

ORIGINAL

APPELLANT'S [FINAL] BRIEF

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. 2013-002373

H & R Block Bank, FSB,

Respondent

v.

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 : American Home
Mortgage Servicing, Inc.
s/b/m to Option One Mortgage Corporation,
Defendants,

Appellant

Of Whom Ziraili M. Elbey is the Appellant.

APPELLANT'S [FINAL] BRIEF

March 01, 2015

By: *Ziraili M. Elbey*
Ziraili M Elbey, 'In Propria Persona'
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Deutsche Bank Nat. Trust Co., v. Heinrich, Docket 2011-CP-10-1060, Ninth Judicial Circuit
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Dearman v. Trimmier, 26 S.C. 506, 513, 2 S.E. 501, 505 (S.C. 1887)

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OTHER AUTHORITIES

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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 [N.Y. Est. Powers & Trusts Law § 7-2.4]. (April 29, 2012)

Whipp v. Iverson, 43 Wis 2d 166.

RECORD ON APPEAL - ACCORDING TO RULE 210(c)

Order of May 22, 2012

Order of August 22, 2012

Order of August 06, 2013

Order of January 28, 2014

Order of February 25, 2014

Complaint

Answer and Counterclaim

Judgments

- 1. Judgment of August 22, 2012**
- 2. Judgment of August 01, 2013**
- 3. Judgment of November 14, 2013**

Pleadings

- A. Alleged Defendant's Motion to Dismiss, file date May 22, 2012 .65**
- B. Plaintiff's Memorandum In Support of the Plaintiff's Motion for Summary Judgment**
- C. Alleged Defendant's Notice of Absence from Final Hearing file date August 20, 2012**
- D. Alleged Defendant's Notice of Bankruptcy File date, August 30, 2012**
- E. Alleged Defendant's Verified Motion to Vacate a Quash Void Judgment under authority of SC Statute Title 15, file date September 17, 2012**
- F. Alleged Defendant's Answer to Plaintiff's Motion & Order to Restore, file date August 5, 2013**
- G. Alleged Defendant's Notice in the Nature of Equitable Interest as Beneficial Land Owner & Real Party as Counter Claimant, date August 13, 2013**
- H. Alleged Defendant's Motion to Vacate Judgment of Foreclosure and Sale, file date August 22, 2012, dated August 06, 2013**
- I. Alleged Defendant's Notice of Non-Response to Affidavit of Commercial Obligation & Notice of Fault & Opportunity to Cure – Refers Court to Previously Submitted SCRCP Rule 43(K) Motion & Order Per SCRCP Rule 60(b)(5) By Respondent August 6, 2013**

J. Alleged Defendant's Notice of Objection to Special Referee's Report, Judgment of Foreclosure, Notice of Sale and Respondent's Refusal to Accept Plaintiff's offer to Contract, file date November 21, 2013

K. Alleged Defendant's Motion to Dismiss Order for Writ of Assistance and Wit of Assistance, And, Notice of Plaintiff's Violations 702(a)(2)(A)

Transcript: August 22, 2012 and

Transcript: October 24, 2013

STATEMENT OF ISSUES ON APPEAL

- 1 DID THE LOWER COURT ERR IN GRANTING, NOT CHALLENGING, RESPONDENT/PLAINTIFF'S, H & R BLOCK BANK, FSB, JURISDICTION and STANDING TO FILE A LAWSUIT ACTION IN THE STATE OF SOUTH CAROLINA?**
- 2 BECAUSE APPELLANT WAS DENIED DUE PROCESS TO RAISE AFFIRMATIVES DEFENSES TO INCLUDE RULE 12(b)(6) and FED RULE 17(a) WAS PRESERVED ON RECORD.**

STATEMENT OF THE CASE

Respondent, H & R Block Bank, FSB, debt collector, financial conspirator, part of a bank **"Ponzi Scheme"** on January 14, 2011 filed **foreclosure action** against Appellant. Affidavit of Service was not given to Appellant, but left outside her front door. Appellant answered Respondent with a Motion to Dismiss (R. p. 39, line 1-25) for improper service. (R. pp. 244, line 1-2) Appellant on March 24, 2011 answered Respondent with Counterclaim and Demanded a **Jury Trial**. (R. pp. 350-352, line 1-25), (R. p. 355, line 1-25). Appellant, to this day, has not received an answered from Respondent to the filed counterclaims, request for Admissions, Production, and Interrogatories.(R. p.353, line 1-18). Therefore, Appellant, not getting Admissions,

Production, and Interrogatories from Respondent, ordered a professional **FORENSIC AUDIT** which would provide a *Mortgage Analysis as Part of a Credible Defense Against Foreclosure*. Appellant upon receipt of this **FORENSIC AUDIT**, being very educational, explained that the **Mortgage and Loan both are Security Instruments** governed by the Securities & Exchange Commission (SEC), Federal and State laws. The **AUDIT** showed how the Mortgage and Loan became securitized using a process called **SECURITIZATION**. (R. pp. 288-310) A South Carolina case Deutsche Bank v. Heinrich, Docket 2011-CP-10-1060, in the Ninth Judicial Circuit, presiding Judge J.D. Nicholson, Jr. addressed the controversy quite well in his foreclosure case ruling. (R. pp. 311-314, lines 1-25). Even with all the case law and research Appellant addressed between February 2011-2014 twenty ***motions, pleadings, affidavits, notices*** filings with attachments, (R. pp. 244-254), (R. pp. 263-280, (R. pp. 283-287), it appears none **were never honored**, appears **not to be read** by the Lancaster Court of Common Pleas. Appellant received a letter from the Special Referee, dated October 8, 2013 after several court orders and judgments stating that at the final hearing October 24, 2013 **Appellant's motions, pleadings, affidavits, notices** will be heard. (R. p. 1-22), (R. pp. 41-65), (R. p.337), (R. P. 1), (R. pp. 65-70), (R. pp. 95-104), (R. pp. 106-112), (R. pp.113-114), (R. p. 120), (R. p. 71), (R. p.72), (R. pp. 101-102) (R. p. 215, line 20-25), (R. p. 216, line. 1-25, (R. p.217, line. 1-25), (R. p. 113), (R. p. 218, line. 1-3). One of the primary question in this case is whether the Special Referee for the S.C. Court of Common Pleas err in granting, and not challenging H & R Block Bank, FSB **standing and jurisdiction to file a lawsuit action** at the time the **Complaint** was filed against Appellant in the State of South Carolina jurisdictional or whether it merely affects the bank's capacity to sue under

S.C. Code Ann § 33-15-102, (R. p.265, line 1-25). Respondent's lawsuit arises from "unclean hands" deception, fraudulent and flawed, illegal use of Robo-signed Assignment (R. p. 351, line no. 22-23), (R. pp. 435-436), (R. pp.283-287), (R. p.379,line 6-9); breach of Appellant's statutorily protected rights, breach and willful violation of numerous consumer and homeowner protection statutes, wrongful foreclosure upon alleged assets where the alleged assets do not exist, and in which Respondent have no right title, or interest upon which it can act; Respondent continuing conversion and other tortious conduct intended to deprive Appellant of her money, property and legal rights and remedies for the foregoing acts (R. pp. 591-595), and willful violations as evidenced in their Summon, Notices and **Complaint** January 14, 2011. (R. pp. 342-348); Appellant's pleadings submitted prior to *Motion for Summary Judgment and Foreclosure order* were ***never considered legally significant*** (R. p. 359, line 16-25), a violation of Appellant's due process as Appellant's matters were ***not relevant to foreclosure.*** (R. p. 360, line 1-5) Memorandum & Motion for Summary Judgment (R. pp. 73-81), Affidavit of Indebtedness (R. pp. 82-88) for County of Dorchester, not Lancaster County and Option One Mortgage Corporation(bankrupt at this time) (R. p. 85), (R. pp. 591-595), Respondent's Motion to Restore (R. pp. 394,no. 3) pursuant to Chief Justices' Administrative Order issued June 5, 1992, (R. p. 113), (R. pp.591-595) counterfeit copies of Mortgage and Note are sham pleadings (R. pp.432-436) claiming to be originals which do not contain Appellant's signature, but a robotic signature (R. p. 184, line 10-18), (R. p. 185, line 1-6), and all leading to a wrongful foreclosure, eviction and Homelessness of Appellant since January 2014. Respondent lacks legal standing SC Code Ann. §33-23-140(B), §33-15-101, §33-15-102, Supp. 36*36 1986 and jurisdiction under SCRCF

12(b)(6). That H & R. Block Bank, FSB, Respondent has no standing and is in violation of the South Carolina Legislative codes of law. Appellant states that this is a legal and lawful argument that Respondent cannot operate legally or lawfully, they are non-existent. And, the bank (R. p. 263, line 26), also Respondent relied on a fatally flawed robo-signed Assignment of Mortgage (R. p.351, line no. 19-23), (R. p. 263, line 29-33), (R. p.379, line 6-9) so it had no standing to invoke the jurisdiction of the Lancaster Common Pleas Court.

1. Prior to Appellant's closing date, **March 29, 2006** Respondent (or their predecessors including **OPTION ONE MORTGAGE CORPORATION**, (hereafter refer to "OOMC"), the original lender and servicer, not Respondent. "OOMC" filed bankruptcy in 2008. (R. pp.297-301, line 1-29) This unknown to Appellant at the time of closing, the above entities acting in concert with closing attorney a common goal of both stealing Appellant's money and then hiding any documentary proof (R. p. 263, line 16-33) there of --- began historically in 2003 based on evidence (R. pp. 142-145) of a patented **"PONZE SCHEME"**. (R. p. 311, line 20-25) *South Carolina 9th Circuit- Case# 2011-CP-10-1060 in DEUTSCHE BANK VS HEINRICH, Judgment order, dated July 31, 2013, and Kings County, NY case1:12-CV-04269-JBW-RWL - 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 [N.Y. Est. Powers & Trusts Law § 7-2.4]. (April 29, 2012). (R. pp.65-70)*
2. **March 29, 2006**, Appellant signed mortgage documents which were not signed by two witnesses as required by SC statutes, nor a closing attorney signature in front of Appellant. Appellant was given blank copies of mortgage documents without any signatures. Appellant allege that this was the beginning of Respondent "unclean hands". At that time, Respondent (or their predecessors), unknown to Appellant at the time of closing adopted a calculated business strategy that transferred ownership of the Note executed by Appellant to persons that were not entitled to receive negotiation thereof under applicable law, and knew it, but joined the conspiracy for the purpose that amounted to greed. Such conspiracy has continued to the date of filing hereof, but all Respondent's (and its affiliates, assigns, counsel) with knowledge and malice aforethought. *Kings County, NY case1:12-CV-04269-JBW-RWL - 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 [N.Y. Est. Powers & Trusts Law § 7-2.4]. (April 29, 2012). (R. pp.65-70), (R. p. 311, line 20-25) and South Carolina 9th Circuit- Case# 2011-CP-10-1060 in DEUTSCHE BANK VS HEINRICH, Judgment order, dated July 31, 2013. (R. p. 312 line 1-15), (R. pp. 142-145) a part of a patented "**PONZE SCHEME**".

3. **March 29, 2006** - Appellant's Note and Mortgage with original lender "OOMC" was paid in full in 2006. (R. p.291, line 11-12), Appellant's Note and Mortgage was separated (Bifurcated), *Carpenter v. Logan*, 83 U.S., 16 Wall 271, 21 L.Ed. 313 (1872), clearly supports the notion that Respondent must own the **NOTE and the MORTGAGE** to foreclose on the property. Again, Appellant's Note and Mortgage were separated (bifurcated) in 2006. (R. p.291, line 13) (R. p. 311, line 20-25) and South Carolina 9th Circuit- Case# 2011-CP-10-1060 in DEUTSCHE BANK VS HEINRICH, final Judgment order, dated July 31, 2013. (R. p. 312 line 1-15), (R. p. 313, line 1-6). Appellant is Holder and Owner of Deed of Trust, (R. p. 116) filed in Lancaster County Register of Deeds. At the time of auction sale while Appellant was present, there were no buyer; the Respondent bank evicted Appellant, who now is Homeless since January 14, 2014.

4. **November 2010** - Appellant's alleged Note and Mortgage to H & R Block Bank, FSB has been paid in full multiple times since 2006 via legal lawful instrument by signature lending the Appellant, holder and owner of Deed of Trust a Creditor, (R. p. 116) not a Debtor. Respondent never returned Appellant's legal lawful instrument. Mortgage satisfaction and Full Conveyance found in Lancaster County Records [Instrument No. 2009014158, BK 2175 at PG 343-350]. (R. p. 90, line 13-25), **Again**, Appellant is Holder and Owner of Deed of Trust filed in Lancaster County Register of Deeds office until an auction sale. (R. p. 116) Mandatory notice that Appellant on February 19, 2013, again, received a recorded Deed of Full Reconveyance from Lancaster Register of Deeds office on her real property paid-in-full. (R. pp. 128-141). **H & R Block Bank, FSB has no right to demand payments from Appellant and no right to take Appellant's home whether or not Appellant made all of the mortgage payments is not even relevant unless H & R Block Bank, FSB first proves that Appellant actually owe, the bank, something, and then, that H & R. Block Bank, FSB has not already been paid by insurance or other resources e.g. FDIC, IRS of which Appellant knows nothing about. Question is: Can H & R Block Bank, FSB prove by LAW that Appellant has any obligation to "Respondent".**

5. **January 14, 2011**- Respondent through its counsel (third party debt collectors Brock and Scott, PLLC) filed deceptive, fraudulent, other tortious conduct intended to deprive Appellant of her money, property and legal rights and remedies for the foregoing acts through its Summon, Notices and Complaint for the Foreclosure of Real Estate Mortgage, not the land, in Lancaster County Court of Common Pleas.
6. **February 4, 2011** – Respondent's violation of SCRCP 12(b)(5) was noticed and filed by Motion to Dismiss, dated February 4, 2011 for improper service. (R. p. 38). Appellant was never personally served. Documents left outside the front door of Appellant. (R. p. 349)
7. **March 28, 2011** – Appellant answered Respondent with Counterclaim to include Jury Trial Demanded. Order of Reference (R. pp.1-2), (R. p. 363, line 4-12)
8. **May 21, 2012** – Appellant's Motion to Dismiss with an Order (R. pp. 65-70) prior to Summary Judgment, "No action taken by Ct of Common Pleas", (R. p. 359-360, line 1-25)
9. **May 29, 2012** – Counsel for H & R Block Bank, FSB per SC Supreme Court Administrative Order 2011-05-02-01 sent Appellant an application for loan modification from Nationstar Mortgage Corporation, LLC, **not H & R Block Bank, FSB**. (R. pp. 258-261) Appellant satisfied alleged debt November 10, 2010.
10. **August 07, 2012** – Respondent's Memorandum in Support of Motion for Summary Judgment. (R. pp. 73-88) Appellant under medical recovery submitted a Notice of Absence From The Final Hearing (August 22, 2012), (R. pp. 356-368) to include a written Transcript of Testimony for final hearing stamped by court dated, August 20, 2012 was not included in the Transcript. **Why not?** (R. pp. 89-92)
11. **August 22, 2012** –(R. pp. 356-368) Respondent's Transcript of Testimony for Foreclosure Case. Appellant under medical recovery submitted a Notice of Absence From The Final Hearing (August 22, 2012) to be included as a written Transcript of Testimony for final hearing. It was not included. It was stamped by court dated, August 20, 2012, again, not included in the Transcript. **Why not?** (R. pp. 89-92); Mr. Dangerfield asked the Court to dismiss Appellant's Motion to Dismiss, Counterclaims and other pleadings. (R. p. 364, line 10-21)
12. **August 24, 2012** – Appellant submitted a **Notice of US Bankruptcy Court Filing** in SC District Court stamped August 30, 2012. (R. p. 93-94) Neither Respondent (or their predecessors) appeared as Creditors at any and all of the Bankruptcy 341 Hearings for Creditors.

13. **September 17, 2012** – Appellant's Verified Motion to Vacate a Quash Void Judgment under authority of SC Statute Title 15; October 02, 2012 Supplement to Verified Motion to Vacate Quash Void Judgment; October 23, 2012; Request for Hearing to Verified Motion to Vacate Quash and Void Judgment; October 24, 2012 Newly Discovered Evidence Supplement to Verified Motion to Vacate Quash Void Judgment; October 29, 2012 Newly Discovered Evidence Notice of Actual Fraud to Supplement to Verified Motion to Vacate Quash Void Judgment. (R. p. 244)
14. **November 06, 2012** – Appellant filed in the United States Bankruptcy Court, District of South Carolina in Accordance to Public Law 97-280 an **Adversary Complaint** for Debt Verification. Respondent (or their predecessors including OOMC) failure to validate or verify a debt. No claims filed in bankruptcy case and the Chief Judge, US Bankruptcy Court after dismissal or mooted b Order without prejudice stated that this matter is better handed in Lancaster County Court of Common Pleas dated, December 18, 2012.
15. **January 02, 2013** – Appellant, again, tendered a payment for alleged Note and Mortgage to Nationstar Mortgage Corporation, LLC. (R. p.137), (R. pp. 129-136, line1-29) Previously, Appellant's alleged Note and Mortgage to H & R Block Bank, FSB has been paid in full multiple times since 2006 via legal lawful instrument by signature lending the Appellant, holder and owner of Deed of Trust a Creditor, (R. p. 116) not a Debtor. Respondent never returned Appellant's legal lawful instrument. Mortgage satisfaction and Full Conveyance found in Lancaster County Records [Instrument No. 2009014158, BK 2175 at PG 343-350]. (R. p. 90, line 13-25), **Again**, Appellant is Holder and Owner of Deed of Trust filed in Lancaster County Register of Deeds office. At the time of auction sale while Appellant was present, there were no buyer; the Respondent bank evicted Appellant, who now is Homeless since January 14, 2014. (R. p. 116), (R. pp. 142-145) a part of a patented **"PONZE SCHEME"**.
16. **July 17, 2013** – Respondent's Motion to Restore (R. p. 113, line 1-25), (R. p. 455,line 1-25) Appellant "refused to contract".
17. **August 06, 2013** – Appellant's Motion to Vacate Judgment of Foreclosure and Sale Filed on August 22, 2012 (R. p. 125-127). **August 16, 2013** – Notice of Non-Response to Affidavit of Commercial Obligation & Notice of Fault & Opportunity to Cure/ Refers Court to Previously submitted SCRPC Rule 43(K) Motion & Order per SCRPC Rule 60(b)(5) by Appellant August 6, 2013 in Lancaster Court of Common Pleas.
18. **October 24, 2013** – Final Hearing of Case# 2011-CP-29-00035 (R. p. 337). Motions paid (R. pp.244-245), and filed by Appellant were never heard from

2011-2014 except the attempts noted in final hearing/transcript. Appellant's due process violated see transcript (R. pp.215-226).

19. **October 29, 2013** - Appellant served the Notice of Appeal on H & R Block Bank, FSB. Brock and Scott, PLLC for bank, in response to their sham pleadings, motions, summary judgment and affidavit of indebtedness, written judgments and signed Orders by the Lancaster Special Referee led to the foreclosure, eviction and Homelessness of Appellant based upon unlawful, false property conveyance (R. p.262), deceptive, fraudulent and counterfeit copies of Note and Mortgage (R. p. 319-320, line 18 to end) of security documents. (R. pp.263-264)
20. **October 30, 2013** – Appellant's Affidavit and Notice of Non-Abandonment and Secured Interest of Property (R. pp. 165-169)
21. **November 17, 2013** - Respondent's NOTICE OF SALE (R. p. 149), (R. pp. 142-145) a part of a patented **"PONZE SCHEME"**.
22. **November 21, 2013** - Appellant's Notice of Objection to Special Referee's Report, Judgment of Foreclosure, Notice of Sale and Appellant's Refusal to Accept Respondent's Offer to Contract
23. **December 02, 2013** – Final Transcript for Case No. 2011-CP-29-00035 filed with Appellate Court (R. pp. 177-243). Further, Brock and Scott, PLLC for the bank violated the SCRCF 1.16 and SCRCF Rule 4(d)(1) using another law firm named **FINKLE Law Firm, LLC**, who ***did not*** file a motion as substitute counsel in case no. 2011-CP-29-00035 submitting Writs and Orders whereas Brock & Scott, PLLC was the counsel for the Plaintiff. Appellant's rights were violated, again by Special Referee using documents Orders for Writ of Assistance and Writ of Assistance submitted by FINKLE Law Firm, LLC to evict Appellant dated January 28, 2014. (R. pp. 151-153), (R. pp. 170-175), (R. pp. 142-145) a part of a patented **"PONZE SCHEME"**.
24. **February 20, 2014** – Appellant's Motion to Dismiss Writ of Assistance And Writ of Assistance & Notice and Protection Request as Tenant under the federal Tenant Right Protection at Foreclosure Act of 2009 as (amended), Public Law 111-11, Title VII (R. pp. 150-157), (R. pp. 158-164)

25. January 2014 - Appellant – Eviction from Home, now Homeless.

FACTS

- ❖ **Option One Mortgage Corporation (hereafter OOMC)** is the original lender and creditor as defined under the FDCPA as Amended.
- ❖ **Appellant**, (hereafter) settlor/borrower/creditor / owner of Deed of Trust of alleged MORTGAGE, NOTE with a “blank” ALLONGE.¹ Attached.
- ❖ **H & R Block Bank, FSB is a National Bank** that cannot lend its credit to another by becoming surety, indorser, or guarantor for him, such an act is ultra vires... ‘Merchants’ Bank v. Baird, 160 F 642.
- ❖ The Bank, **OOMC** and or any assigns, (hereafter known H & R Block Bank, FSB) as the ‘Bank’, operated in a similar manner to FIRST NATIONAL BANK of Montgomery, the plaintiff in the Michigan National Bank² , whereas **the bank** as agent of, and in collusion with the FEDERAL RESERVE **created the alleged money**’ that was advanced on behalf of the borrower by ‘bookkeeping entry’. (R. pp. 333-335)

¹ Allonge Definition: An allonge in blank, without the assignee signing it is illegal as per the Uniform Commercial Code, UCC, Federal code of laws that is controlling the world and the lender's Pooling and Servicing Agreement that controls the Trust that your note and mortgage are supposed to be in. e.g. This Allonge to Real Estate Mortgage Note (“ **Allonge** ”) is attached to, and made a part of that certain Promissory Note dated December 5, 2002, in the principal amount of Seven Hundred Twenty Thousand and 00/100 Dollars (\$720,000.00) made by Wise Recycling West, LLC (“ **Wise** ”) to the order of TOMRA of North America Finance Corporation (“ **TNAFC** ”)

Read more: <http://agreements.realdealdocs.com/Mortgage-Agreement/ALLONGE-TO-REAL-ESTATE-MORTGAGE-NOTE-71183/#ixzz3J5WPikNo>

² http://www.educationcenter2000.com/legal/credit_river_decision.htm

- ❖ The Bank, OOMC and or any assigns attached a blank ALLONGE to the NOTE without an assignee signing it is illegal per the UCC Federal Code of laws. (R. pp.78-81)
- ❖ The Bank led the borrower to believe the Bank had 'money' to 'loan', the alleged 'money' for the alleged 'loan' was coming from the Bank's valuable assets and as such the Failure to re-pay the 'money' loaned would create a potential for a loss of valuable assets to the Bank³. (R. pp. 323-336)
- ❖ The Bank did not disclose to the borrower that the signature of the borrower on the NOTE allowed the Bank to create the 'money' issued on the borrower/settlors behalf to the 'seller'. (R. pp. 323-336)
- ❖ The subsequent 'money' created by monetizing the note was never credited to the borrowers account with a 'deposit slip' given to the depositor (borrower), and the Bank never disclosed the facts to the borrower detailing their acquisition of the 'money' through monetizing the note. (R. pp. 323-336)

The Bank led the borrower to believe it was acting in 'good faith' with 'clean hands' and the alleged 'loan' documents were lawful binding contracts. The borrower was unaware and unschooled in the laws, and operation of the Banking industry and the Bank took advantage of this fact to fraudulently deceive the borrower.

³ There are three common terms used to describe this privately created money. They are "credit," "demand deposits" and "checkbook money." In the Fifth edition of Blacks Law Dictionary, p. 331, under the term "Credit," the term "Bank Credit" is described as: "Money bank owes or will lend individual or person." In the book **I Bet You Thought**, published by the privately owned Federal Reserve Bank of New York, as follows: **"Commercial banks create checkbook money whenever they grant a loan, simply by adding deposit dollars to accounts on their books to exchange for the borrower's IOU...."**

. "A national bank ...cannot lend its credit to another by becoming surety, indorser, or guarantor for him, such an act is ultra vires..." Merchants' Bank v. Baird, 160 F 642

H & R Block Bank, FSB has no right to demand payments from Appellant and no right to take Appellant's home whether or not Appellant made all of the mortgage payments is not even relevant unless H & R Block Bank, FSB first proves that Appellant actually owe, the bank, something, and then, that H & R. Block Bank, FSB has not already been paid by insurance or other resources e.g. FDIC, IRS of which Appellant knows nothing about. *Question is: Can H & R Block Bank, FSB **prove by LAW** that Appellant has any obligation to "Respondent".* (R. pp. 323-336)

- ❖ Appellant, Borrower/Settlor/Creditor decree : the alleged 'loan' 'Note', and 'Deed of Trust' contract(s) are 'ultra vires', void by not meeting the lawful requirements of a contract, to wit: 1. A 'meeting of the minds' did not occur (full disclosure of the facts involved in the operation of the contract), 2. No valuable consideration was exchanged (there is no statute or law under the Constitution of the United States that allows for the creation of money by the Banks-see Art. 1, section(s) 8, & 10) therefore the Bank did not present any consideration, while the borrower did promise to give substantive value (their labor exchanged for legal tender 'money'), and did give their valuable 'signature' 3. There was no risk or liability on the Banks part because no 'money' was 'loaned' and the Bank's agent(s) failure to sign a wet ink signature on the contract evidencing acceptance of the contract and a commercial liability on their part.

- ❖ The Bank threatens a foreclosure action against the borrower for Failure to make payments without first proving it has a lawful right of claim, by establishing it did 'loan' money, it does have the wet-ink signed 'Note', and wet-ink signed 'Deed of Trust'.
- ❖ The Bank has not established a lawful contract(s) exists, that if it did exist the contract(s) and or all documentation such as the note, have not been brought forth to be examined, the bank has committed fraud by failure to provide the factual evidence of a claim upon which relief can be granted. (R. pp. 325-327); (R. pp. 332-335)
- ❖ The Bank did knowingly commit fraud upon the borrower; thus proof of which is the Bank's refusal to have a flesh and blood agent sign the alleged 'loan' documents thus becoming commercially liable for any unlawful procedure. (R. pp. 325-327); (R. pp. 332-335)
- ❖ The Bank has never presented a 'bill' for a debt due it from the 'borrower', only 'statements'.
- ❖ Brock and Scott ,PLLC (hereafter referred to as B&S), counsel for the bank is a Debt Collector, under the Fair Debt Collection Practice Act, as amended by Public Law 104-208, 110 Stat. 3009 (Sept. 30, 1996). (R. p. 37)
- ❖ H & R Block Bank, FSB, the bank is a Debt Collector, under the FDCPA, as amended. (R. p.37)
- ❖ H & R Block Bank, FSB does not own Appellant's Mortgage and Note fraudulent property conveyance (R. pg. 101-102), (R. p.379,line 6-9)
- ❖ H & R Block Bank, FSB received a transfer of Assignment from OOMC dated March 29, 2006 (R. p. 101, line 16-17), (R. p.379,line 6-9)

- ❖ H & R Block Bank, FSB accepted this transfer of Assignment never file Assignment until August 10, 2010. (R. p.102, line 7-14), (R. p.379, line 6-9)
- ❖ H & R Block Bank, FSB used Robo-Signers (Krystal Hall, Melissa Hively, Melanie Hansen, Melanie Hanson), non-bank officers that signed now fraudulent Assignment transfer and filed it with the Lancaster Register of Deeds, August 10, 2010. (R. pp.101-102); (R. pp.242-243); (R. pp. 266-273); (R. p. 274); (R. p. 275-276) and (R. p. 277-282), (R. p.379, line 6-9), (R. pp. 142-145) a part of a patented **"PONZE SCHEME"**.
- ❖ Fannie Mae does not own Appellant's Mortgage and Note (R. pg.33, no.9, line 4); (R. p. 241)
- ❖ Freddie Max does not own Appellant's Mortgage and Note (R. pg. 33, no.9)
- ❖ FHLMC does not own Appellant's Mortgage and Note states that Appellant's Mortgage and Note was owned by H & R Block Bank, FSB, owned or guaranteed by Fannie Mac or owned by FHLMC. (R. pg. 33, no. 9, line 4-5)
- ❖ H & R Block Bank, FSB never offered ("HMP"), Affordable Modification Program to Appellant. (R. pg. 33, no. 9, line 3-6) only Nationstar Mortgage LLC
- ❖ B & S states in Complaint that Respondent, as servicer is (unknown) to be holder of the Mortgage and Note. (R. pg. 33, no.9, line 3-4), (R. p.379, line 6-9).

- ❖ H & R Block Bank, FSB is not registered to conduct business in the state of South Carolina. The S.C. Secretary of State issued a Certificate of No Record for this bank.
(R. p. 265)
- ❖ H & R Block Bank, never attended any of the S.C. District Federal Bankruptcy court 341 hearings as “CREDITOR” for Appellant’s mortgage and note. (R. p. 404).
- ❖ B & S as counsel for H & R. Block Bank, FSB or assigns⁴ never attended any of the S.C. District Federal Bankruptcy court 341 hearings to validate or verify debt, or the bank as “CREDITOR” for Appellant’s mortgage and note. (R. p. 404).
- ❖ Appellant’s Bankruptcy was discharged by order January 14, 2013. (R. p. 13)
- ❖ B & S after Bankruptcy discharged moved the S.C. Court of Common Pleas to restore the previous foreclosure order using sham inserts to support order (R. p. 14, line 1-25), (R. p.78-81, line 1-25), (R. p.84, line 1-4), (R. p. 85, line 1-4), (R. p. 85-88, line 1-25), (R. p. 504, line 1-25)
- ❖ That lawyers Brock & Scott, PLLC for Respondent, H & R Block Bank, FSB moved in the lower court to restore previous court order dated August 01, 2012 based on the following:
 - 1.Appellant’s was discharged by order of Bankruptcy Court dated January 14, 2013, and (R. p. 13)

⁴ Nationstar Mortgage, Option One Mortgage Corporation, Sand Canyon Corporation, Specialized Loan Servicing, LLC

2. Pursuant to a Family Court Order issued by Chief Justices'

Administrative Order issued June 5, 1992 stating in the interest of judicial economy, justice and equity and for the good cause. (S.C. Code Ann. §16-17-735(2003); S.C. Code Ann. § 15-75-60 (2005); (R. p. 14)

❖ B & S for Respondent knowingly file a frivolous complaint in violation of Rule 11, SCRPC [R. pgs. 221-223, lines 1-25].

(a) In addition to the above violation of Respondent's lawyers, and, the Special Referee declared the above Family Court Order reference in Respondent's August 01, 2013 Motion to and Order to Restore case 2011-CP-29-00035 in the lower court. Both lawyers and Special Referee agreed this insert and action on the part of the lawyers was a "sham motion and administrative order". This legal action was signed by the Special Referee in the lower court and described by the Special Referee as sham pleading defined by the S.C. Code Ann. §16-17-735(2003); S.C. Code Ann. § 15-75-60 (2005).

(b) Let it be known that the Appellant has been injured by the Respondent and their lawyers by sham legal process as defined by the criminal statute; and S.C. Code Ann. § 30-9-30 (2007), (prohibiting the filing of sham legal process and providing for civil remedies including actual damages, punitive damages, costs and attorney's fees against those who file sham legal process)⁵ [R. p. 216, line1- 25], [R. p. 217, line 1-7]

❖ That Special Referee denied Appellant's motion hearing to [R. p.216, line1- 25], [R. p.217, line 1-7] dismiss on the grounds of Rule 12(b)(6),

⁵ The statutory provisions are available on the South Carolina General Assembly's website, www.scstatehouse.gov.

SCRCF (R. p. 145, lines 12-23) as Plaintiff lacked the necessary standing to file lawsuit, plus Mortgage Assignment was signed by nationally known Robo-Signers (R. pp. 266-273); (R. p. 274); (R. p. 275-276) and (R. p. 277-282), (R. p.379, line 6-9).

- ❖ Appellant denied due process. (R. pp..224-226, lines 1-25); (R. pp. 337, line 1-25); (R. pp. 244-245, line 1-25);
- ❖ Appellant submitted over twelve (12) Motions (R. pp.. 244-245); Due Process Denied;
- ❖ Special Referee never took ACTION on any of Appellant's **paid** motions filed in Lancaster Court of Common Pleas from 2011-2014. Denied Due Process. (R. pg.224-226, lines 1-25); (R. pg. 337), (R. P.1, line 1-24), (R. pp. 65-70), (R. pp. 95-104), (R. pp. 106-112), (R. pp.113-114), (R. p. 120), (R. p. 71), (R. p.72), (R. pp. 101-102), (R. pp. 142-147), (R. pp.244-245), (R. pp.95-99), (R. pp.151-153), (R. p. 157), (R. pp.158-163), (R. pp. 130-141)

ARGUMENT I

DID THE LOWER COURT ERR IN GRANTING, NOT CHALLENGING, RESPONDENT/PLAINTIFF'S, H & R BLOCK BANK, FSB, JURISDICTION and STANDING TO FILE A LAWSUIT ACTION IN THE STATE OF SOUTH CAROLINA?

I

It has been previously held by the court of appeal in *Postal v. Mann*, 308 S.C. 385, 418 S.E. 2d 322 (S.C. App. 1992), it was well settled that parties are judicially bound by their pleadings, and by any allegations, statements, or admissions contained therein. Respondent admitted in its **Complaint** that it is doing business South Carolina, but did not indicate that they are “transacting business in interstate commerce”. See Carolina Code 33-15-101(a) states that “[a] foreign corporation may not transact business in this State until it obtains a certificate of authority from the Secretary of State”. (R. p. 265) placed a copy of a securities instrument within this claim and not have or being The holder in due course as required under the South Carolina UCC’s code 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*, 11F 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, U.S. 682, 44 LED 637. (R. pp. 328-333) Further, The Supreme Court has made it clear that the burden of establishing standing rests on the Respondent. At each stage of the litigation—from the initial pleading stage, through summary judgment, and trial—the Respondent must carry that burden. Standing must exist on the date the complaint

is filed and throughout the litigation. Moreover, standing cannot be conferred by agreement and can be challenged at any time in the litigation, including on appeal, by the Appellant or, in some circumstances, by the court sua sponte. Finally, Respondent must demonstrate standing for each claim and each request for relief. There is no "supplemental" standing: standing to assert one claim does not create standing to assert claims arising from the same nucleus of operative facts.

**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.

Decided Jan. 13, 1992.

HARWELL, Justice:

The sole issue on appeal is whether the Court of Appeals erred in remanding this case to the 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.").

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.

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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), SCRCPP ("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 Appellant 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), SCRCPP (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 Appellant. However, Heil Quaker filed a crossclaim against Pedersen and assigned its cause of action to Chet Adams, leaving Pedersen as the only remaining Appellant.

[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.

Bar Counsel Brock and Scott, PLLC for the Respondent, are knowledgeable,
and fully aware of the SCRCPP and the SCACR rules with regards to

SCRCP Rule 11 in this Wrongful foreclosure action to sue using “unclean hands”. “Party having superior Knowledge who take advantage of another’s ignorance of the law to deceive him/her by studied concealment or misrepresentation can be held responsible for the conduct. In the federal courts, it is well established that a national bank has no power to land its credit to another by becoming surety, indorser or guarantor for him/her”. Farmers and Miners Bank v. Bluefield Nat’l Bank, 11F 2d 83. 271 U.S. 669. “ a National Bank has no power to lend its credit to any person or corporation.” Bowne v. Needles Nat’l. Bank, 94 F 925, 36 cca 553, certiorari denied in 20 S. Cr. 1024, 176, U.S. 682, 44 LED 637. Based on the above case law, “unclean hands” of the counsel for Plaintiff, the bank 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).^[a] This entitles lower court Foreclosure case 2013-CP-29-00035 to be dismissed with prejudice. (R. pp. 328-333)

ARGUMENT II

BECAUSE APPELLANT WAS DENIED DUE PROCESS TO RAISE AFFIRMATIVES DEFENSES TO INCLUDE RULE 12(b)(6) AND FED RULE 17(a) WAS PRESERVED ON RECORD

Did the Special Referee/Court deny Appellant due process to raise affirmative defenses? Did, the Special Referee/Court merely accept the authenticity of the

Summons, Notices and **Complaint** without noting the intentional misrepresentation, intentional omission and fraud, not as a result of mistake or accident, or in negligent disregard of its truth or falsity by Brock and Scott, PLLC in violation of the SCRCF Rule 11 [R. pp.44-46, lines 1-25], (R. p. 283-287), the Fair Debt Collection Practice Act Notice, and S.C. Code Ann Section 33-15-102. Appellant [February 2011-2014] filed over twenty ***motions, pleadings, affidavits, notices*** with attachments, (R. pp. 244-254), (R. pp. 263-280, (R. pp. 283-287), which **were never honored**, addressed never read by the Lancaster Court of Common Pleas. Appellant received a letter from the Special Referee, dated October 8, 2013 after several court orders and judgments. (R. p. 1-22), (R. pp. 41-65), (R. p.337), (R. P. 1), (R. pp. 65-70), (R. pp. 95-104), (R. pp. 106-112), (R. pp.113-114), (R. p. 120), (R. p. 71), (R. p.72), (R. pp. 101-102) (R. p. 215, line 20-25), (R. p. 216, line. 1-25, (R. p.217, line. 1-25), (R. p. 113), (R. p. 218, line. 1-3). One of the primary question in this case is whether the Special Referee for the S.C. Court of Common Pleas err in granting, not challenging Plaintiff's H & R Bank, FSB **standing and jurisdiction to file a lawsuit action** against Appellant in the State of South Carolina jurisdictional or whether it merely affects the bank's capacity to sue under S.C. Code Ann § 33-15-102?, (R. p.265.) The Supreme Court has made it clear that the burden of establishing standing rests on the plaintiff. At each stage of the litigation—from the initial pleading stage, through summary judgment, and trial—the plaintiff must carry that burden. Standing must exist on the date the complaint is filed and throughout the litigation. Moreover, standing cannot be conferred by agreement and can be challenged at any time in the litigation, including on appeal, by the defendants or, in some circumstances, by the court sua sponte. Finally, plaintiffs must demonstrate standing for each claim and each request for

relief. There is no “supplemental” standing: standing to assert one claim does not create standing to assert claims arising from the same nucleus of operative facts. The cause of actions below were never heard or acted upon by the Lancaster Court of Common Pleas. The Lancaster Court considers all Appellant’s filing to be **not legally significant, nor relevant to the foreclosure** by the Lancaster Court to be (R. p.359, line 16-25), (R. p. 360, line 1-5) or B&S using the term Sham filings. (R. pp. 559-569, repetition dated January 28, 2011) before Appellant’s first filing by Appellant with the Lancaster Court of Common Pleas for case # 2011-CP-29-00035. Maybe the use of the term “sham” by SC Statutes was to cease Appellant from filing affirmative defenses to stop foreclosure action by Respondent. (R. pp. 591-595, line 1-25)

Cause of Action #1 – Fraud by H & R Block Bank, FSB

26. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein – Brock & Scott PLLC (hereafter refers to B&S).

27. H & R Block Bank, FSB materially misrepresented facts by asserting:

- a. 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. (R. p. 297, line 4-5), (R. p. 117-118), (R. p.379, line 6-9), (R. pp. 142-145) a part of a patented **“PONZE SCHEME”**.
- b. The bank August 2010 filed with Lancaster ROD a fraudulent assignment to claim HOLDER (R. pp.33 line 25), using Security Connections Inc. (SCI) to prepare the assignment. (R. p. 298, line 28), (R. pp.283-287, line 1-25), (R. pp.299-301, line 1-29), (R. pp. 274-282, line 1-28),

(R. pp. 494-502, line 1-25), (R. p.379,line 6-9), (R. pp. 142-145) a part of a patented **“PONZE SCHEME”**.

- c. The bank through B&S claims to be current holder in due course originals evidencing current ownership when in fact the Note and Mortgage evidenced was sold in a securitization and paid in full back in 2006. (R. p. 297, line 6-8), (R. pp. 142-145) a part of a patented **“PONZE SCHEME”**.
- d. The Plaintiff, the bank is the CREDITOR to whom the debt is owed. (R. p.347, line 4) The Plaintiff, the bank failure to prove entitlement to enforce the instrument under Section 36-3-301, failure to prove that it has rights of a holder in due course, and failure its burden of establishing the Appellant's liability on the NOTE and MORTGAGE.
- e. The Plaintiff, the bank sold OOMC's mortgage loan servicing business to American Home Mortgage Servicing Inc. (AHMSI),(R. p. 298, line 9-10)
- f. The Plaintiff, the bank failure to verify the debt within 30 days nor answer request for Admission, Production and Interrogatories. Also, this bank failure to attend Appellant's bankruptcy 341 Hearing/Meeting as a CREDITOR indicating a debt owed. (R. p. 404, line 1-15), (R. p. 353, line/no. 2.)
- g. The Plaintiff, the bank had the authority to negotiate modification, when in fact, all modification were purported by Nationstar Mortgage LLC,

not H & R. Block Bank, FSB, the Respondent. (R. pp.414-431, line 1-25), (R. pp. 142-145) a part of a patented **"PONZE SCHEME"**.

28. H & R Block Bank, FSB made these misrepresentations knowingly

29. H & R Block Bank, FSB made these misrepresentations with intent to defraud

Appellant repeatedly in the Summon, Notices, Complaint by asserting:

(R. pp. 342-349, line 1-25)

a. The bank in the Complaint claim to be a business entity duly authorized to

conduct business in the State of South Carolina. (R. p. 31, no. 1) (R. p. 240)

b. The bank's Complaint claim that OOMC is a business entity (owned by H &

R Block Bank, but bankrupted 2008) also a business entity and duly

authorized to conduct business in the State of South Carolina.

(R. p. 31,no.2)

c. The Complaint claims, the bank was assigned the Mortgage and Note by

assignment recorded on August 5, 2010.(R. p. 32 no. 7.), (R. p.379,line 6-9),

(R. p. 497, no. 19 -no. 26)

d. The bank's Fraudulent Assignment filed shows chain of ownership is

deceitful and faulty. (R. p.291, line 5) And, 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.

(R. p. 291, line 16-33), (R. p.379,line 6-9), (R. p. 497, no. 19 -no. 26)

e. The bank's Complaint bars Appellant from equity of redemption.

(R. p. 35, line 4.)

f. The bank's Notices denies Appellant arbitration and or mediation.

(R. p. 36)

- g. H & R Block Bank, FSB claimed possession of the original Note and Mortgage. (R. p. 117-118) that was not Appellant's signature, (R. p. 184, line 10-18); (R. p. 185, line. 1-6) with an unknown Allonge (R. p.119).

Cause of Action #2 - "Unclean Hands" by H & R Block Bank, FSB and its Assigns

- 30. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein– Brock & Scott PLLC (hereafter refers to B&S).
- 31. Brock & Scott PLLC counsel for H & R Block Bank, FSB exhibited unclean hands on multiple occasions, as evidenced as follows:
 - a. **Failure** of B & S and Court to notice document irregularities commonly known as "robo-signing". This is a part of the "**Ponzi Scheme**" mentioned earlier. (R. pp.283-287, lines 1-25), (R. p.379,line 6-9)
(R. pp. 266-273, line 1-25), (R. pp. 274-282), (R. pp. 288-295, line 1-25)
 - b. **Failure** of B & S to make Prima Facie Showing of reliability process in the foreclosure Complaint, the lack of jurisdiction and standing to sue case# 2011-CP-29-00035. (R. p.31, no. 1), (R. pp.315-322, line 1-25), (R. p. 69, line 1-25), (R. p. 315, line 18-23), (R. p. 14, line 1-25), (R. p. 240, line 1-25), (R. p. 497, no. 19 -no. 26)
 - c. **Failure** of B & S and Court to notice document irregularities in Affidavit of Indebtedness (R. pp. 386-388, line 1-25) Affidavit of Attorney's Fees. (R. pp. 84-88, line 1-25), (R. pp.1-3, line 1-25),

(R. pp. 4-10, line 1-25), (R. pp. 11-18, line 1-25), (R. pp. 19-21, line 1-25), (R. pp. 26-37, line 1-25), (R. pp. 356-368, line 1-25), (R. pp. 369-390, line 1-25), (R. pp. 394, line 1-25), (R. pp. 504-507, line 1-25), (R. pp. 508-595, line 1-25), (R. pp. 596-606, line 1-25), (R. pp. 607, line 1-25), (R. p. 497, no. 19 -no. 26)

d. **Failure of B & S and the Court to notice document**

irregularities in chain of ownership is clear and has been revealed. (R. p. 70, no. 17), (R. p. 371, no. 14), (R. pp. 383, line 1-25), (R. 379, line 6-8),

e. **Failure of B&S PLLC, counsel for H & R. Block Bank, FSB**

The 341 Bankruptcy Hearing (R. pp. 92-94, line 1-25) is for **CREDITORS**.

The Complaint and Notices stated that H & R Block Bank, FSB is

a **CREDITOR**. (R. p. 37, line 1-9), (R. p. 391, line 1-25),

(R. pp. 402-404, line, 1-25)

f. **H & R Block Bank, FSB has no right to demand payments from**

Appellant and no right to take Appellant's home whether or not

Appellant made all of the mortgage payments is not even relevant

unless H & R Block Bank, FSB first proves that Appellant actually

owe, the bank, something, and then, that H & R. Block Bank, FSB

has not already been paid by insurance or other resources e.g.

FDIC, IRS of which Appellant knows nothing about. *Question is: Can*

*H & R Block Bank, FSB **prove by LAW** that Appellant has any obligation*

to "Respondent". Conclude H & R Block Bank, FSB is not a CREDITOR.

(R. p. 347, line 7-8)

- g. Counsel B & S for H & R Block Bank, FSB, the Respondent **failure to Notice the Court of FINKEL Law Firm LLC as they acted in violation of SCRCP Rule 1.16 in lack of filing a Motion for Substitute Counsel to case#2011-CP-29-00035. They wrote an Order for Eviction which the Court signed.** (R. pp. 150-152, Line 1-25)
- h. FINKEL Law violated SC Code of Law §27-40-220(1-18) & Dodd-Frank Wall Street Reform and Consumer Protection Act §1484(2). Appellant evicted, not allow to maintain rent agreement. (R. pp. 158-169, line 1-25), (R. pp. 169-177, line 1-25).

**Cause of Action #3 – Failure to Comply with Federal Law
(Fair Debt Collection Practices Act – FDCPA)**

32. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein – Brock & Scott PLLC (hereafter refers to B&S).

33. H & R Block Bank, FSB Failure to comply with Federal Law FDCPA

34. On or about March 20, 2009, the Appellant received a letter from H & R Block Bank, FSB indicating that the servicing of Loan #571007388 had been transferred from OOMC to American Home Mortgage Servicing, Inc. (AHMSI), and later same month or later (AHMSI) indicated that servicing of 'same' loan transferred from (AHMSI),

to H & R Block Bank. (R. p.297, line 28-29),(R. p. 298, line 1-28),
(R. p. 298, line 18-24), (R. p. 345, line A.)

35. This letter clearly states that H & R Block Bank, FSB was acting as a debt collector under the federal Fair Debt Collection Practices Act, that the OOMC now Sand Canyon Corporation (R. p. 298, line 5-28) gave the Respondent 30 days to dispute the validity of the debt, or any portion of the debt. (R. p. 352, line 1-25) FDCPA

36. H & R Block Bank, FSB, the Respondent refused to verify the validity of the debt. (R. p. 294, line 37-38) and, (R. p. 497, no. 19 -no. 26)

37. B & S PLLC counsel for Respondent refused to verify the validity of the debt upon request.(R. p. 353, line 1-25), (R. p. 347, line 1-15).

38. H & R Block Bank, FSB, the Respondent filed an ineffective, faulty Assignment of Mortgage with Lancaster ROD prepared by Security Connection, Inc., using robo-signer as bank officials. (R. p. 294, line 40-44), (R. p. 298, line 28), (R. pp.283-287, line 1-25), (R. pp.299-301, line 1-29), (R. pp. 274-282, line 1-28), (R. pp. 494-502, line 1-25), (R. p.379,line 6-9)

39. H & R Block Bank, FSB in the Complaint (FDCPA notice) claims to be the CREDITOR to whom the debt is owed. (R. p. 347, line 1-15)

40. Conclude H & R Block Bank, FSB is not a CREDITOR.
(R. p. 347, line 7-8)

**Cause of Action #4 – Failure to Comply with Federal Law
(Truth In Lending Act – TILA)**

41. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein– Brock & Scott PLLC (hereafter refers to B&S).
42. H & R Block Bank, FSB failure to adhere to TILA, SEC. 404 (g) “In addition to other disclosures requires by this title, no later than 30 days after, the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer”. (R. p. 294, line 40-44), (R. p. 298, line 28), (R. pp.283-287, line 1-25), (R. pp.299-301, line 1-29), (R. pp. 274-282, line 1-28), (R. pp. 494-502, line 1-25), (R. p.379, line 6-9), (R. p. 497, no. 19 -no. 26)

**Cause of Action #5 – Failure to Comply with Federal Law
(Real Estate Settlement Procedure Act – RESPA)**

43. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein- Brock & Scott PLLC (hereafter refers to B&S)
44. H & R Bank, FSB failure to adhere to RESPA, SEC. 3500.21e. “A financial institution servicer must respond to a borrower’s qualified written inquiry (QWR), and must take appropriate action within established time frames after receiving the inquiry. Generally, the institution must provide written acknowledgment within 20 business days and must take certain specified actions within sixty business days after receiving the inquiry. The inquiry must include the name and account number of the borrower and the reason the borrower believes the account is in error. During sixty-business day period following receipt of the qualified written request (QWR) from

a borrower relating to a disputed payment, a financial institution may not provide information to any consumer reporting agency regarding any overdue payment relating to this period or to the qualified written request (QWR)".

(R. p. 98, line 1-25), (R. p. 128, line 1-25), (R. p. 352, line 1-25),

(R. p. 352, line 1-25), (R. p. 497, no. 20-no. 26)

45. H & R Block Bank, FSB never answered the Appellant's (QWR).
(R. p. 294 line 37-38), (R. p. 352, line 1-25), (R. p. 497, no. 20-no. 26)

Cause of Action #6 – Defective/Fraudulent Assignment

Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein – Brock & Scott PLLC (hereafter refers to B&S)

46. H & R. Block Bank, FSB, the bank August 2010 filed with Lancaster ROD a fraudulent assignment to claim HOLDER (R. pp.33 line 25), using Security Connections Inc. (SCI) to prepare the assignment. (R. p. 298, line 28),
(R. pp.283-287, line 1-25), (R. pp.299-301, line 1-29),
(R. pp. 274-282, line 1-28), (R. pp. 494-502, line 1-25), (R. p.379,line 6-9)

47. The bank's Fraudulent Assignment filed shows chain of ownership is deceitful and faulty. (R. p.291, line 5) And, 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.
(R. p. 291, line 16-33), (R. p.379,line 6-9), (R. p. 497, no. 19 -no. 26)

48. "Robo-signing" scandal is currently under investigation by the SC Attorney general. (R. p. 291, line 29-33)

49. Recording assignments or transfers of mortgage without valid attestation are invalid. (S.C. Code § 30-7-30) All instruments conveying an interest

in real property must be recorded in that county's ROD in order to be valid.

50. Security Connections Inc. (SCI) to prepare the assignment in this case for H & R Block Bank, FSB with "robo-signers" . (R. p. 298, line 28), (R. pp.283-287, line 1-25), (R. pp.299-301, line 1-29), (R. pp. 274-282, line 1-28), (R. pp. 494-502, line 1-25), (R. p.379, line 6-9)

Cause of Action #7 – Failure to Prove Holder in Due Course Status

51. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein- Brock & Scott PLLC(hereafter refers to B&S)
52. According to South Carolina Law, §36-3-308(a) an action with respect to an instrument, the authenticity of the authority to make each signature on the instrument is admitted unless specifically denied in the pleadings. If the **validity** of a signature is denied in the pleadings, the burden of establishing validity is on the person claiming **validity**. (R. p. 298, line 28), (R. pp.283-287, line 1-25), (R. pp.299-301, line 1-29), (R. pp. 274-282, line 1-28, (R. pp. 494-502, line 1-25), (R. p. 379, line 6-9)
53. Despite repeated demands by the Appellant, H & R Block Bank, FSB, the bank has continued with Judgments & Orders to Foreclose, Order of Sale, Order for Publication of Sale, Orders to Evict, Notice order to County Sheriff without establishing the **validity** of the assignment of the note. (R. pp. 1-3, line 1-25), (R. pp. 4-10, line 1-25), (R. pp. 19-21, line 1-25) (R. pp. 22-25, line 1-25), (R. pp. 26—37, line 1-25). (R. pp. 41-64, line 1-25).

Cause of Action #8 – Failure to Prove Standing

54. Appellant repeat and reallege the allegations set forth in the preceding paragraphs, as if fully set forth herein – Brock & Scott PLLC(hereafter refers to B&S)

55. Since H & R Block Bank, FSB, the Respondent **failure** to prove that therein

a. The bank **failure** to prove that they are registered to conduct business

according to SC Ann Code § 33-23-140(B) (Supp. 36*36 1986).

(R. p. 265, line 1-25)

b. The bank **failure** to prove that it is the CREDITOR/BENEFICIARY prior

to the Notice of Sale nor HOLDER within the meaning S.C.Uniform

Commercial Code, § 36-3-119 (R. p. 605, line 1-25), (R. p. 149, line 1-25).

c. The bank **failure** to prove that it incurred any damages. The bank must be

injured at the time suit is filed, not later. H & R Block Bank,

FSB did not incur damages.

d. The bank **failure** to prove that it is the Holder in Due course, therefore,

it failure to prove standing and jurisdiction to pursue collections and/

or foreclosure in this matter to sue. (R. p.317, line 1-25),

(R. 316, line 1-25), (R. p.315, line 1-25).

56. The Schwartzwald decision [Fed. Home Loan Mtge. Corp. V.

Schwartzwald 134 Ohio St. 3d, 2012-Ohio 5017], states that standing has

to exist at the time the case is filed, and if it doesn't exist, the jurisdiction

of the Common Pleas Court is not invoked. The real party in interest is

not the same as standing. (R. p.311, line 1-25)

57. H & R Block Bank, FSB **failure to attach or reference any evidence**

showing it had standing when it filed this action. (R. p.342, no. 1.),

(R. p. 240, line 1-25).

58. A court without jurisdiction cannot enter any judgment (except one dismissing the case for lack of jurisdiction). SCRCR 12(b)(6) and Fed Rule 17(a)

There is no proof that H & R Block Bank, FSB held both the Mortgages and the Notes when it commenced this action. It is clear that to have standing

in a foreclosure case, a Plaintiff must not only be the holder and owner of the **original** Note, but also the **original** Mortgage as well (R. p.312, line

7-16), (R. p.313, line 1-7), counterfeit copies (R. p. 319-320, line 18-28),

(R. pp.78-80). *Talbert b. Talbert*, 97 S.C. 136, 145, 81 S.E. 644, 647

(S.C. 1914); *Patterson v. Rabb*, 38 S.C. at 467; and *Dearman v. Trimmier*,

26 S.C. 506, 513, 2S.E. 501,505 (S.C. 1887). (R. pp. 312-314) In

Carpenter v. Longan, 83 U.S. 271, 16 Wall.2 71, 21 L.Ed. 313 (1872) and,

Deutsche Bank National Trust v. Heinrich in the Ninth Judicial Circuit,

docket no.: 2011-CP-10-1060 cases in South Carolina have been

accepted as law. (R. p.312, line 1-25), (R. p. 313, line 1-8)

Cause of Action #9 – Notice of Right to Defend Action

Section 36-3-119 Notice of Fault

59. Appellant repeat and reallege the allegations set forth in the preceding

paragraphs, as if fully set forth herein- Brock & Scott PLLC (hereafter refers to B&S)

60. All parties were Notice of Fault and Opportunity to Cure (R. p. 129, line 1-25)

October 29, 2009, H & R Block Bank, FSB **failure** to honor Tender

of Payment Instrument § 36-3-603 issued by Registered Mail

October 29, 2009 and recorded same Lancaster ROD,

Instrument#2006004368, BK:DEED 329, PG:170, \$246,482.00

(R. p. 438, line 1-15)

61. Any alleged indebtedness to H & R Block Bank, FSB

and its assigns was discharged per SC § 36-3-601(a) 10/29/2009,

however, the bank proceeded to file a Foreclosure Complaint

January 14, 2011. (R. p. 605, line 1-25), (R. p. 607, line 1-25),

(R. pp.596-606, line 1-25), (R. pp.1-3, line 1-25), (R. pp. 4-10, line 1-25),

(R. pp. 19-21, line 1-25), (R. pp. 22-25, line 1-25),

62. December 24, 2012, Nationstar Mortgage LLC **failure** to honor Tender

of Payment Instrument § 36-3-603 issued by Registered Mail

December 24, 2012, and recorded same Lancaster ROD,

Instrument#2013000645, BK:DEED 2600, PG: 270-280, \$246,482.00

(R. p. 438, line 1-15)

63. Any alleged indebtedness to Nationstar Mortgage LLC,

and its assigns was discharged per SC § 36-3-601(a) 12/24/2012,

however, the bank proceeded to file Notice of Sale, Foreclosure

Judgment, Order to Foreclose, Order of Eviction,(R. p. 605, line 1-25),

(R. p. 607, line 1-25), (R. pp.596-606, line 1-25), (R. pp.1-3, line 1-25),

(R. pp. 4-10, line 1-25), (R. pp. 19-21, line 1-25), (R. pp. 22-25, line 1-25),

(R. p. 149, line 1-25), (R. pp. 125-127, line 1-25),

(R. pp. 128-130, line 1-25), (R. pp. 131-137, line 1-25), (R. pp. 138-141,

line 1-25), (R. pp. 142-149, line 1-25), (R. pp. 405-439, line 1-25),

64. B&S claim Appellant's pleadings sham. The Court denies Appellant

due process in case 2011-CP-29-00035. Appellant has the right

to defend foreclosure action. (R. pp. 95-105, line 1-25), (R. pp. 106-113,

line 1-25), (R. pp. 114-124, line 1-25), (R. pp. 125-127, line 1-25),

(R. pp. 128-141, line 1-25), (R. pp. 142-149, line 1-25), (R. pp. 150-

176, line 1-25). (R. pp. 95-99, line 1-25), (R. pp. 405-439, line 1-25),

(R. pp. 440-459, line 1-25), (R. pp. 460-463, line 1-25), (R. pp. 464-

478, line 1-25), (R. pp. 479-503, line 1-25), (R. pp. 437-439, line 1-25),

(R. pp. 444-448, line 1-25)

65. If the H & R Block Bank, FSB and Nationstar Mortgage LLC **failures**

to record a satisfaction within set time limits. The Lender/Creditor

is responsible for damages set by statute for Failure to

timely cancel the lien. At the Sale, the Special Referee stated

the bank own Appellant's property. SC Ann Code §36-3-330.

66. **SECTION 36-3-119.** Notice of right to defend action.

(R. p. 359, line 21-25), (R. p. 360, line 1-13), (R. p. 363, line 4-12),

(R. p. 355, line 1-25), (R. pp. 350-354, line 1-25), (R. pp. 288-310,

line 1-43)

67. **H & R Block Bank, FSB has no right to demand payments from**

Appellant and no right to take Appellant's home whether or not

Appellant made all of the mortgage payments is not even relevant unless H & R Block Bank, FSB first proves that Appellant actually owe, the bank, something, and then, that H & R. Block Bank, FSB has not already been paid by insurance or other resources e.g. FDIC, IRS of which Appellant knows nothing about. *Question is: Can H & R Block Bank, FSB **prove by LAW** that Appellant has any obligation to "Respondent".*

CONCLUSION

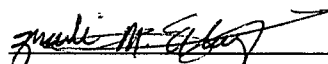
In sum, there is no evidence in the record before the initial Complaint that Respondent had a certificate of authority to bring underlying, wrongful foreclosure lawsuit, no evidence that H & R Block Bank, FSB was the successor in interest with standing of the bank under Section 33-15-102(a) requires 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 is the law. **Section 33-23-140(B)**, the predecessor of **Section 33-15-102(a)**, provided that a **foreign corporation** could not maintain a suit until H & R. Block Bank, FSB was authorized to do business in this State is the law. Appellant is the victim of the tragedy brought upon our country by the mortgage finance industry operating a conspiracy called a "Ponzi Scheme" to take Homeowners houses using approved US patents, robotic signed fabricated mortgage and notes presented as originals to the court, and deceitful, ineffective robo-signed assignments as unbroken chain of title, faulty, fraudulent documents with the intent to defraud. This "Ponzi Scheme" is bigger than Appellant as described in (R. p. 311, line 20-25) *South Carolina 9th Circuit- Case# 2011-*

CP-10-1060 in DEUTSCHE BANK VS HEINRICH, Judgment order, dated July 31, 2013, and Kings County, NY case 1:12-CV-04269-JBW-RWL - 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 [N.Y. Est. Powers & Trusts Law § 7-2.4]. (April 29, 2012). (R. pp.65-70). This scheme could not exist without all parties working in concert, the mortgage and insurance companies, the banks, the patented office of the government, the Bar attorney debt collector foreclosure mills, and judges at the county Court system level. Therefore, the evidence of conspiracy is REAL. This United States team of mortgage finance industry harvested borrowers so it would have a bigger inventory of saleable mortgage loans. Its agenda was to generate profits through sales and exchanges of **mortgage-backed securities**. Absolutely, the **Mortgage and Note are security instruments** and when processed that process is called SECURITIZATION through the Securities and Exchange Commission. Appellant's home was paid-in-full, March 29, 2006, at closing using this process, but unknown to Appellant at the time. Now, to accomplish that aim, the mortgage finance industry nurtured predatory lending practices, neutralized long-standing federal consumer protection laws, evidenced in final brief, and generated an artificially high real estate market that was destined to fall. Adding insult to injury, the industry stole homeowners houses using this evidence-based "Ponzi Scheme". Appellant is not a debtor. Appellant

is a CREDITOR. Appellant has no contract with H & R Block Bank, FSB and owes Respondent no-thing. Appellant has not contract with Nationstar Mortgage, LLC and owes Nationstar Mortgage, LLC no-thing. Appellant is not the cause of the United States depressed real estate markets or the distressed construction industries, contrary to the reports made by misleading, misinformed, and distracting media, which are churned and left uncorrected by the finance industry and its "Ponzi Scheme". The Respondent should be made accountable for Appellant's losses. This appears to be a conspiracy between the Respondent and assigns, Respondent's Bar counsel and assigns, and the Lancaster Court of Common Pleas. And, the prevailing party, Appellant, Ziraili M Elbey should be compensated for being evicted these past years, loss of compensation from previous multiple mortgage statements, funds needed for new house roof as result of hail damage, monthly rental and storage cost, court cost and other personal and administrative expenses as this Appellate Court honors. Further, the Lancaster County Court of Common Pleas, 4th Circuit should void Appellant's foreclosure order and eviction order which led to eviction and Homelessness of this Appellant and moves Court to further grant Quiet Title to Appellant.

Reverse & Remand

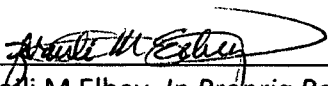
March 01, 2015

By: 
Ziraili M Elbey, *In Propria Persona*
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Ft. Mill, South Carolina, 29707
(803) 233-2665

Certificate by Appellant

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 01, 2015

By: 
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Counsel for Respondent
803-454-3340

George B. Milam, New Counsel for Respondent
1800 Baity Hill Dr., Apt 126
Chapel Hill, NC 27514

Certificate of Service

State of South Carolina Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002373

H & R Block Bank, FSB,

Respondent

v.

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
Servicing, Inc. s/b/m to Option One Mortgage Corporation,
Defendants,

Appellant

Of Whom Ziraili M. Elbey is the Appellant.

PROOF OF SERVICE

I certify that Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd., Ste 110,
Columbia, South Carolina, 29210, George B. Milam, New Counsel for Respondent
1800 Baity Hill Dr., Apt 126, Chapel Hill, NC 27514 received a copy of the **Appellant's Final Brief**
by depositing a copy of it in the U.S. Mail, postage prepaid, on
March 01, 2015 addressed to above counsel listed and this Appellate Court.

March 01, 2015

By:


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