

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

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

Plaintiff,

v.

Alyce F. Otto, individually; Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day 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.

AND

Alyce F. Otto, Trustee,

Plaintiff,

v.

Jackson L. Munsey, Jr.,

Defendant.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2012-CP-42-03549

ORDER ON DEFENDANT JACKSON L. MUNSEY'S MOTION FOR RELIEF FROM ENTRY OF DEFAULT

RECEIVED  
JAN 19 2016  
S. Court of Appeals

RECEIVED  
JAN 19 2016  
S. COURT OF APPEALS

A hearing was held on November 24, 2015 on Defendant Jackson L. Munsey, Jr.'s Motion for Relief from the Default Judgment, which was filed on November 23, 2015, one day

prior to the trial in this matter. After reviewing motion, and hearing oral argument from counsel for all parties, the Court finds as follows:

1. Mr. Munsey failed to file a responsive pleading to the Complaint filed by Plaintiff U.S. Bank, N.A., as trustee relating to the Chevy Chase Funding, LLC Mortgage Backed Certificates, Series 2004-B until December 27, 2012, which was more than thirty (30) days after Mr. Munsey was served on August 31, 2012. Accordingly, default was entered on October 15, 2012.

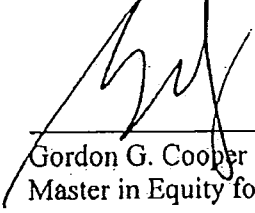
2. On February 4, 2013, Defendant Munsey filed a Motion to Set Aside Default and Leave to File Answer Outside of Time.

3. On May 6, 2013, a hearing was held on Defendant Munsey's motion and an order was entered on the same day denying the motion.

4. Defendant Munsey never sought relief from the entry of the May 6, 2013 order.

5. Accordingly, this Court finds that Mr. Munsey's Motion for Relief from Default Judgment is due to be denied on the grounds of *res judicata*, as this Court has previously denied a motion requesting the same relief in May 2013.

AND IT IS SO ORDERED this 22<sup>nd</sup> day of December, 2015.

  
\_\_\_\_\_  
Gordon G. Cooper  
Master in Equity for Spartanburg County

FILED

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Spartanburg, South Carolina

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012-CP-42-03549

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

Alyce F. Otto, individually; Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day 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;

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Erica G. Lybrand (SC Bar # 79052) Rogers Townsend & Thomas, PC 220 Executive Center Drive, Suite 109 Post Office Box 100200 Columbia, SC 29202 (803) 744-4444 (803) 343-7013 - Fax info@rtt-law.com	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2/3 for additional information.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
 Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

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

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

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

As required by statute, a foreclosure sale has been or will be scheduled, which will officially end the case.

2015 DEC 22 AM 9:25  
 SPARTANBURG COUNTY  
 CLERK OF COURT

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

If applicable, describe the property, including tax map information and address, referenced in the order: All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, containing 25.08 acres, more or less, and being shown and designated as Distribution Tract G on plat entitled "Survey for Greenspace of Fairview, LLC Tract 5" dated November 26, 2001, prepared by Joe E. Mitchell, Registered Land Surveyor, recorded in Plat Book 151, Page 523, and having such metes and bounds as appear thereon, incorporated herein by reference.

This being the same property conveyed to Rudrick G. Otto and Alyce F. Otto by deed of Fairview Associates, LLC, dated July 12, 2004 and recorded July 12, 2004 in Book 80-T at Page 257. Subsequently, Rudrick G. Otto conveyed his interest in the subject property to Rudrick George Otto, Trustee Under Declaration of Trust of Rudrick George Otto dated the 17th Day of November, 2009, dated November 18, 2009 and recorded November 24, 2009 in Book 95A at Page 435. Subsequently Alyce F. Otto conveyed her interest in the subject property to Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th Day of November, 2009, dated November 18, 2009 and recorded November 24, 2009 in Book 95A at Page 439. Subsequently, Rudrick George Otto died testate on December 2, 2009. Subsequently, Alyce F. Otto, Successor Trustee Under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009, conveyed that interest in the subject property to Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day of November, 2009, dated February 9, 2011 and recorded February 10, 2011 in Book 97V at Page 181.

10300003.00

1841 Fairview Farms  
Campobello, SC, 29322

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

Circuit Court Judge/Master in Equity/Special Referee

3065  
Judge Code

12-22-2015  
Date

For Clerk of Court Office Use Only

This judgment was entered on the 22 day of Dec., 2015 and a copy mailed first class or placed in the appropriate attorney's box on this 23 day of Dec., 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Erica G. Lybrand  
Rogers Townsend & Thomas, PC  
P.O. Box 100200  
Columbia, SC 29202-3400  
ATTORNEY(S) FOR THE PLAINTIFF(S)  
505071-00160

ATTORNEY(S) FOR THE DEFENDANT(S)  
M. Hope Blackley  
CLERK OF COURT

Alyce F. Otto  
c/o Kenneth Anthony, Jr., Esq.  
The Anthony Law Firm, PA  
P.O. Box 3565  
250 Magnolia Street (29306)  
Spartanburg, SC 29304

TD Bank, NA  
c/o William Stork, Esq.  
Brock & Scott, PLLC  
3800 Fernandina Road, Suite 110  
Columbia, SC 29210

The United States of America, acting by and through its agency, the Internal Revenue Service  
c/o George Conits, Esq.  
U.S. Attorney's Office  
55 Beattie Place, Suite 700  
Greenville, SC 29601

M. HOPE BLACKLEY  
2015 DEC 22 AM 9:25  
CLERK OF COURT

Laura Kerhulas Giese and Mark Warner Kerhulas  
c/o David Walsh, Esq.  
David L. Walsh, Attorney at Law  
PO Box 5156  
Spartanburg, SC 29304

Jackson L. Munsey, Jr.  
c/o Erin Culbertson, Esq.  
114 Manly Street  
Greenville, SC 29601

Citibank, NA  
Citibank, N.A. 701 East 60Th Street North  
Sioux Falls, SD 57104

Court Reporter:

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ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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2015 DEC 22 AM 9:25  
M. HOPE BRADLEY

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2012-CP-42-03549

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

Alyce F. Otto, individually; Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day 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;

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Erica G. Lybrand (SC Bar # 79052)  
 Rogers Townsend & Thomas, PC  
 220 Executive Center Drive, Suite 109  
 Post Office Box 100200  
 Columbia, SC 29202  
 (803) 744-4444  
 (803) 343-7013 - Fax.  
 info@rtt-law.com

Attorney for :  Plaintiff  Defendant  
 or  
 Self-Represented Litigant.

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

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

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

ORDER INFORMATION

This order  ends  does not end the case.  
 Additional Information for the Clerk :

Order On Defendant Jackson L. Munsey's Motion For Relief From Entry of Default

INFORMATION FOR THE JUDGMENT INDEX

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Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

If applicable, describe the property, including tax map information and address, referenced in the order: All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, containing 25.08 acres, more or less, and being shown and designated as Distribution Tract G on plat entitled "Survey for Greenspace of Fairview, LLC Tract 5" dated November 26, 2001, prepared by Joe E. Mitchell, Registered Land Surveyor, recorded in Plat Book 151, Page 523, and having such metes and bounds as appear

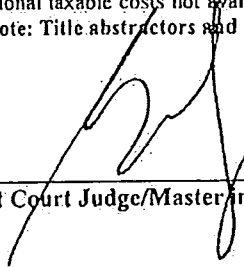
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1841 Fairview Farms  
Campobello, SC, 29322

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

  
Circuit Court Judge/Master in Equity/Special Referee

3065  
Judge Code

12-22-2015  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Erica G. Lybrand  
Rogers Townsend & Thomas, PC  
P.O. Box 100200  
Columbia, SC 29202-3400  
ATTORNEY(S) FOR THE PLAINTIFF(S)  
505071-00160

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

\_\_\_\_\_  
CLERK OF COURT

Alyce F. Otto  
c/o Kenneth Anthony, Jr., Esq.  
The Anthony Law Firm, PA  
P.O. Box 3565  
250 Magnolia Street (29306)  
Spartanburg, SC 29304

TD Bank, NA  
c/o William Stork, Esq.  
Brock & Scott, PLLC  
3800 Fernandina Road, Suite 110  
Columbia, SC 29210

The United States of America, acting by and through its agency, the Internal Revenue Service  
c/o George Conits, Esq.  
U.S. Attorney's Office  
55 Beattie Place, Suite 700  
Greenville, SC 29601

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2015 DEC 22 AM 11:01



STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

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

Plaintiff,

v.

Alyce F. Otto, individually; Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day 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.

AND

Alyce F. Otto, Trustee,

Plaintiff,

v.

Jackson L. Munsey, Jr.,

Defendant.

(505071-00160 EL1)

Erica G. Lybrand, Esquire  
Richard C. Keller, Esquire  
Attorneys for the Plaintiff

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2012-CP-42-03549

JUDGMENT OF FORECLOSURE AND SALE

Deficiency Judgment Waived

RECEIVED  
JAN 19 2016  
SC Court of Appeals

2015 DEC 22 AM 9:24  
M. HOPE BLANCHLEY

Kenneth Anthony, Jr., Esquire  
Attorney for Alyce F. Otto, individually and Alyce F. Otto, Trustee Under Declaration of  
Trust of Alyce F. Otto dated the 17th day of November 2009

George Conits, Esquire  
Attorney for The United States of America, acting by and through its agency, the Internal Revenue  
Service

David Walsh, Esquire  
Attorney for Laura Kerhulas Giese, as Co-Trustee of the Theodore Ernest Kerhulas Trust  
Under Declaration of Trust dated May 25, 2004 and Mark Warner Kerhulas, as Co-Trustee of the  
Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004

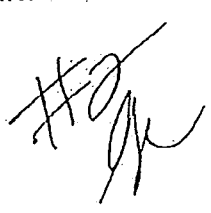
Erin Culbertson, Esquire  
Attorney for Jackson L. Munsey, Jr.

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, the above-entitled matter  
was referred to the undersigned. A hearing was held November 24, 2015 at 9:30A.M. Evidence was  
presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on August 21, 2012.
2. The Summons and Complaint were filed on August 21, 2012.
3. Service was made upon all Defendant(s) as shown by the proof(s) of service filed  
herein.
4. The Defendants Alyce F. Otto, Laura Kerhulas Giese, Mark Warner Kerhulas, and  
Jackson L. Munsey, Jr. are not in the Military Service of the United States of America as  
contemplated under The Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. seq. as shown by  
affidavit, certificate or order filed herein.
5. No Defendant raised any issues related to Plaintiff's standing to prosecute this action.
6. Pursuant to the South Carolina Supreme Court Administrative Order 2009-05-22-  
01 dated May 22, 2009, the Plaintiff set forth its belief in its Complaint or by Affidavit, which is  
already of record in this case, that the mortgage loan which is the subject of this foreclosure action is  
not eligible for modification pursuant to the terms of the Home Affordable Modification Program  
(HMP). Pursuant to the South Carolina Supreme Court Administrative Order dated May 22, 2009,  
Plaintiff's attorney has not received a counter affidavit from any Defendant(s).
7. Attorney for the Plaintiff has fully complied with the South Carolina Supreme Court  
Administrative Order 2011-05-02-01 dated May 2, 2011.

2015 DEC 22 AM 9:22  
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8. Alyce F. Otto, individually and Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day of November 2009 (collectively herein referred to as "Otto") filed an Answer and Counterclaim through her attorney Kenneth Anthony, Jr. on September 10, 2012. Subsequently, Otto dismissed her counterclaim against Plaintiff with prejudice on July 21, 2014. Her Answer was later amended on July 15, 2015, in which she raised no additional allegations against Plaintiff, but contested the validity of the liens of Defendants Laura Kerhulas Giese, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004 and Mark Warner Kerhulas, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004.

9. Defendants Laura Kerhulas Giese, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004, and Mark Warner Kerhulas, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004, filed an Answer on September 14, 2012 by and through their attorney David L. Walsh.

10. The Defendant, The United States of America, has duly filed its Answer, which is of record herein, and as asserted therein has a 120 day right of redemption pursuant to 28 U.S.C.A. §2410(c).

11. The Defendant TD Bank, NA is represented by attorneys Jada Wylie and William Stork. An Answer was not filed, but a Notice of Appearance was filed on February 12, 2015.

12. The Defendant Jackson L. Munsey, Jr. ("Munsey") is represented by attorney Erin Culbertson. Munsey filed an Answer, Counterclaims and Crossclaims on December 27, 2012, after having already been deemed in default pursuant to the Certificate of Default filed on October 15, 2012. On January 25, 2013, counsel for the Plaintiff wrote a letter to the Clerk of Court for Spartanburg County in which it notified the Court that the Answer, Counterclaims and Crossclaims were received after Munsey was in default and that Plaintiff did not intend to accept or respond to the late Answer unless directed to do so from the Court. Thereafter, on February 4, 2013, Munsey filed a Motion to Set Aside Default and Leave to File Answer. An Order Denying Munsey's Motion to Set Aside Default was entered on May 6, 2013. Munsey renewed his Motion to be Relieved of Default on November 23, 2015. That Motion was denied prior to the hearing on the Plaintiff's foreclosure action on November 24, 2015.

13. The Defendants Jackson L. Munsey, Jr., TD Bank, NA, and Citibank, NA, are in default.

14. All Pro Se Defendants and all attorneys of record were notified of the time, date, and place of the hearing by letter and certificate of mailing of record herein.

#3  
*[Handwritten signature]*

15. Rudrick G. Otto and Alyce F. Otto for value received, made, executed and delivered a(n) Adjustable Rate Note dated August 18, 2004 promising thereby to pay to Plaintiff or its predecessor the sum of \$999,500.00 with interest at 1.950% per annum. Other terms and conditions are stated in the Adjustable Rate Note, of record herein.

16. To better secure the payment of the Adjustable Rate Note described above, Rudrick G. Otto and Alyce F. Otto made, executed, and delivered to Mortgage Electronic Registration Systems, Inc., as nominee for Chevy Chase Bank, FSB, its successors and assigns (MIN# 100015305541858019) a certain real estate Mortgage in writing, dated August 18, 2004 covering real property in Spartanburg County, which is the same as that described in the Complaint. This Mortgage was filed on August 24, 2004, and is of record in the Office of RMC/ROD in Book 3290 at Page 70. Subsequently, this mortgage was assigned to U.S. Bank, N.A. as trustee relating to the Chevy Chase Funding LLC Mortgage Backed Certificates, Series 2004-B by assignment dated December 23, 2010 and recorded January 14, 2011 in Book 4429 at Page 658.

17. The sum of \$25,994.10 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the terms of the Adjustable Rate Note and Mortgage. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services of counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.

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

(a) Principal due January 1, 2012 ..... \$1,008,286.11

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MAY 9 4  
#4  
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(b)	Interest from December 1, 2011 through November 24, 2015.....	\$129,017.00
(c)	Escrow Advances:.....	\$20,154.43
	Hazard Insurance .....	\$14,107.42
	Taxes.....	\$6,047.01
(d)	Attorney's Fees and Costs .....	\$25,994.10
TOTAL debt secured by Adjustable Rate Note and Mortgage, including interest to date shown.....		\$1,183,451.60

Interest shall accrue to the above stated "Total Debt" after the date of judgment at the rate of 1.950% per annum (pursuant to the terms of the Adjustable Rate Note and first Mortgage). Accrued interest shall be added to the "Total Debt" and shall comprise the amount of the Plaintiff's debt secured by the first Mortgage through the date to which such interest is computed.

19. Pursuant to 28 U.S.C.A §2410(c), the Defendant, The United States of America, has a right of redemption upon proper application to redeem the within property for 120 day from the date of sale of the subject property. Plaintiff is seeking the usual foreclosure of the first mortgage and has in the Complaint (or subsequently thereto in writing) expressly waived the right to a personal or deficiency judgment.

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

a. TD Bank, NA, by virtue of a mortgage given by Rudrick G. Otto and Alyce F. Otto to Carolina First Bank in the amount of \$218,807.82, dated June 18, 2008, and recorded June 20, 2008 in Book 4100 at Page 708. TD Bank, NA is successor to Carolina First Bank. This mortgage was re-recorded July 22, 2008 in Book 4113 at Page 506.

b. The United States of America acting by and through its agent The Internal Revenue Service, by virtue of liens of record, including, but not limited to, a Notice of Federal Tax Lien Under Internal Revenue Laws against Alyce F. Otto, Identifying No. 622616410, in the amount of \$16,273.04, dated February 2, 2010, and recorded in Spartanburg County on February 11, 2010, in Book 13 at Page 43 and a Notice of Federal

M. H. ...  
 2015 DEC 24  
 SPARTANBURG COUNTY

#5A

Tax Lien Under Internal Revenue Laws against Alyce F. Otto, Identifying No. 816926111, in the amount of \$6,577.50, dated September 26, 2011, and recorded in Spartanburg County on October 12, 2011, in Book 14 at Page 932.

c. The United States of America acting by and through its agent The Internal Revenue Service, by virtue of liens of record, including, but not limited to, a Notice of Federal Tax Lien Under Internal Revenue Laws against Patrick & Associates, LLC and Alyce F. Otto, Identifying No. 664747910, in the amount of \$35,450.60, dated June 8, 2010, and recorded in Spartanburg County on June 17, 2010, in Book 13 at Page 527.

d. Laura Kerhulas Giese and Mark Warner Kerhulas as Co-Trustees of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004, by virtue of a judgment against Shamrock Realty Investments, LLC, Alyce F. Otto, and Patty Otto in the amount of \$571,329.90, dated December 27, 2011 and recorded on January 3, 2012 in Judgment Roll No. 2012-CP-42-0014.

e. Citibank, NA, by virtue of a judgment against Alyce F. Otto in the amount of \$12,396.66, dated May 2, 2012 and recorded on May 2, 2012 in Judgment Roll No. 2012-CP-42-0234.

f. Jackson L. Munsey, Jr. by virtue of that Memorandum of Contract for deed dated March 4, 2011 and recorded March 9, 2011 in Book 97-Z at Page 748.

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IT IS THEREFORE ORDERED:

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

2. There is due on the Adjustable Rate Note and first Mortgage set forth in the Complaint the sum of \$1,183,451.60, as set out in the Findings of Fact *supra*, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

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

4. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously

2015 DEC 22 AM 9:24  
HOPKINS COUNTY CLERK



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

5. The Defendant(s) liable for the aforesaid judgment debt of the Adjustable Rate Note and Mortgage including interest at the rate of 1.950% per annum shall pay on or before the date of sale of the property hereinafter described, to Plaintiff or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, including with the costs and disbursements of this action.

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

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

b. Interest on the balance of the bid after the deposit is applied shall be paid through the day of compliance at the Note rate of 1.950%.

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

d. The sale shall also be subject to the right of redemption by the Defendant United States of America, pursuant to 28 U.S.C.A. §2410(c), for a period of 120 day from the date of sale of the subject property.

e. Purchaser shall pay for any statutory commission on sale from the

2016 DEC 24 AM 9:24  
MORTGAGE CLERK  
Spartanburg County Courthouse

proceeds of the final bid amount.

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

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

7. The Court finds that Defendant Jackson L. Munsey, Jr., has no equitable right of redemption in the mortgaged property described hereinafter, based upon the fact that he is not a junior lienholder.

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

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

10. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the Purchaser a deed to the property sold. Plaintiff or any other party to this action may become a purchaser at such sale. If, upon such sale being made, the Purchaser should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity may advertise the said premises for sale on the next or some other subsequent sales day at the risk of the highest bidder and so from time to time thereafter until a full compliance shall be secured.

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

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

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

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

2018 FEB 22 AM 9:24  
MUNSEY, JR. v. MORTGAGE BANK OF AMERICA, N.A.  
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NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest or so much thereof as the purchase money will pay on the same; and the Plaintiff's attorney shall receive and disburse such funds only in absolute compliance with Plaintiff's principal, interest allowable advances, and related calculations of this Court, including the Court's award for attorney fees, court permitted charges and taxable costs pursuant to Rules 54 and 71 of the South Carolina Rules of Civil Procedure and the terms of the Note and Mortgage;

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

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

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

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

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

18. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of the within action, and the name of the grantee. The Register of Deeds/Clerk of

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DEC 22 AM 9:34



Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

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


20. The following is a description of the property herein ordered to be sold:

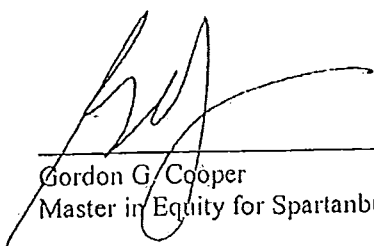
All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina; County of Spartanburg, containing 25.08 acres, more or less, and being shown and designated as Distribution Tract G on plat entitled "Survey for Greenspace of Fairview, LLC Tract 5" dated November 26, 2001, prepared by Joe E. Mitchell, Registered Land Surveyor, recorded in Plat Book 151, Page 523, and having such metes and bounds as appear thereon, incorporated herein by reference.

This being the same property conveyed to Rudrick G. Otto and Alyce F. Otto by deed of Fairview Associates, LLC, dated July 12, 2004 and recorded July 12, 2004 in Book 80-T at Page 257. Subsequently, Rudrick G. Otto conveyed his interest in the subject property to Rudrick George Otto, Trustee Under Declaration of Trust of Rudrick George Otto dated the 17th Day of November, 2009, dated November 18, 2009 and recorded November 24, 2009 in Book 95A at Page 435. Subsequently Alyce F. Otto conveyed her interest in the subject property to Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th Day of November, 2009, dated November 18, 2009 and recorded November 24, 2009 in Book 95A at Page 439. Subsequently, Rudrick George Otto died testate on December 2, 2009. Subsequently, Alyce F. Otto, Successor Trustee Under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009, conveyed that interest in the subject property to Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day of November, 2009, dated February 9, 2011 and recorded February 10, 2011 in Book 97V at Page 181.

Property Address: 1841 Fairview Farms  
Campanello, SC 29322

TMS# 10300003.00

  
December 22, 2015  
Spartanburg, South Carolina.

  
Gordon G. Cooper  
Master in Equity for Spartanburg County

M. HOPE DEARMENT  
2015 DEC 22 AM 9:24  
SPARTANBURG COUNTY, SC

#10  
