

78453

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

Gordon G. Cooper, Master-in-Equity Judge

Case No.: 2012-CP-42-3549  
2012-CP-42-2874

RECEIVED

JAN 19 2016

SC Court of Appeals

U.S. Bank, NA, as trustee  
relating to the Chevy Chase  
Funding, LLC Mortgage  
Backed Certificates, Series  
2004-B,

Plaintiff,

Of whom U.S. Bank, NA is  
the

Respondent,

v.

Alyce F. Otto, Individually;  
Alyce F. Otto Trustee Under  
Declaration of Trust of Alyce  
F. Otto dated the 17<sup>th</sup> of  
November 2009; TD Bank,  
NA; The United States of  
America, acting by and  
through its agency, the  
Internal Revenue service;  
Laura Kerhulas Giese, as Co-  
Trustee of the Theodore  
Ernest Kerhulas Trust Under  
Declaration of Trust dated  
May 25, 2004; Mark Warner  
Kerhulas, as Co-Trustee of the  
Theodore Ernest Kerhulas  
Trust Under Declaration of  
Trust dated May 25, 2004;  
Jackson L. Munsey, Jr.;  
Citibank, NA,

Defendants,

Of whom Jackson L. Munsey,  
Jr., is the

Appellant.

AND

Alyce F. Otto, Trustee,

Plaintiff,

Of whom Alyce F. Otto is the

Respondent,

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SC Court of Appeals

v.

Jackson L. Munsey, Jr.,

Defendant,

Of whom Jackson L. Munsey,  
Jr., is the

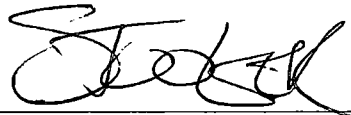
Appellant.

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**NOTICE OF APPEAL**

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Jackson L. Munsey, Jr., hereby appeals the Order Denying Defendant Jackson L. Munsey, Jr.'s Motion to Set Aside Default and Leave to File Answer Outside of Time of the Honorable Gordon G. Cooper dated and filed with the Clerk of Court on May 6, 2013; the Order on Defendant Jackson L. Munsey's Motion for Relief from Entry of Default of the Honorable Gordon G. Cooper dated and filed with the Clerk of Court on December 22, 2015; the Judgment of Foreclosure and Sale of the Honorable Gordon G. Cooper dated and filed with the Clerk of Court on December 22, 2015; and the Order as to Otto vs. Munsey of the Honorable Gordon G. Cooper dated December 14, 2015, filed with the Clerk of Court on December 15, 2015, which was not served on counsel but discovered by Appellant Munsey's counsel, acting on its own initiative, on January 4, 2016. Munsey filed a Motion to Reconsider the Otto vs. Munsey Order on January 7, 2016, but owing to the lack of certainty regarding service, Munsey, out of an abundance of caution, hereby appeals said Order pending resolution of said Motion.



David R. Price, Jr. (S.C. Bar # 75140)

Samuel B. Tooker (S.C. Bar # 78999)

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Greenville, SC  
Date: January 15, 2016

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Funding, LLC Mortgage Backed Certificates,  
Series 2004-B

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Defendant Citibank, NA  
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Jackson L. Munsey, Jr.

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM SPARTANBURG COUNTY  
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Trust Under Declaration of  
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Jackson L. Munsey, Jr.;  
Citibank, NA,

Defendants,

Of whom Jackson L. Munsey,  
Jr., is the Appellant.

AND

Alyce F. Otto, Trustee, Plaintiff,  
Of whom Alyce F. Otto is the Respondent,

v.

Jackson L. Munsey, Jr., Defendant,  
Of whom Jackson L. Munsey,  
Jr., is the Appellant.

**RECEIVED**  
JAN 19 2016  
SC Court of Appeals

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**PROOF OF SERVICE**

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IT IS HEREBY CERTIFIED that a copy of the foregoing NOTICE OF APPEAL in this action was served upon: Erica Greer Lybrand, Esq., and Richard C. Kelley, Esq., counsel for Respondent U.S. Bank, NA as Trustee relating to the Chevy Chase Funding, LLC Mortgage Backed Certificates, Series 2004-B; Kenneth C. Anthony, Jr., Esq., counsel for Respondent Alyce F. Otto; David L. Walsh, Esq., counsel for Laura Kerhulas and Mark Warner Kerhulas; George John Conits, Esq., counsel for The United States of America, acting by and through its agency the Internal Revenue Service; William Price Stork, Esq., counsel for TD Bank, NA; Citibank NA; Erin Culbertson, Esq., counsel for Appellant Jackson L. Munsey, Jr., via facsimile and by placing copies of same in the United States Mail this date, with sufficient postage affixed thereto, addressed as follows:

Via Facsimile & U.S. Mail (803) 343-7017  
Erica Greer Lybrand, Esq.  
Richard C. Kelley, Esq.  
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Via Facsimile & U.S. Mail (864) 583-9772  
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Attorney for Respondent Alyce F. Otto

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Greenville, SC 29601

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Attorney for Appellant



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Munsey, Jr.

Greenville, SC

Date:

1/15/2016



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JAN 19 2016

**DAVID R. PRICE, JR., P.A.** AG Court of Appeals  
ATTORNEYS AT LAW

DAVID R. PRICE, JR.

January 15, 2016

SAMUEL B. TOOKER

Jenny Abbot Kitchings  
Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RE: U.S. Bank, NA, as trustee relating to the Chevy Chase Funding, LLC  
Mortgage Backed Certificates, Series 2004-B v. Alyce F. Otto, et. al.  
AND  
Alyce F. Otto, Trustee v. Jackson L. Munsey, Jr.  
Of Whom Jackson L. Munsey, Jr., is the Appellant  
C.A. No.: 2012-CP-42-3549  
2012-CP-42-2874

Dear Ms. Kitchings:

Enclosed you will find an original and two (2) copies of the Notice of Appeal and the original and two (2) copies of the Proof of Service, in connection with the above referenced matter together with our firm's check in the amount of \$100.00 for filing. Please file the originals and return clocked copies to me in the envelope provided. I am also enclosing for the Court's record copies of the Order Denying Defendant Jackson L. Munsey, Jr.'s Motion to Set Aside Default and Leave to File Answer Outside of Time, Order on Defendant Jackson L. Munsey's Motion for Relief from Entry of Default, Judgement of Foreclosure and Sale, and Order as to Otto vs. Munsey which are the basis of this appeal.

I would ask that you please file the originals and return the clocked copies to me in the envelope provided for same. By copy of this letter to the Spartanburg County Clerk of Court, I am also enclosing copies of the Notice of Appeal and Proof of Service and one (1) copy to be clocked and returned to my office.

Thank you for your assistance. Please feel free to contact my office with any questions or concerns you may have.

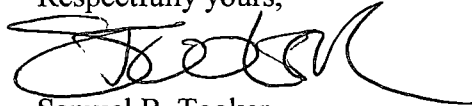
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29609

Telephone: (864) 271-2636  
Facsimile: (864) 271-2637  
GREENVILLELEGAL.COM

With kind regards, I remain

Respectfully yours,



Samuel B. Tooker

SBT  
Enclosures  
Cc: Client

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Jenny Abbot Kitchens  
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