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**THE STATE OF SOUTH CAROLINA**

In The Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY

Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

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Case No. 2014-001683

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Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

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**APPENDIX  
TO RECORD ON APPEAL**

---

January 4, 2016

Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, South Carolina 29115  
(803) 268-0716

Michael Anzelmo  
SC Bar No. 72933  
1320 Main Street / 17<sup>th</sup> Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Elizabeth Scott Moise  
SC Bar No. 012945  
151 Meeting Street / Sixth Floor  
Post Office Box 1806 (29402-1806)  
Charleston, SC 29401 -2239  
(803)853-5200

**RECEIVED**

JAN 05 2016

SC Court of Appeals

**APPENDIX TO  
THE RECORD ON APPEAL**

**Notation**

This Supplement to the Record on Appeal is pursuant to an Appellate Court Order, dated: 12/14/2015.

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(2) Opposition to Summary Judgment – R. Vol. III, ¶¶117-118, p. 858; & ¶¶124-125, pp. 860-861.	
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(1) Opposition to Summary Judgment – R. Vol. III, ¶¶36-37, pp. 885-886, ¶135(b), p. 935.	
(2) Statement of the Evidence – R. Vol. IV-2, ¶12, subparts (6)-(9), p. 1336.	
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- (3) Statement of the Evidence – R. Vol. IV-2, ¶12, subparts (6)-(9), p. 1336.**
- (4) Legal Memorandum Supporting Motion to Alter or Amend.**  
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See Also:

- (1) Defendant Objects to Order Granting Partial Summary Judgment.**  
R. Vol. IV-1, pp.1048-1069.
- (2) Defendant Objects to Order Due to Misstatement of Facts.**  
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# The South Carolina Court of Appeals

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

Appellate Case No. 2014-001683

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## ORDER

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Respondent has filed a motion to compel Appellant to include in the record on appeal all items designated by Respondent. Appellant has filed a return conceding she did not file all items designated by Respondent but asserting she did not have the funds to do so. Appellant also asserts two of the items—the note and the mortgage that were filed as attachments to an affidavit—are already included in the record on appeal.

Appellant has also filed a "motion to strike Respondent's request to duplicate records that are already in the record on appeal." In the motion, Appellant asserts the affidavit in support of Wells Fargo's motion for summary judgment, the note, and the mortgage are already included in the record on appeal. Appellant further contends Respondent should bear the cost of supplementing the record on appeal.

Respondent's motion is granted, and Appellant's motion is denied. *See* Rule 210(a), SCACR ("Within thirty (30) days after service of the last brief, the *appellant* shall serve a copy of the Record on Appeal on each party who has served a brief." (emphasis added)); Rule 210(c), SCACR ("The Record on Appeal shall include *all* matter designated to be included by *any* party under Rule 209 . . . ." (emphasis added)). Although the affidavit, note, and mortgage are included in the record on appeal, including them in the record with the motion for summary judgment—as designated by Respondent—will aid this court in its review of the appeal. Further, the affidavit, note, and mortgage do not contain many pages and

therefore do not pose a substantial increased financial burden to Appellant, in light of the voluminous size of the current record on appeal.

Within twenty days, Appellant shall serve and file a supplemental record on appeal that includes Exhibits 2, 9, and 10, which were attached to Respondent's motion for summary judgment; the three attachments to Exhibit 8; and the Wells Fargo Letter dated March 31, 2014. Failure to comply with this order may result in the dismissal of this appeal.

  
FOR THE COURT

Columbia, South Carolina

cc: Dorothy Sistrunk  
Elizabeth Scott Moise, Esquire  
Michael J. Anzelmo, Esquire

**FILED**  
12/14/15

CERTIFICATE OF SERVICE

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):


Pleadings:

**PLAINTIFF WELLS FARGO BANK N.A.'S MOTION FOR SUMMARY JUDGMENT**

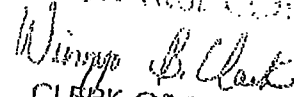
Party Served:

*pro se* Defendant  
Ms. Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, SC 29115

FILED FOR RECORD  
WINNIE B. CLARK  
CLERK OF COURT  
ORANGEBURG, SC  
2013 JUN 28 PM 12:37

  
\_\_\_\_\_  
Jennifer B. Lee

June 27, 2013

ATTEST: TRUE COPY  
  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

**Exhibit 2**  
**(Deposition Excerpts – George Sistrunk)**

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

WELLS FARGO BANK, N.A.,

Plaintiff,

vs.

CASE NO. 2008-CP-38-1024

DOROTHY SISTRUNK,

Defendant.

DEPOSITION OF: GEORGE M. SISTRUNK

DATE: March 2, 2012

TIME: 9:58 a.m.

LOCATION: Orangeburg County Courthouse  
151 Docket Street  
Orangeburg, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: Laura J. Bash, RPR

---

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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(803) 731-5224    (864) 234-7030    (704) 573-39194

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR PLAINTIFF  
3 WELLS FARGO BANK, N.A.:

4 NELSON, MULLINS, RILEY & SCARBOROUGH  
5 BY: BRIAN A. CALUB  
6 1320 Main Street, 17th Floor  
7 Columbia, SC 29201  
8 (803) 799-2000  
9 brian.calub@nelsonmullins.com

10 (INDEX AT REAR OF TRANSCRIPT)

11  
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1 Q. And are you still currently living at  
2 that address?

3 A. No.

4 Q. Okay. When did you move from that  
5 address?

6 A. We moved from there sometimes in  
7 November of 2007.

8 Q. And where did you move to?

9 A. 423 Bayne Street. 423 Bayne Street in  
10 Orangeburg, South Carolina.

11 Q. And what precipitated the move from 574  
12 (sic) Coburg Lane, Orangeburg, South Carolina, to  
13 423 Bayne Street, Orangeburg, South Carolina. Why  
14 did you move?

15 A. The landlord kicked us out. Tommy  
16 Mitchell. Tommy Mitchell, the landlord, kicked us  
17 out. He told us to get out of his house.

18 Q. So Tommy Mitchell was the landlord at  
19 5774 (sic) Coburg Lane. Is that correct?

20 A. Yeah. Yes, sir.

21 Q. Okay. And then he effectively evicted  
22 you?

23 A. Yes. He evicted us.

24 Q. All right. And what was the grounds  
25 for the eviction?

1 A. He wanted to sell the property.

2 Q. Okay. Okay. And when did he,  
3 Mr. Mitchell, advise you of the eviction, when you  
4 had to be out of the property? When was that? Do  
5 you remember the month and date, approximately?

6 A. It might be in that affidavit. Can I  
7 look through it?

8 Q. Well, let's look here. Let's see.

9 A. Because it was sometimes prior to  
10 September of 2007.

11 Q. It was before September of 2007?  
12 That's fine. I don't need an exact date. If  
13 that's before, that's fine.

14 A. That's when he -- I think it was August  
15 or -- anyway, it was prior to September 2007 when  
16 Mr. Tommy Mitchell evicted us out of 5074 Coburg  
17 Lane because he wanted to sell the property.

18 Q. Okay. So when did you start looking  
19 for a new place of residence?

20 A. That Saturday. That should be in  
21 there.

22 Q. Okay.

23 A. The date, the actual date. It was that  
24 Saturday.

25 Q. It would be the Saturday before

1 September 2007, or around that time?

2 A. Around that time.

3 Q. Okay.

4 A. It was on a Saturday. I believe we got  
5 the eviction notice on a Friday, if I'm not  
6 mistaken.

7 Q. All right. Tell me, what was one of  
8 the -- when did you identify 423 Bayne Street as a  
9 potential place to reside? When did you discover  
10 it, so to speak?

11 A. Sometime during the week of  
12 September 24th, 2007. The reason why I say during  
13 the week, because I can't pinpoint the exact date  
14 and time. But it was during that week,  
15 September 24th.

16 Q. And how did you identify 423 Bayne  
17 Street as a potential place to reside?

18 A. I went out with the owner, Thomas  
19 Jacobs. He took me around. Thomas Jacobs took me  
20 around to see houses that he had in Orangeburg,  
21 South Carolina. And one of the houses was  
22 423 Bayne Street.

23 Q. And how did you come into contact with  
24 Mr. Jacobs?

25 A. I called him on the -- I left a message

1 on his answering machine. Then he called me back.

2 Q. Okay. Was it a solicitation you saw in  
3 the newspaper that prompted you?

4 A. Yes, solicitation in the newspaper.

5 Q. Okay. All right. And so --

6 A. A newspaper want ad.

7 Q. All right. And so around the week of  
8 September 24, 2007, you contact -- you saw the  
9 solicitation in the newspaper for what -- I guess  
10 Mr. Jacobs was selling properties. Is that  
11 correct?

12 A. Yeah.

13 Q. You contacted Mr. Jacobs, and then he  
14 called you back. Is that right?

15 A. Yeah, he called me back.

16 Q. Okay. And then you guys proceeded to  
17 look at various properties that he was selling?

18 A. Not right away. What we did, we set up  
19 a meeting at the Huddle House restaurant. And he  
20 was supposed to meet me there. And then from the  
21 Huddle House restaurant, then we were supposed to  
22 go and look at houses that he had.

23 Q. Okay. And on the date that you were  
24 supposed to meet Mr Jacobs at the Huddle House, did  
25 you meet him and then proceed to look at properties

1 was hindering you from going anywhere else on the  
2 property?

3 A. Right. Absolutely. Nobody was  
4 hindering me.

5 Q. Because I imagine if you're cleaning  
6 out, you wanted to get every nook and cranny. Is  
7 that fair?

8 A. Right. That's fair.

9 Q. Okay. So you had full access to the  
10 house before October 9, 2007, and you were  
11 proceeding to clear it out.

12 A. Clear the trash, yeah.

13 Q. Is that correct?

14 A. I was moving out trash. That's what I  
15 did prior to -- I didn't really start working on  
16 the house till October the 12th. Now why do I  
17 remember that date specifically? It was because  
18 that's when I had power.

19 Q. And as of October 12, 2007, you  
20 began -- you were able to use power tools to do the  
21 work that you felt necessary to prepare for  
22 inhabitation. Is that correct?

23 A. Yeah.

24 (Off-the-record discussion.)

25 BY MR. CALUB:

# Exhibit 8

(Wells Fargo Affidavit)

FILED FOR RECORD  
MINNIE A. B. CLARK  
CLERK OF COURT  
ORANGEBURG, SC

2013 JUN 28 PM 12:39

ATTEST: TRUE COPY  
*Winnie B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
 COUNTY OF ORANGEBURG ) FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N.A., ) Civil Action No. 2008-CP-38-1024

Plaintiff, )

vs. )

Dorothy Sistrunk, )

Defendant. )

**AFFIDAVIT IN SUPPORT OF  
 WELLS FARGO'S MOTION FOR  
 SUMMARY JUDGMENT**

FILED  
 WINNIE  
 CLERK  
 ORANGEBURG  
 COURT  
 S.C.

2008 JUN 3  
 PM 12:39

PERSONALLY APPEARS BEFORE ME, Amanda Weatherly, the affiant, who says as follows after first being duly sworn, states the following:

1. I am a Vice President Loan Documentation for Wells Fargo Bank, N.A. (Wells Fargo), am over the age of eighteen years old, and am competent to submit this affidavit. I submit this affidavit under penalties of perjury.

2. My job responsibilities with Wells Fargo include monitoring Wells Fargo's outstanding, mortgage-loan accounts, including the account of the defendant, Dorothy Sistrunk (Defendant).

3. Defendant's mortgage-loan account with Wells Fargo is the product of a note (Note) and Mortgage (Mortgage) that Defendant signed on December 21, 2007. Wells Fargo is the original payee of the Note.

4. A true and accurate copy of the Note, as maintained in Wells Fargo's business records, is attached as **Exhibit 1**.

5. A true and accurate copy of the Mortgage, as maintained in Wells Fargo's business records, is attached as **Exhibit 2**.

6. Wells Fargo is the holder of the Note and Mortgage.

Winnie B. Clark  
 CLERK OF COURT  
 ORANGEBURG COUNTY, SC

7. Based upon my review of Wells Fargo's records for Defendant's mortgage-loan account, I am personally familiar with the payment history and outstanding balance due for the Note and Mortgage.

8. The Mortgage encumbers certain real property that is more fully described in the Mortgage and has a street address of 423 Bayne Street, Orangeburg, South Carolina (423 Bayne Street).

9. Elizabeth Scott Moïse and James H. Burns are attorneys of record for Wells Fargo and have authority to present the facts and evidence in the above-captioned case.

10. Wells Fargo's payment history records for the Note and Mortgage indicate that Defendant last remitted a payment on February 12, 2008 and that Defendant has not made any other payments since then.

11. Wells Fargo has had to pay escrow advances to cover amounts due for taxes and insurance for 423 Bayne Street.

12. Per the attached payoff statement, which is attached hereto as **Exhibit 3**, the outstanding balance for the Note and Mortgage, as of May 1, 2013 is One Hundred Sixteen Thousand Two Hundred Thirteen and 56/100 Dollars (\$116,213.56).

13. The outstanding balance is comprised of the following:

- (a) a principal amount of Seventy Four Thousand Nine Hundred Forty and 02/100 Dollars (\$74,940.02),
- (b) accrued interest in the amount of Twenty Eight Thousand Thirty-Two and 48/100 Dollars (\$28,032.48),

- (c) escrow advances, which includes amounts advanced for taxes and insurance, in the amount of Nine Thousand Nine Hundred Eighty-Seven and 16/100 Dollars (\$9,987.16);
- (d) recoverable corporate advances for inspection fees, attorney's fees and other recoverable amounts that total One Thousand Eight Hundred Thirty-Five and No/100 Dollars (\$1,835.00); and
- (e) pro rata mortgage insurance and other fees and charges, which include late charges, in the amount of One Thousand Four Hundred Eighteen and 90/100 Dollars (\$1,418.90).

The applicable interest for the Note and Mortgage is 7.125%, and the per diem is Fourteen and 63/100 Dollars (\$14.63).

**FURTHER AFFIANT SAYETH NAUGHT.**

*Amanda Weatherly*  
 Amanda Weatherly  
 Vice President Loan Documentation  
 Wells Fargo Bank, N.A.  
 06/04/2013

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 CLERK OF COURT  
 ORANGEBURG COUNTY, SC  
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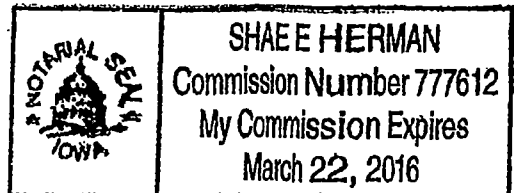
State of Iowa )  
 ) ss.  
 County of Dallas )

ATTEN: TRUE COPY  
*Wynja B. Clark*  
 CLERK OF COURT  
 ORANGEBURG COUNTY, SC

Signed and sworn to (or affirmed) before me on June 4, 2013 (date)  
 by Amanda Weatherly (name[s] of person[s] making statement).

*Shae E Herman* (Signature)  
 Notary Public (or title/rank of other officer)

(Stamp or Seal)



# Exhibit 1

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WINNIE A. B. CLARK  
CLERK OF COURT  
ORANGEBURG, SC

2013 JUN 28 PM 12:39

Winnie B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

**FIXED RATE NOTE**DECEMBER 21, 2007  
DateCOLUMBIA  
CitySOUTH CAROLINA  
State423 BAYNE STREET, ORANGEBURG, SC 29115  
(Property Address)**1. BORROWER'S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. \$ 75,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is WELLS FARGO BANK, N.A.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

**2. INTEREST**

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 7.125 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

**3. PAYMENTS****(A) Time and Place of Payments**

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the first day of each month beginning on FEBRUARY 1, 2008. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied, as of its scheduled due date and will be applied to interest before Principal.

If, on JANUARY 1, 2038, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at WELLS FARGO BANK, N.A.

P.O. BOX 11701, NEWARK, NJ 07101-4701

or at a different place if required by the Note Holder.

**(B) Amount of Monthly Payments**

My monthly payment will be in the amount of U.S. \$ 505.29

**4. BORROWER'S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use all of my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

**5. LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

**6. BORROWER'S FAILURE TO PAY AS REQUIRED****(A) Late Charge for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

**(B) Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

**(C) Notice of Default**

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

**(D) No Waiver By Note Holder**

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

**(E) Payment of Note Holder's Costs and Expenses**

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorney's fees.

**7. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address. Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

**8. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

**9. WAIVERS**

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

MULTISTATE FIXED

NOTE - Single Family - FRMA/FHLMC UNIFORM INSTRUMENT  
2 of 3

FORM 3209 1/01

EC0111 REV. 04/19/02

WF00040


10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts that I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED,

  
DOROTHY/SISTRUNK \_\_\_\_\_ (Seal)  
-Borrower

(Sign Original Only)

# Exhibit 2

2013 JUN 28 PM 12:40  
FILED FOR RECORD  
WINNIE B. CLARK  
CLERK OF COURT  
ORANGEBURG, SC

ATTEST TRUE COPY  
*Winnie B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

P

M-BK:01914 PG:0221

Return To:  
WELLS FARGO BANK, N.A.  
FINAL DOCUMENTS X9999-01M  
1000 BLUE GENTIAN ROAD  
EAGAN, MN 55121-1668

Prepared By:  
KATHRYN R. PERKINSON  
WELLS FARGO BANK, N.A.  
2301 REXWOODS DR STE 260  
RALEIGH, NC 27607-

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FILED  
ORANGEBURG  
COUNTY  
GAIL LANEY  
REGISTER  
OF DEEDS

*Neil Jany*  
Signature

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# MORTGAGE

0174072777

## DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **DECEMBER 21, 2007** together with all Riders to this document.

(B) "Borrower" is  
**DOROTHY, SISTRUNK**

Borrower is the mortgagor under this Security Instrument.  
(C) "Lender" is **WELLS FARGO BANK, N.A.**

Lender is a **National Association** organized and existing under the laws of **THE UNITED STATES OF AMERICA**

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Page 1 of 18

Initials: \_\_\_\_\_

FORM 3041 1/01

SSC01 Rev 08/13/01

*Prayer Law Firm  
1415 Broad River Rd  
Columbia SC 29210*

*D.B.*

WF00042

Lender's address is  
P. O. BOX 6137, DES MOINES, IA 50306-5137

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated **DECEMBER 21, 2007**.

The Note states that Borrower owes Lender **SEVENTY-FIVE THOUSAND AND NO/100** Dollars  
(U.S. \$ **75,000.00**.....) plus interest. Borrower has promised to pay this debt in regular

Periodic Payments and to pay the debt in full not later than **JANUARY 1, 2038**

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |                                                |                                                         |                                             |
|------------------------------------------------|---------------------------------------------------------|---------------------------------------------|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider              | <input type="checkbox"/> Second Home Rider  |
| <input type="checkbox"/> Balloon Rider         | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> 1-4 Family Rider   |
| <input type="checkbox"/> VA Rider              | <input type="checkbox"/> Biweekly Payment Rider         | <input type="checkbox"/> Other(s) [specify] |

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" means those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

*AS*

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the loan does not qualify as a "federally related mortgage loan" under RESPA.  
(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**TRANSFER OF RIGHTS IN THE PROPERTY**

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and assigns, the following described property located in the

County of **ORANGEBURG**  
[Type of Recording Jurisdiction] [Name of Recording Jurisdiction]

**LEGAL DESCRIPTION IS ATTACHED HERETO AS SCHEDULE "A" AND MADE A PART HEREOF.**

**THIS IS A PURCHASE MONEY MORTGAGE.**

Parcel ID Number: **423 BAYNE STREET** which currently has the address of [Street]  
**ORANGEBURG** [City], South Carolina 29115 [Zip Code]  
("Property Address"):

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property".

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, Insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section, Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be

required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination

or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In

either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 6 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or

(c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage Insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments, as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver:** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by

this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provision of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly

requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement; the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer or servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph.

The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environment Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration.

and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

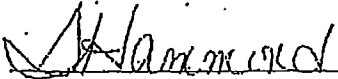
24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.


25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

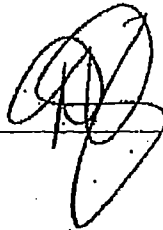
26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained  
In this Security Instrument and In any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered In the presence of:

  
\_\_\_\_\_

  
DOROTHY SISTRUNK (Seal)  
Borrower

  
\_\_\_\_\_

M-BK:01914 PG:0238

Legal Description

Property Address: 423 Bayne Street  
Orangeburg, SC 29115

All that certain piece, parcel or lot of land with improvements thereon, situate, lying and being in the City of Orangeburg, South Carolina, more particularly shown and delineated as Lot 33, on a plat by S.D. Moss, Reg. C.E. and recorded in the Office of the Clerk of Court for Orangeburg County in Plat Book 4, page 128. Reference made to said plat for a more complete and accurate description.

This being the same property conveyed to Grantee by deed of Grantor dated 12/31/07 and recorded 12-28-07 in Book 1244 at Page 63 in the Office of the Register of Deeds for Orangeburg County, South Carolina.

TMS#: 0173-19-10-006.000

WF00059

STATE OF SOUTH CAROLINA,  
County of ORANGEBURG

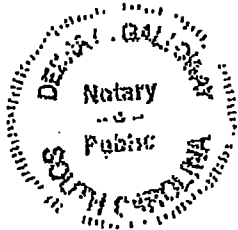
M-BK:01914 PG:0239

Personally appeared before me Stephanie Hammond  
and made oath that he/she saw the within named Borrower sign, seal, and as his/her/their  
act and deed, deliver the within written Mortgage; and that he/she with  
Debra Galloway witnessed the execution thereof.

Stephanie Hammond

Sworn to before me this 21ST day of DECEMBER, 2007

My Commission Expires:  
My Commission Expires  
January 5th 2014



[Signature]  
Notary Public for South Carolina

# Exhibit 3

FILED FOR RECORD  
WINNIEA E. CLARK  
CLERK OF COURT  
ORANGEBURG, SC  
2013 JUN 28 PM 12:39

0174072777

Payoff quote provided good thru 5/1/2013

Please be sure to include any outstanding attorney fees and costs with the quote. Please verify the payoff figures 24 hours in advance by requesting a detailed payoff quote. Please send all payoff checks to:

Wells Fargo Home Mortgage a division of Wells Fargo Bank, N.A.

Attn: Payoffs

Mac # X2302-045

1 Home Campus

Des Moines, IA 50328

**\*\*Note\*\***

For FHA loans, payoff quotes must be calculated to the 1st of the month as interest accrues monthly, except in Illinois.

----- 1ST MORT PERDIEM INTEREST - ASSESS WAIVE -----				----- ADDITIONAL FEES -----	
FROM	RATE	AMOUNT	Y	N	
05/01/13	07.12500	14.63	N	1	5.00 RECORDING COSTS
		CALCULATED	N	2	10.00 FAX FEE
			N	3	.00 PROPERTY INSPECTION
			N	4	.00 OBLIGATION FEE
			N	5	36.88 PENDING ESCRW ADVANCE
			N	6	.00 SPECIAL HANDLING
			N	7	.00
			N	8	.00
			N		1,288.26 ACCUM LATE CHARGES
			N		.00 ACCUM NSF CHARGES
WAIVE	.00	EFF. DATE L/C	N		15.00 OTHER FEES DUE

		----- RATE CHANGES -----	
		INT FROM	AMOUNT
PRINCIPAL BALANCE	74,940.02		
INTEREST 05/01/13	28,032.48	02/01/08	28,032.48
PRO RATA MIP/PMI	73.76	05/01/13	
ESCROW ADVANCE	9,987.16		
ESCROW BALANCE	.00		
SUSPENSE BALANCE	.00		
HUD BALANCE	.00		
REPLACEMENT RESERVE	.00		
RESTRICTED ESCROW	.00		
TOTAL-FEES	41.88		
ACCUM LATE CHARGES	1,288.26		
ACCUM NSF CHARGES	.00		
OTHER FEES DUE	15.00		
PENALTY INTEREST	.00		
FLAT/OTHER PENALTY FEE	.00		
CR LIFE/ORIG FEE RBATE	.00		
RECOVERABLE BALANCE	1,835.00		
OPTIONAL COVERAGE	.00		
		TOTAL INTEREST	28,032.48
		TOTAL TO PAYOFF	116,213.56
		TOTAL PAGE 2	.00

CORPORATE ADVANCE BREAKDOWN

04/16/13	15.00	SE-MCS	01R01	INSP	INSPECTION
03/21/13	15.00	SE-MCS	01R01	INSP	INSPECTION
02/20/13	15.00	SE-MCS	01R01	INSP	INSPECTION
01/16/13	15.00	SE-MCS	01R01	INSP	INSPECTION
12/20/12	15.00	SE-MCS	01R01	INSP	INSPECTION
11/19/12	15.00	SE-MCS	01R01	INSP	INSPECTION
10/11/12	15.00	SE-MCS	01R01	INSP	INSPECTION
07/31/12	15.00	SE-MCS	01R01	INSP	INSPECTION
06/29/12	15.00	SE-MCS	01R01	INSP	INSPECTION
05/25/12	15.00	SE-MCS	01R01	INSP	INSPECTION
04/20/12	15.00	SE-MCS	01R01	INSP	INSPECTION
03/19/12	15.00	SE-MCS	01R01	INSP	INSPECTION
02/14/12	15.00	SE-MCS	01R01	INSP	INSPECTION

sistrunk - 0174072777p.txt

12/14/11	20.00	SE-MCS	01R01	INSP	INSPECTION
12/02/11	20.00	SE-MCS	01R01	INSP	INSPECTION
09/30/11	20.00	SE-MCS	01R01	INSP	INSPECTION
08/30/11	20.00	SE-MCS	01R01	INSP	INSPECTION
07/26/11	20.00	SE-MCS	01R01	INSP	INSPECTION
06/21/11	20.00	SE-MCS	01R01	INSP	INSPECTION
05/23/11	20.00	SE-MCS	01R01	INSP	INSPECTION
04/19/11	20.00	SE-MCS	01R01	INSP	INSPECTION
03/14/11	20.00	SE-MCS	01R01	INSP	INSPECTION
02/09/11	20.00	SE-MCS	01R01	INSP	INSPECTION
01/12/11	20.00	SE-MCS	01R01	INSP	INSPECTION
12/09/10	20.00	SE-MCS	01R01	INSP	INSPECTION
11/01/10	20.00	SE-MCS	01R01	INSP	INSPECTION
09/30/10	15.00	SE-MCS	01R01	INSP	INSPECTION
08/30/10	15.00	SE-MCS	01R01	INSP	INSPECTION
11/25/09	15.00	SE-MCS	01R01	INSP	INSPECTION
10/27/09	15.00	SE-MCS	01R01	INSP	INSPECTION
09/23/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
08/26/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
07/28/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
07/16/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
06/02/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
05/05/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
04/02/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
02/23/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
02/03/09	15.00	SE-FIRST	01R01	INSP	INSPECTION
12/31/08	15.00	SE-FIRST	01R01	INSP	INSPECTION
10/27/08	15.00	SE-FIRST	01R01	INSP	INSPECTION
10/03/08	15.00	SE-FIRST	01R01	INSP	INSPECTION
09/10/08	15.00	SE-FIRST	01R01	INSP	INSPECTION
08/18/08	250.00	ATY-SC-ROG	01R01	TITL	TITLE POLICY
08/18/08	135.00	ATY-SC-ROG	01R01	SERF	STAT SERV OF NOT
08/18/08	150.00	ATY-SC-ROG	01R01	FILE	FILING COSTS
08/18/08	560.00	ATY-SC-ROG	01R01	ATTY	ATTORNEY FEES
08/04/08	15.00	SE-FIRST	01R01	INSP	INSPECTION

ADDITIONAL INSPECTIONS	\$15.00
TOTAL CORPORATE	\$1,835.00

# Exhibit 9

(Fax Memo dated 12/27/07)

FILED FOR RECORD  
WINNIE B. CLARK  
CLERK OF COURT  
ORANGEBURG, SC

2013 JUN 28 PM 12:39

BEST TRUE COPY  
*Winnie B. Clark*  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

MODE = MEMORY TRANSMISSION START=DEC-27 06:23 END=DEC-27 06:44

FILE NO. = 016

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	INC	#	19194749240	000/007		

\*\*\*\*\* - \*\*\*\*\*

**FAX MEMO**

FROM: Dorothy Sibitunk  
425 Payne Street, Orangeburg, SC 29115

PHONE: 803-268-0716 FAX: 803-268-0716

DATE: 12-27-2007 TIME FAXED: New #

TO: Wells Fargo Bank 919-474-9240

Attention: Kathryn R. Perkinson

FAX NUMBER 919-784-9453 PHONE 919-474-5347

MESSAGE Notice of my Intent to Cancel: See Attached  
Fax Copies and Page 7 Estimate Note  
This is Not a Formal Request To Cancel  
Only a notification and the Reasons why

TOTAL NUMBER OF PAGES INCLUDING COVER 7

IF YOU DO NOT RECEIVE ALL OF THE ABOVE PAGES, OR CAN CLEARLY READ THE WRITTEN MESSAGE, PLEASE CALL THE ABOVE NUMBER FOR FOLLOW UP OR CLARIFICATION;

THANK YOU;

Loan # 0174072777 - SCDC Case # 08-0237-B2 -- OCC Case #785593

Loan # 0174072777

**Exhibit 10**  
**(Fax Memo dated 01/09/08)**

2013 JUN 28 PM 12:37  
FILED FOR RECORD  
WINNIE D. CLARK  
CLERK OF COURT  
ORANGEBURG, SC

**FAX MEMO**

FROM: Dorothy Sistrunk  
423 Bayne Street, Orangeburg, SC 29115

PHONE: 803-268-0716

FAX: 803-268-0716

DATE: January 9, 2008 TIME FAXED: \_\_\_\_\_

TO: Player Law Firm, Thomas Jacobs, Golden State  
Mortgage, Inc.

Re: Appraisal & Closing Documents

Player  
FAX NUMBER 803-772-8037  
Golden State 803-736-9290

PHONE 803-772-8008  
803-238-3550

MESSAGE \_\_\_\_\_

I have decided not to cancel my loan with Wells Fargo's  
However, I want all my signed closing documents and  
a copy of my appraisal sent to me immediately. Or  
do I have to sue your Law Firm; Golden State Mortgage  
and Thomas Jacobs to get them?

TOTAL NUMBER OF PAGES INCLUDING COVER 1

IF YOU DO NOT RECEIVE ALL OF THE ABOVE PAGES, OR CAN CLEARLY READ  
THE WRITTEN MESSAGE, PLEASE CALL THE ABOVE NUMBER FOR FOLLOW UP  
OR CLARIFICATION:

THANK YOU:

Dorothy Sistrunk

Loan # 0174072777

# Nelson Mullins

Nelson Mullins Riley & Scarborough LLP  
Attorneys and Counselors at Law  
1320 Main Street / 17th Floor / Columbia, SC 29201  
Tel: 803.799.2000 Fax: 803.255.5936  
www.nelsonmullins.com

James H. Burns  
(Admitted in SC & WV)  
Tel: 803.255.9586  
Fax: 803.255.5936  
james.burns@nelsonmullins.com

March 31, 2014

Ms. Dorothy H. Sistrunk  
423 Bayne Street  
Orangeburg, SC 29115

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk  
Wells Fargo Matter #: 0362522-01  
Case No.: 08-CP-38-1024  
NMRS File No.: 10275/01528

Dear Ms. Sistrunk:

Enclosed please find an Order Granting Partial Summary Judgment signed by Judge Goodstein in the above-referenced matter, which we hereby serve upon you.

Very truly yours,



James H. Burns

JHB:jlee  
Enclosures

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
Wells Fargo Bank, N.A.,	)	Civil Action No. 2008-CP-38-1024
	)	
Plaintiff,	)	
	)	
vs.	)	<u>ORDER GRANTING PARTIAL</u>
	)	<u>SUMMARY JUDGMENT</u>
Dorothy Sistrunk,	)	
	)	
Defendant.	)	
	)	

**BEFORE THE COURT** is Plaintiff Wells Fargo Bank, N.A.'s ("Wells Fargo") Motion for Summary Judgment as to Wells Fargo's Complaint of Foreclosure and Defendant Dorothy Sistrunk's numerous counterclaims predicated on alleged fraud by parties other than Wells Fargo.<sup>1</sup> A hearing was held on this matter on September 3, 2013, at which James H. Burns appeared on behalf of Wells Fargo and Defendant appeared *pro se*. After consideration of the pleadings, the parties' written submissions, and oral argument of the parties, the Court finds as follows:

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<sup>1</sup> Defendant's Answer to Complaint with Counterclaims and First Amendment to Answer to Complaint with Counterclaims are all based upon the allegation that the mortgage loan between the parties is unenforceable because of alleged malfeasance by the seller and appraiser. The counterclaims include the following: Violation of the Fair Credit Reporting Act ("FCRA"); Unjust enrichment; Willful intent to participate in and perpetuate mortgage, bank, insurance, and securities fraud or a predatory lending scheme advanced through falsified documents; Gross negligence and inherent negligence; Failure to exercise due diligence; Concealment of a material fact and cover up; Failure to exercise fiduciary responsibility as a bank; Unfair lending and banking practices; Failure to safeguard the financial interest of customers, clients and investors by accepting, using, or basing decisions upon falsified documents after alleged facts are known; Infliction of emotional distress; and Rescission of the loan contract under the Truth in Lending Act ("TILA") and money damages.

## BACKGROUND

1. Around early October 2007, Defendant and her family needed new housing because they did not want to be responsible for costs associated with yard work for a home that Defendant and her family rented at 574 Coburg Lane, Orangeburg, South Carolina. Defendant and her family also needed to move because their landlord was planning to sell the property that Defendant rented.

2. In response to an advertisement in a local newspaper, Defendant's husband contacted Thomas Jacobs ("Jacobs" or sometimes "seller") to inquire about various properties that he had for sale.

3. After Defendant's husband looked at several houses with Jacobs, her husband decided to purchase a home located at 423 Bayne Street in Orangeburg, South Carolina ("423 Bayne Street").

4. In the month prior to closing, Defendant and her family moved into 423 Bayne Street and began cleaning and making repairs.

5. Defendant alleges that during negotiations for purchasing 423 Bayne Street, Jacobs advised that he would make various repairs to 423 Bayne Street before closing, and if such repairs were not made, then the purchase price for that property would be lowered at closing.

6. Defendant admits that neither she nor her husband advised Wells Fargo of any of the representations that Jacobs made to them. Further, Defendant has no evidence of Jacobs or Jim H. Austin, III ("Austin" or sometimes "appraiser") notifying Wells Fargo of Jacobs's representations to Defendant and her husband.

7. Prior to closing, on November 26, 2007, Defendant signed a Notice of Right to Receive a Copy of Appraisal. Defendant also signed a contract for sale, as a buyer, for 423 Bayne Street. The contract of sale is countersigned by the seller, Thomas Jacobs.

8. Austin authored an appraisal that listed the value for 423 Bayne Street at \$75,000.00.

9. Defendant admits that she did not rely on Austin's appraisal, and she has no evidence that Wells Fargo made or played any role in creating the appraisal authored by Austin.

10. Defendant contests the sales price listed on the sales contract that she signed with the seller, and she believes that various alterations to the sales contract were made after she signed it.

11. Defendant admits that she does not know who altered the sales contract, and she does not accuse anyone at Wells Fargo for being responsible for any alterations.

12. The loan closed on December 21, 2007, and Defendant and her lawyer attended the closing.

13. At the loan closing, Defendant signed a Fixed-Rate Note ("Note") in the principal sum of \$75,000.00. In pertinent part, the Note states as follows:

In return for a loan that I have received, I promise to pay U.S. \$75,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is WELLS FARGO BANK, N.A.

14. Defendant secured her repayment obligations under the Note by executing a thirty-year Mortgage ("Mortgage") that encumbers 423 Bayne Street.

15. Although her husband negotiated all aspects of purchasing 423 Bayne Street with the seller, Defendant attended and participated in the closing on December 21, 2007, without her husband's attendance at the closing because she trusted the seller.

16. On January 9, 2008, Defendant requested a copy of the appraisal for 423 Bayne Street from both her closing attorney and mortgage broker David Terrell of Golden Gate Mortgage.

17. Defendant received the appraisal on January 12, 2008, and she believed it was incorrect.

18. Plaintiff alleges Defendant defaulted on her payment obligations under the Note, and Defendant has never paid the taxes and insurance on 423 Bayne Street.

19. On June 27, 2008, Wells Fargo filed a Lis Pendens, Summons, and Complaint of Foreclosure due to Defendant's default on the Note and to seek foreclosure of the Mortgage.

20. On July 18, 2008, Defendant filed an Answer to Complaint with Counterclaims, and on July 31, 2008, Defendant filed a First Amendment to Answer to Complaint with Counterclaims alleging as referenced above and predicated on alleged fraud that arose from the actions of the seller and appraiser.

21. Defendant admits she has no evidence linking Wells Fargo to the actions of the seller or appraiser, and Defendant believes Wells Fargo was also victimized by the seller and appraiser.

#### ANALYSIS AND CONCLUSIONS

22. Summary judgment is warranted when no material facts are in contest and the movant is entitled to a judgment as a matter of law. *McNaughten-McKay Elec. v. Andrich*, 324 S.C. 275, 279, 482 S.E.2d 564, 566 (Ct. App. 1997). On summary judgment motions, evidence and factual inferences are viewed in a light most favorable to the non-movant. *Bankers Trust Co. v. Braten*, 317 S.C. 547, 551, 455 S.E.2d 199, 201 (Ct. App. 1995). The movant must initially assert the basis for the motion but is not required to negate his opponent's claim; the

burden may be discharged by demonstrating a lack of evidence supporting a particular issue in the non-movant's case. *Richardson v. The State Record Co., Inc.*, 330 S.C. 562, 566, 499 S.E.2d 822, 824-25 (Ct. App. 1994). When a summary judgment motion is properly made and supported under Rule 56, S.C. R. Civ. P., the non-movant must demonstrate the existence of a triable issue of fact. *Peterson v. West American Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610-11 (Ct. App. 1999). If the evidence submitted by the non-movant is merely colorable, summary judgment should be granted. *Thompkins v. Festival Centre Grp.*, 306 S.C. 193, 194, 410 S.E.2d 593, 593-94 (Ct. App. 1991).

23. All of Defendant's counterclaims are based on alleged fraud in which Defendant admits Wells Fargo had no participation.

24. To prevail on a claim against Wells Fargo for actual fraud, Defendant must prove the following elements by clear and convincing evidence: (1) a representation by Wells Fargo; (2) its falsity; (3) its materiality; (4) Wells Fargo's knowledge of its falsity or a reckless disregard for its truth or falsity; (5) Wells Fargo's intent that Defendant act upon the representation; (6) Defendant's ignorance of its falsity; (7) Defendant's reliance on its truth; (8) Defendant's right to rely thereon; and (9) Defendant's consequent and proximate injury. See *McLaughlin v. Williams*, 379 S.C. 451, 456, 665 S.E.2d 667, 670 (Ct. App. 2008) (affirming summary judgment on fraud claim because no reliance). "Failure to prove any element of fraud is fatal to the action." *Robertson v. First Union Nat'l Bank*, 350 S.C. 339, 348, 565 S.E.2d 309, 314 (Ct. App. 2002).

25. South Carolina law provides that no claim for fraud can be maintained against a party not involved in the fraud. See *Moseley v. All Things Possible*, 388 S.C. 31, 47, 694 S.E.2d 43, 46 (Ct. App. 2010) (reversing trial court's finding that corporate officer of seller of real

property was guilty of fraud in sale based on falsified plat when there was no evidence that he personally committed fraud); *see also Gordon v. Busbee*, 397 S.C. 119, 134-35, 723 S.E.2d 822, 831 (Ct. App. 2012) (affirming directed verdict for certain defendants when plaintiff presented no evidence of fraud by those defendants).

26. All of the counterclaims that Defendant has pleaded are based upon the allegation that the Note and Mortgage are unenforceable because of alleged malfeasance by the seller and appraiser. Wells Fargo attached portions of Defendant's deposition in support of its motion. In her deposition, Defendant admits that she does not know who altered the sales contract as she alleges, and she does not accuse anyone at Wells Fargo for being responsible for the alterations. Furthermore, Defendant admits that before she closed her mortgage loan, she had no communications or dealings with Wells Fargo, and she has no evidence linking Wells Fargo to the actions of the seller or appraiser. In fact, Defendant stated that she believes that Wells Fargo was also victimized by the seller and appraiser.

27. Because Defendant has no evidence linking Wells Fargo to this alleged act of fraud, the Court finds there are no material facts that are in contest, and Wells Fargo is entitled to judgment as a matter of law with respect to Defendant's counterclaims. Defendant's claims fail because there is no material issue of fact revealing misrepresentation or fraud by Wells Fargo. Therefore, Wells Fargo's Motion for Summary Judgment on all of Defendant's counterclaims is GRANTED.

28. Wells Fargo has also moved for summary judgment on its Complaint of Foreclosure. At this point, Wells Fargo has presented no evidence in its summary judgment motion demonstrating compliance with the South Carolina Supreme Court's Administrative

Order Re: Mortgage Foreclosure Actions ("Supreme Court Order"), which is dated May 2, 2011,

29. The Supreme Court Order discusses efforts that homeowners and lender-servicers need to make towards loan modification or other loss mitigation efforts in foreclosure actions pending in South Carolina. The Supreme Court Order identifies the steps that must be taken in order "to insure that the procedures for handling issues related to such efforts are handled uniformly throughout the State." S.C. Admin. Order No. 2011-05-02-01.

30. In Wells Fargo's Motion for Summary Judgment, Wells Fargo seeks summary judgment in the foreclosure action because Defendant has failed to repay amounts owed under the Note and Mortgage. However, Wells Fargo did not present specific evidence—either in writing or by way of oral argument—that demonstrates compliance with the Supreme Court Order. The Court is not making a finding of whether Wells Fargo has in fact complied with the Supreme Court Order; rather, the Court finds that there was no evidence presented to the Court upon which it can make a summary judgment determination. Therefore, Wells Fargo's Motion for Summary Judgment on the underlying Complaint of Foreclosure is DENIED.

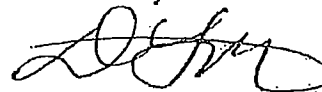
31. The foreclosure action will proceed, and if summary judgment is appropriate at some time in the future, the South Carolina Rules of Civil Procedure do not prohibit such a motion.

NOW, THEREFORE, based on the foregoing, the Court hereby GRANTS Plaintiff Wells Fargo Bank, N.A.'s Motion for Summary Judgment on all of Defendant's counterclaims, which are DISMISSED with prejudice. The Court hereby DENIES Plaintiff Wells Fargo Bank, N.A.'s Motion with respect to its Complaint of Foreclosure, and the foreclosure action shall proceed.

AND IT IS SO ORDERED!

3-27-2014

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**AND IT IS SO ORDERED.**

The Honorable Diane Schafer Goodstein  
First Judicial Circuit

St. George, South Carolina

\_\_\_\_\_, 2014

**RECEIVED**

CERTIFICATE OF SERVICE

JAN 05 2016

SC Court of Appeals

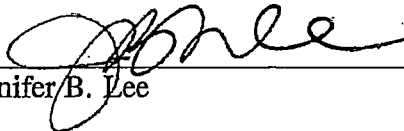
I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

**Order Granting Partial Summary Judgment**

Party Served:

*pro se* Defendant  
Ms. Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, SC 29115

  
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Jennifer B. Lee

March 31, 2014