bank records to show all payments were timely made.

5. On November 19, 2013 Appellants filed a motion to dismiss based on lack of subject matter jurisdiction, failure to state a claim upon which relief could be granted, and suit was pending – addressing Appellee’s racketeering activities. And, asked the trial court to sanction Appellee and their attorney for having committed fraud on the court.

6. Appellee did not file this foreclosure based on the **MORTGAGE NOTE**; it is the mortgage note that sets out rights, responsibilities and remedies: it is the **MORTGAGE NOTE** that provides **STANDING**: when a term or terms of the NOTE are breached and remedies! Appellee has not suffered damages and therefore does not have standing to bring this litigation.

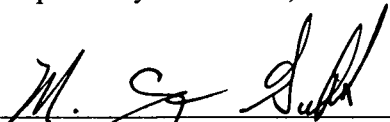
7. Appellee filed this litigation to punish Appellants for requesting mortgage modification under the *Home Affordable Mortgage Program* (Hereinafter HAMP). Appellee; under the then existing law, was required to modify Gibbs’ mortgages (2009 - 2015) from the current “alleged” 9.8% (\$2,900 per month) to 2% (\$1,400 per month): Nationstar would have received \$1,500.00 less per month; during the past 6 years Nationstar would have “collect” \$108,000.00 less from Gibbs on one loan or effectively 216,000 on both loans.

8. Gibbs will likely succeed on the merits of this case, as set forth more fully in the Affidavit(s).

9. Nationstar destroyed Gibbs' ability to obtain a mortgage loan; the "due diligence" period of ten (10) days expired on Saturday, the 12th day of September 2015 - The Seller can void the purchase contract and retain Gibbs' \$3,000; AND, sell Gibbs' home to another Buyer. Gibbs show there is no adequate remedy at law and immediate injunctive relief is necessary: **TO RETAIN THE STATUS QUO.**

WHEREFORE, Appellants pray this Honorable Court order Appellee provide Appellants two (2) – 30 year home mortgage loans; .5% for 30 years: \$350,000 for 408 Water Fall Lane, Stone Mountain, GA 30087 and the second mortgage for the home replacing 4257 Monterey Drive, Florence, SC 29501, \$329,000 – amount of the attempted fraud, and that the Honorable Court grant such other and further relief, at law and equity, general or special, to which Gibbs have shown themselves justly entitled.

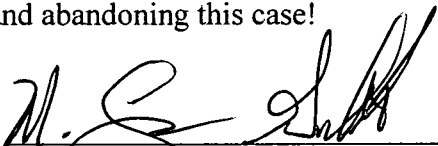
Respectfully Submitted,



M. Eugene Gibbs, Pro-se
4257 Monterey Drive
Florence, SC 29501
843-610-0674
mgibbs70@aol.com

September 14, 2015

RULE 11, SCRPC CERTIFICATION: Undersigned Appellant certified that consultation would serve no useful purpose to the foregoing motion for temporary restraining order. AND, the criminal foreclosure actions my Nationstar Mortgage has resulted in their attorneys "closing" their doors and abandoning this case!



M. Eugene Gibbs, Pro-se

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IN THE COURT OF APPEALS
OF SOUTH CAROLINA

CASE NO: 2015-001873

[TRO]

AFFIDAVIT

STATE OF SOUTH CAROLINA *
* ss:
RICHLAND COUNTY *

I, **M. EUGENE GIBBS**, do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit and documents are true and correct to the best of my knowledge, information, and belief. This affidavit is made upon my personal knowledge.

1. On July 26, 2013 Appellants wrote Nationstar a letter outlining the illegal conduct by BOA, and warned Nationstar Mortgage not to join the Corrupt Organization: falsely claiming \$2,258.82 was due and owed – then falsely escalating said amount to \$8,528.09.

2. On or about October 29, 2013 Appellants learned of the foreclosure suit from a bankruptcy attorney letter of introduction. Appellants called Nationstar and advised Nationstar not to proceed with the suit in that the suit was in violation of the “mortgage;” Appellants would provide bank records to show all mortgage payments were made when due and owed.

3. On November 6, 2013 the Korn Law Firm, representing Nationstar, had Appellants served with the foreclosure suit. Appellants called the Korn Law Firm and advised “them” the suit was not valid and Gibbs would provide bank records to show all payments were

timely made.

4. On November 19, 2013 Appellants filed a motion to dismiss based on lack of subject matter jurisdiction, failure to state a claim upon which relief could be granted, and suit was pending – addressing Nationstar’s racketeering activities. And, asked the trial court to sanction Nationstar and their attorney for having committed fraud on the court. Nationstar attempted to steal Gibbs’ \$1 million home by illegally foreclosing on a \$292,000 mortgage not due or owed. Nationstar’s criminal “onslaught” has created conditions in which Melvin Gibbs’ psychiatric health requires relocation – replacing Gibbs’ \$1 million HOME!

5. On the 29th day of April 2015 Nationstar by and through their attorneys: Butler & Hosch, made application for an Order of Reference. Gibbs filed an objection based on fraud on Gibbs and the court; and the Korn Law Firm was the attorney of record.

6. On the 28th day of July 2015 a substitution of counsel was granted whereby Butler & Hosch became the attorney of record.

7. Plaintiff’s complaint was verified under the penalties of perjury certifying Gibbs defaulted on August 2013: Gibbs filed bank statement certifying timely payments from December 2012 thru September 2013. (*Appellants’ Mandatory Injunction, EXHIBIT – A*)

8. ***The MORTGAGE NOTE that Nationstar Mortgage failed and neglected to file with this foreclosure suit was executed between Appellant, Barbara A. Gibbs and Bank of America; Bank of America is not a party to this litigation.*** AND, Nationstar Mortgage has not provided proof “they” have ***privity*** with Bank of America.

9. For the months of October, November and December 2013, Appellee returned Appellants’ mortgage payments that were paid when due and owed. (*Appellants’ Mandatory Injunction, EXHIBIT – B*)

10. Nationstar began their refusal to process Gibbs' mortgage payments same month this illegal foreclosure suit was filed – this act evidenced Nationstar knew they were not entitled to the payments and/or forgiveness of all monies due and owed!

11. Thereafter, Nationstar reported to the credit agencies that Appellant, Ms. Gibbs did not pay 29 mortgage payments: the last payment was made September 01, 2013 [Nationstar last reported negative credit on July 31, 2015] that Barbara Gibbs owes \$79,554. (*Appellants' Mandatory Injunction, EXHIBIT – C*)

12. These [illegal] acts destroyed any and all possibilities Appellant, Ms. Gibbs had of obtaining a mortgage loan for the home being purchased: for which a \$300,000 mortgage is needed. The home is a lake front, 6 bedrooms, and 4 baths – 4,000 sq. ft. home. Absent the requested relief Appellants will lose their home and \$3,000 cash. (*Appellants' Mandatory Injunction, EXHIBIT – D*)

13. Nationstar, twice: certified to the court Gibbs failed and neglected to seek a mortgage loan modification. Gibbs filed the document evidencing their demand for loan modification; clearly setting forth the date all documents were submitted and the date Gibbs complied with the Administrative Order of the South Carolina Supreme Court. (*Appellants' Mandatory Injunction, EXHIBIT – E*)

14. On September 07, 2015, Gibbs HAND CARRIED a copy of their Motion for Mandatory Injunction to the Offices of Butler & Hosch: doing business at: 1201 Main Street, Suite 1110, Columbia, SC 29201; said motion was addressed to Dean Hayes, Esq. Gibbs was informed Butler & Hosch abandoned their offices in May 2015; and did not provide a forwarding address for the law firm or any of their attorneys. (*Appellants' Amended Mandatory Injunction, EXHIBIT – H*)

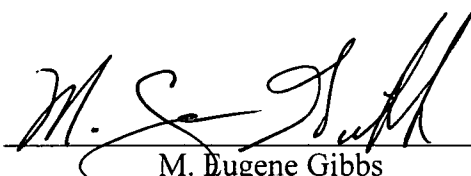
15. Gibbs then telephoned Butler & Hosch directly on (803) 252-7370 and was informed by AT&T, the number was no longer in operation, but AT&T could provide Gibbs with the numbers of similar businesses.

16. On August 26 and 27, 2015, Gibbs attempted to serve pleadings on Nationstar Mortgage via the email address provided by their attorney, Dean Hayes, Esq.: dhayes@butlerandhosch.com. The emails were returned because the Host or domain name could not be found. (*Appellants' Amended Mandatory Injunction, EXHIBIT – I*)

17. On August 28, 2015, Gibbs attempted to serve pleadings on Nationstar Mortgage via the **PHYSICAL** address provided by their attorney, Dean Hayes, Esq.:

Dean Hayes, Esq.
BUTLER & HOSCH
P.O. Box 7128
Columbia, SC 29202.

The United States Postal Service returned the pleading with the explanation as follows:
Return to Sender, ATTEMPTED – NOT KNOWN, UNABLE TO FORWARD. (*Appellants' Amended Mandatory Injunction, EXHIBIT – J*)



M. Eugene Gibbs
4257 Monterey Drive
Florence, SC 29501

Subscribed and sworn to before me, this 14th day of September 2015.

[Notary Seal] **AMANDA M GOOLSBY**
Notary Public - State of South Carolina
My Commission Expires February 23, 2025



My commission expires: 02-23-2025

NOTARY PUBLIC

STATE OF SOUTH CAROLINA)	IN THE COURT OF APPEALS
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GIBBS, And WESTBROOK PHASE IV)	
HOMEOWNERS' ASSOCIATION,)	
)	ORDER
)	
Appellants.)	
)	

Upon consideration of Appellants, Barbara A. and Melvin E. Gibbs' Motion for TRO/Injunction, the Court finds as follow:

Background

The instant foreclosure suit filed by Nationstar Mortgage seeks damages in the amount of \$292,519.20 [NOW \$329,000], alleging Gibbs defaulted on their mortgage on August 2013, and Nationstar certified to the Court Gibbs did not make application for modification under HAMP. Gibbs has by clear and convincing evidence proved the allegations are false, that fraud was committed on the court, and the foreclosure suit was filed in bad faith. Each and every allegation made by Gibbs is supported by documented proof; and uncontroverted by Nationstar Mortgage.

Findings of Fact

It is uncontroverted that:

- (1) Nationstar Mortgage failed and neglected to file a copy of the MORTGAGE NOTE, to prevent this Court from discovering their fraud.

(2) Nationstar Mortgage deliberately failed and neglected to file a sum certain representing an amount not paid by Gibbs on the mortgage: allowing Nationstar Mortgage to deceive this Court by alleging Gibbs defaulted August 2013 on said mortgage.

(3) Gibbs' letter dated the 26th day of July 2013, notified Nationstar Mortgage that their actions had no basis in fact or law and that Bank of America was engaged in racketeering and conspiracy to improperly deny HAMP applications.

(4) Having discovered Nationstar filed this foreclosure action; Melvin Gibbs called the Plaintiff on October 28, 2013 and informed Nationstar Mortgage that this suit constituted fraud on the court.

(5) Nationstar Mortgage's attorney, the Korn Law Firm, had the pleadings served on Gibbs on or about November 6, 2013. Melvin Gibbs immediately called and informed the attorneys they had perjured themselves, to wit:

(a) Gibbs provided this Court bank records certifying that each and every payment had been made to Nationstar Mortgage: Jan. 2013 - Sep. 2013 and Jan. 2012 - Dec. 2012.

(b) Nationstar Mortgage's certification to the court that Gibbs had not applied for modification under HAMP was not only false, but knowingly false.

(c) Nationstar falsified certification that Gibbs failed to request mortgage modification within 30 days after service [**CERTIFICATION OF MORTGAGOR NON-COMPLIANCE**, filed December 17, 2013]: Request for Foreclosure Intervention – filed by Gibbs the 19th day of November 2014: 13 days after the foreclosure suit was served on Gibbs (*Motion to Dismiss*, ¶ 9, *Exhibit-F*).

Nationstar Mortgage and their attorneys [Butler & Hosch] by affirmation, swore to the Court Gibbs are in default of their mortgage, (Comp. ¶ 16). Nationstar Mortgage failed and neglected to document a single default by Defendants and/or show how such a default was in violation of a specific section of the mortgage agreement for the purpose of extorting \$329,000 from Gibbs; Nationstar attempted to steal Gibbs property: Book B059 at Page 510: 4257 Monterey Drive, Florence, S.C. 29501, TMS #04915-01-018.

Conclusions of Law

The Court finds that Nationstar Mortgage and their attorneys have committed fraud on the Courts. Accordingly, Gibbs are entitled to the relief requested. To obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law:” Denman v. City of Columbia, 387 S.C. 131, 140-41, 691 S.E.2d 465, 470 (2010).

Actions for injunctive relief are equitable in nature. See Grosshuesch v. Cramer, 367 S.C. 1, 4, 623 S.E.2d 833, 834 (2005). To obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. *Id.* at 4, 623 S.E.2d at 834; Sanford v. S.C. State Ethics Com’n, 385 S.C. 483, 496, 685 S.E.2d 600, 607 (2009). “An injunction is a drastic remedy issued by the court in its discretion to prevent irreparable harm suffered by the plaintiff.” Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc., 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004).

Wherefore, Gibbs’ motion for TRO/Injunction is:

ORDERED AND ADJUDGED that the motion for TRO/Injunction be and hereby is GRANTED.

IT IS FURTHER ORDERED AND ADJUDGED that Nationstar Mortgage and their attorneys are enjoined from further action against Gibbs.

IT IS FURTHER ORDERED AND ADJUDGED that Nationstar Mortgage and/or their assigns, agents, subsidiaries or partners, shall approve a mortgage for Gibbs in the amount of \$329,000 at .5% interest for 30 years; and pay Gibbs the sum of \$329,000: the amount of the criminal conspiracy against Gibbs. AND,

IT IS FURTHER ORDERED AND ADJUDGED that Nationstar Mortgage and/or their assigns, agents, subsidiaries or partners, shall approve a mortgage for Gibbs at .5% interest for 30 years on the property Gibbs selects to replace: 4257 Monterey Drive, Florence, SC 29501; and pay Gibbs the sum of \$329,000: the amount of the criminal conspiracy against Gibbs.

DONE AND ORDERED in Chambers at Columbia, Richland County, South Carolina, on this 14th day of September 2015.

Judge,
South Carolina Court of Appeals

Judge,
South Carolina Court of Appeals

Judge,
South Carolina Court of Appeals

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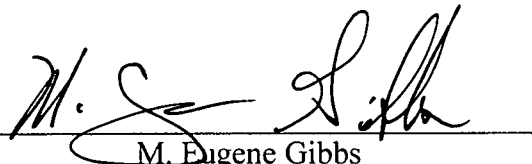
SEP 14 2015

SC Court of Appeals

CERTIFICATE OF SERVICE

I, Melvin E. Gibbs, hereby certify that a copy of Appellants' Motion for Temporary Injunction and Affidavit were **EMAILED**, this 13th day of September 2015, to:

Dean Hayes, Esq.
BUTLER & HOSCH
1201 Main Street, Suite 1110
Columbia, SC 29201
dhayes@butlerandhosch.com



M. Eugene Gibbs
4257 Monterey Drive
Florence, SC 29501