

IN THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHESTER COUNTY

Court of Common Pleas

Appellate Case No. 2012-2123285

Lower Court Case No. 2007-CP-12-00559

HSBC Bank of Trustee, for the registered

Holders of Normura Home Equity Loan, Inc.

Asset-Backed Certificates, Series 2007-2..... Respondents

V.

Nathaniel McMickens,

Glenda L. McMickens Appellants

REPLY

Nathaniel and Glenda L. McMickens

2834 James F. Wherry Road

Chester, South Carolina 29706

803-581-8700

RECEIVED

DEC 03 2012

S.C. Supreme Court

Korn Law Firm, P.A.

Post Office Box 11264

1300 Pickens Street

Columbia, South Carolina 29211

803-252-5817

The Petition would respectfully return to the Respondent's Petition for Writ of Certiorari as follows:

1. The petition should be granted due to the fact that I have legal documentation for the Court to consider the case as set forth in Rule 242 SCACR.
 - A. How can I have a mortgage when all paperwork proves that these accounts have been paid in full?
 - B. South Carolina Court of Appeals did not dissent to the decision wouldn't hear the case but the petition cannot be denied(See Order from South Carolina Court of Appeals)
 - C. There is not a conflict with the South Carolina Court of Appeals but rather between HSBC and myself.
 - D. Whether a substantial constitutional question is presented is a determination that must be made on a case by case basis. The Court has examined the nature of the constitutional interest at stake, the novelty of the constitutional claim, whether the argument raised may have merit, and whether a basis has been established for distinguishing a state constitutional claim (if asserted) from a federal constitutional claim. Therefore the information was placed on my report without further knowledge and should have been given to me within the timeline.
 - E. The Federal question is it legal to add unknown loans to an account without the knowledge of the supposed loan. (4) Any person claiming an interest in the property under a statutory lien or encumbrance created subsequent to the recording or filing of the mortgage being foreclosed, and attaching to the title or interest of any person [with an interest subject to the mortgage]."
2. The Petitioner has merit to have this case heard before the court.
 - A. The two (2) letters in the petition should be entered into evidence because they substantive to the case (See attached letters).
 - B. The letter dated July 30, 2012 states that Account #008560641 is closed and paid in full. No other loans have been paid on under that account number (See attached letters).
 - C. The letter dated June 30, 2006 with account number 007186466 is proof that the loan was satisfied and paid in full. The letter contains no information regarding a transfer but rather a close in the account (See attached letter).

- D. Appellants entered into Bankruptcy on 12-22-07. Then on 1-7-2008 John B. Kelchner of Korn Law Firm filed a Notice of Appearance and Request for Notice with Certificate of Service on 1-7-2008 on behalf of HSBC. Appellants were not aware of such entry. Appellants entered into evidence letter from HSBC Bank which read as of 5-4-2006 with the account #0008560641 was paid in full. One year and 8 months later the subject or matters of HSBC were closed and longer our concern.
- E. Ocwen was not listed on the Bankruptcy. The Case number 07-07099-hb is not Appellants bankruptcy case numbers in our case 07-07099JW has been incorrectly listed by HSBC
- F. The Chapter 13 Bankruptcy did stat the account but it was added without my knowledge of such account which I didn't have.
- G. The Appellant had no documentation about the account with Ocwen therefore did not know anything regarding it (See p. 2 of Bankruptcy). We never agreed to such an amendment because we never knew of such an order.
- H. Yes it was denied because it needed to not be part of my account prior to filing for bankruptcy. We have showed proof that the loan with HSBC has been satisfied with Coastal Capital. Ocwen was never listed. The deadline for Ocwen according to law to be added in your bankruptcy. They are all untrue statements (See attached letters)

The South Carolina Court of Appeals

HSBC Bank as Trustee for the registered holders of
Nomura Home Equity Home Loan, Inc. Asset-Backed
Certificates, Series 2007-2, Respondent,

v.

Nathaniel McMickens, Glenda McMickens, and Robert
Cooke, Defendants.

Of Whom Nathaniel McMickens and Glenda McMickens
are the Appellants.

Robert Cooke, Plaintiff,

v.

Glenda McMickens, Nathaniel McMickens, and
Mortgage Electronic Registration Systems, Inc. as
nominee for Coastal Capital Corp., Defendants.

Appellate Case No. 2009-146186

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

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DEC 03 2012

S.C. Supreme Court

John Cannon Jr C.J.
Thomas C. Murrell J.
Daniel G. Pieper J.

Columbia, South Carolina
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cc:
Nathaniel and Glenda McMickens
Henry Guyton Murrell
James C. Alexander

FILED

September 25, 2012

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

HSBC Bank as Trustee, for the
registered holders of Nomura
Home Equity Home Loan, Inc.
Asset-Backed Certificates,
Series 2007-2, Respondent,

v.

Nathaniel McMickens, Glenda
McMickens, and Robert Cooke, Defendants,

Of whom Nathaniel
McMickens and Glenda
McMickens are the Appellants.

Robert Cooke, Plaintiff,

v.

Glenda McMickens, Nathaniel
McMickens, and Mortgage
Electronic Registration
Systems, Inc. as nominee for
Coastal Capital Corp., Defendants.

Appeal From Chester County
Lamar H. Kelsey, III, Special Referee

Unpublished Opinion No. 2012-UP-417
Submitted June 1, 2012 – Filed July 11, 2012

AFFIRMED

Glenda and Nathaniel McMickens, of Chester, pro se.

H. Guyton Murrell, of Columbia, for Respondent.

PER CURIAM: Nathaniel and Glenda McMickens, pro se, appeal the special referee's order granting summary judgment in favor of HSBC Bank. We affirm.¹

The McMickens argue the special referee erred in failing to sustain their objection to the admission of the proof of claim as evidence of the debt at the hearing. We disagree. Although the McMickens initially objected to the proof of claim, the McMickens agreed to its admission providing that HSBC Bank submitted an affidavit attesting that it was filed with the bankruptcy court. HSBC Bank submitted an affidavit and the McMickens did not file a Rule 59(e), SCRPC, motion challenging its admission. Therefore, we find this issue is not preserved for our review. See Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review."); I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) ("If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review").

Moreover, we find the special referee did not err in granting HSBC Bank's summary judgment motion. Even in viewing the evidence in the light

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

most favorable to the McMickens, no genuine issue as to any material fact existed and HSBC bank was entitled to a judgment as a matter of law. See Rule 56(c), SCRPC (providing summary judgment is appropriate when "no genuine issue as to any material fact" exists and "the moving party is entitled to a judgment as a matter of law"); see also Klippel v. Mid-Carolina Oil, Inc., 303 S.C. 127, 129, 399 S.E.2d 163, 164 (Ct. App. 1990) ("Under Rule 56, SCRPC, when a party makes a motion for summary judgment and supports it by affidavits the adverse party may not rest on the allegations of his pleadings but must respond by affidavits or other evidence demonstrating a genuine issue of material fact.").

AFFIRMED.

FEW, C.J., and HUFF and PIEPER, JJ., concur.



HFC/Beneficial
Member HSBC Group
961 Weigel Drive
Elmhurst, IL 60126

July 30, 2012

Nathaniel McMickens
Glenda McMickens
2834 James F. Wherry Rd.
Chester, SC 29706

RE: Account # 008560641

Dear Mr. and Mrs. McMickens:

This letter is in response to your recent inquiry with our Executive Services Department regarding the above referenced account.

You may use this letter as confirmation that the account referenced above has been paid in full, effective May 04, 2006. You now have a zero balance.

If you have any questions regarding this response, you can reach our Customer Resolution Department at (888) 892-9506.

Sincerely,

Marcos Sierra
Customer Resolution Department

SMSM



HSBC Mortgage Services
P.O. Box 9068
Brandon, FL 33509-9068

12/06/07

Re: Account #0008560641

NATHANIEL MCMICKENS
GLENDA MCMICKENS
2834 JAMES F WHERRY RD

CHESTER SC 29706-8459

Property Location:
2834 JAMES F WHERRY RD

CHESTER SC 29706

Dear Valued Customer:

We received your recent inquiry regarding the above referenced account and appreciate the opportunity to be of service.

This account was paid in full as of 05/04/06. We have sent your release of lien to the appropriate trustee or governmental office to evidence the satisfaction of your account.

Please be advised that due to the satisfaction of your loan, HSBC Mortgage Services will no longer pay any real estate taxes or insurance premiums on your behalf. You must arrange to pay these directly or through your current mortgage holder if applicable. Contact your real estate tax authority and insurance carrier as soon as possible for billing information.

Should you have any outstanding questions or require further assistance, please contact Customer Care at (800)333-7023 Monday through Friday between 8 a.m. and 8 p.m. Eastern time.

Sincerely,

HSBC Mortgage Services

CLERK OF COURT
CHESTER CO S.C.

RES/44

2009 FEB 23 P 4:21

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September 5, 2012

Nathaniel McMickens
Glenda McMickens
2834 James F. Wherry Road
Chester, SC 29706

Dear Mr. and Mrs. McMickens:

Your correspondence dated August 5, 2012 was received in the Executive Office of HSBC Bank USA, N.A. Thank you for taking the time to speak with me on September 5, 2012. I appreciate the opportunity to respond.

As discussed, HSBC Bank U.S.A. acts as a trustee for certain loan securitization trusts in connection with the issuance of mortgage backed securities. As trustee, the bank has only a nominal role with the respect to the properties owned by the trust. Under the agreements that establish the trusts, other companies are designated as the servicers of the loans and those servicers handle matters such as mortgage foreclosures, loan modifications, evictions and sales of foreclosed trust properties.

I am sorry we couldn't be of more assistance; however, it is important we supply contact information for the organization who can address your needs directly. Should you require any additional information, please contact the loan servicer, Ocwen Loan Servicing. Ocwen's Customer Service Department may be reached at 1-800-746-2936.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Christina Sittniewski".

Christina Sittniewski
Executive Office



June 30, 2006

NATHANIEL MCMICKENS
GLENDA MCMICKENS
2834 JAMES F. WHERRY ROAD
CHESTER, SC 29706

Re: NOTICE OF LOAN SATISFACTION
ACCOUNT LOAN #: 007186466
PROPERTY ADDRESS: 2834 JAMES F. WHERRY ROAD CHESTER, SC 29706

Dear Mortgagor(s):

You are hereby notified that the servicing of your mortgage loan, that is, the right to collect payments from you, has been paid in full accordingly, effective July 17, 2006 to Coastal Capital Corporation and will not accept payments. If you have any questions regarding this response, you can reach customer service at 888-840-2227 Monday through Friday 9AM-5PM EST.

Sincerely,

Coastal Capital Corporation

Contact Information:
Customer Service: (888) 840-2227
Fax: (877) 679-2627
2740 N. Dallas Parkway, Suite 100, Plano, TX 75093

2012 OCT -5 A 9:14
CLERK OF COURT
CHARLESTON CO S.C.

1100 Laurel Street
Columbia, SC 29201

DEBTED, DISMISSED, RECON

**United States Bankruptcy Court
District of South Carolina (Columbia)
Bankruptcy Petition #: 07-07099-jw
Internal Use Only**

Assigned to: Chief Judge John E. Waites
Chapter 13
Voluntary
Asset

Date Filed: 12/22/2007
Date Dismissed: 05/08/2008

Debtor

Nathaniel McMickens, Sr.
2834 James F Wherry Road
Chester, SC 29706
SSN: 248-96-9824

represented by **J. Steven Huggins**
816 Elmwood Avenue
Columbia, SC 29201
803-933-0202
Email:
attyhuggins@yahoo.com

Joint Debtor

Glenda L McMickens
2834 James F Wherry Road
Chester, SC 29706
SSN: 250-41-7268

represented by **J. Steven Huggins**
(See above for address)

Trustee

William K. Stephenson, Jr.
PO Box 8477
Columbia, SC 29202
(803) 254-2981

Filing Date	#	Docket Text
12/22/2007	1	Chapter 13 Voluntary Petition, Schedules and Statements. Filed by J. Steven Huggins on behalf of Nathaniel McMickens Sr., Glenda L McMickens. (Huggins, J.) (Entered: 12/22/2007)
12/22/2007	2	Plan, Motion to Establish Value Included in Chapter 13 Plan, Motion To Avoid Lien Included in Chapter 13 Plan Filed by Glenda L McMickens, Nathaniel McMickens Sr.. (Huggins, J.) (Entered: 12/22/2007)
12/22/2007	3	Bankruptcy Form 21 SSN. DOCUMENT IMAGE AVAILABLE ONLY TO COURT USERS. Filed by J. Steven Huggins on behalf of

		Glenda L McMickens, Nathaniel McMickens Sr.. (Huggins, J.) (Entered: 12/22/2007)
12/22/2007	<u>4</u>	Declaration Re: Electronic Filing Filed by J. Steven Huggins on behalf of Glenda L McMickens, Nathaniel McMickens Sr.. (Huggins, J.) (Entered: 12/22/2007)
12/22/2007	<u>5</u>	Certificate of Credit Counseling Filed by J. Steven Huggins on behalf of Glenda L McMickens, Nathaniel McMickens Sr.. (Huggins, J.) (Entered: 12/22/2007)
12/22/2007		Receipt of Filing Fee for Voluntary Petition (Chapter 13) (atty)(07-07099) [misc,volp13ac] (274.00). Receipt Number 3688657, amount 274.00. (U.S. Treasury) (Entered: 12/22/2007)
12/22/2007	<u>6</u>	Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, Deadlines and Notice of Appointment of Interim Trustee William K. Stephenson as Transmitted to the BNC for Service. 341(a) meeting to be held on 01/22/2008 at 10:00 AM at Columbia First Meetings. Last day to oppose dischargeability of certain debts is 03/24/2008. Proofs of Claim or Interest due by 04/21/2008. Confirmation Hearing to be held on 02/28/2008 at 09:00 AM at Columbia. (Entered: 12/22/2007)
12/26/2007		Deadlines terminated. Deadline: credit counseling due; ; Reason: certificate of credit counseling received (Rowell, L) (Entered: 12/26/2007)
12/28/2007	<u>7</u>	Certificate of Service of Meeting of Creditors Notice as served by the Bankruptcy Noticing Center. Service Date 12/28/2007. (Related Doc # <u>6</u>) (Admin.) (Entered: 12/29/2007)
01/02/2008	<u>8</u>	Trustee's Proposed Order To Pay. (Stephenson, William) (Entered: 01/02/2008)
01/03/2008	<u>9</u>	Order for Debtor's Employer to Pay Trustee. Document served and delegated. (Henton, N) (Entered: 01/03/2008)
01/07/2008	<u>10</u>	Notice of Appearance and Request for Notice with Certificate of Service Filed by John B. Kelchner of Korn Law Firm, PA on behalf of HSBC Bank as Trustee, for the registered holders of Nomura Home Equity Home Loan, Inc. Asset-Backed Certificates, Series 2007-2. (Kelchner, John) (Entered: 01/07/2008)
01/09/2008	<u>11</u>	Notice of Appearance and Request for Notice with Certificate of Service Filed by John B. Butler III on behalf of Robert Cooke.

		(Butler, John) (Entered: 01/09/2008)
01/10/2008	12	Notice of Appearance and Request for Notice with Certificate of Service Filed by FARMERS FURNITURE. (Farmer's Furniture,) (Entered: 01/10/2008)
01/11/2008	13	Objection to Confirmation of Plan <i>and Valuation; Request for Dismissal</i> with Certificate of Service Filed by Robert Cooke (related document(s)2). (Attachments: # 1 Exhibit Unpublished opinion# 2 Exhibit Unpublished opinion)(Butler, John) (Entered: 01/11/2008)
01/23/2008		Meeting of Creditors Held and Examination of Debtor on 01/22/2008 (Stephenson, William) (Entered: 01/23/2008)
02/21/2008	14	Motion to Compel <i>Discovery Responses and Memorandum</i> with Certificate of Service Filed by John B. Butler III on behalf of Robert Cooke. (Attachments: # 1 Exhibit Unpublished opinion# 2 Exhibit Correspondence# 3 Exhibit Unpublished opinion) (Butler, John) (Entered: 02/21/2008)
02/22/2008		Pleading Routed to ACT regarding Motion to Compel, filed by Creditor Robert Cooke (related document(s)14) (Rowell, L) (Entered: 02/22/2008)
02/25/2008	15	Order Granting Motion To Compel Answer (Related Doc # 14). Sent To BNC For Service. (Rowell, L) (Entered: 02/25/2008)
02/25/2008	16	Hearing scheduled relating to: Motion to Compel (FEES AND COSTS) <i>Discovery Responses and Memorandum</i> with Certificate of Service Filed by John B. Butler III on behalf of Robert Cooke. (Attachments: # (1) Exhibit Unpublished opinion# (2) Exhibit Correspondence# (3) Exhibit Unpublished opinion) (Butler, John). Document Sent to BNC for Service. (related document(s)14) Hearing scheduled for 3/13/2008 at 09:30 AM at Columbia. Objections due by 3/10/2008. (Rowell, L) (Entered: 02/25/2008)
02/25/2008	17	Notice, Amended Ch. 13 Plan with Certificate of Service, Motion To Avoid Lien Included in Chapter 13 Plan, Motion to Establish Value Included in Chapter 13 Plan Filed by Glenda L McMickens, Nathaniel McMickens Sr.. (Huggins, J.) (Entered: 02/25/2008)
02/26/2008	18	Withdrawal of Objection to Confirmation of the Plan, filed by Creditor Robert Cooke with Certificate of Service. Reason for Withdrawal: Amended plan resolving objection filed Filed by John B. Butler III on behalf of Robert Cooke (related document(s)13). (Butler, John) (Entered: 02/26/2008)

02/26/2008	<u>19</u>	Withdrawal of Motion to Compel, filed by Creditor Robert Cooke with Certificate of Service. Reason for Withdrawal: Motion withdrawn by consent of parties Filed by John B. Butler III on behalf of Robert Cooke (related document(s) <u>14</u>). (Butler, John) (Entered: 02/26/2008)
02/26/2008	<u>13</u>	Calendar Removal Request re: Judge Waites on 2/28/2008 Slot no. 50 Filed by John B. Butler III on behalf of Robert Cooke (related document(s) <u>13</u>). (Butler, John) (Entered: 02/26/2008)
02/27/2008		Deadlines terminated. Deadline: hearing on motin to compel; Related Document(s): 13, 18, 19 - objection to plan and 2 subsequent withdrawal; Reason: motion withdrawn, Document(s) 13, 18, 19 - objection to plan and 2 subsequent withdrawal terminated. Reason: objection and motion to compel withdrawn. (Rowell, L) (Entered: 02/27/2008)
02/27/2008	<u>20</u>	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Service Date 02/27/2008. (Related Doc # <u>16</u>) (Admin.) (Entered: 02/28/2008)
02/27/2008	<u>21</u>	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Service Date 02/27/2008. (Related Doc # <u>15</u>) (Admin.) (Entered: 02/28/2008)
02/28/2008	<u>22</u>	Confirmation Hearing Held - JW CI Order re: Amended Plan, Lien Avoidance Included in Ch. 13 Plan, Valuation Included in Ch. 13 Plan filed by Debtor Nathaniel McMickens, Joint Debtor Glenda L McMickens. Document Sent to BNC for Service (related document(s) <u>17</u>). (Babb, A) (Entered: 02/28/2008)
03/01/2008	<u>23</u>	Certificate of Service of C Order as served by the Bankruptcy Noticing Center. Service Date 03/01/2008. (Related Doc # <u>22</u>) (Admin.) (Entered: 03/02/2008)
04/16/2008	<u>24</u>	Withdrawal of Claims: 3,4,5,6,7 Filed by Central Financial Control. (Central Financial Control,) (Entered: 04/16/2008)
05/07/2008	<u>25</u>	Affidavit by Trustee re: Debtor's Failure to Submit Required Documents Pursuant to SCLBR 3015-2. (Stephenson, William) (Entered: 05/07/2008)
05/07/2008	<u>26</u>	Proposed Order RE: Dismissal for Failure to Submit Requested Document(s). (Stephenson, William) (Entered: 05/07/2008)

05/08/2008		Proposed Order Routed To Chambers regarding Affidavit re: Failure to Submit Required Documents (related document(s) <u>25</u>) (Rowell, L) (Entered: 05/08/2008).
05/08/2008	<u>27</u>	Order Dismissing Case For Failure To Submit Requested Documents pursuant to SC LBR 3015-2. Document Served by BNC. (Rowell, L) (Entered: 05/09/2008)
05/11/2008	<u>28</u>	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Service Date 05/11/2008. (Related Doc # <u>27</u>) (Admin.) (Entered: 05/12/2008)
05/13/2008	<u>29</u>	Motion to Reconsider Dismissal of Case RE: Order Dismissing Case For Failure To Submit Requested Documents pursuant to SC LBR 3015-2. Document Served by BNC. (Rowell, L) with Certificate of Service Filed by J. Steven Huggins on behalf of Glenda L McMickens, Nathaniel McMickens Sr. (related document(s) <u>27</u>). (Attachments: # <u>1</u> Proposed Order) (Huggins, J.) (Entered: 05/13/2008)
05/14/2008		Pleading Routed to ACT regarding Motion to Reconsider, filed by Debtor Nathaniel McMickens, Joint Debtor Glenda L McMickens (related document(s) <u>29</u>) (Rowell, L) (Entered: 05/14/2008)
05/14/2008	<u>30</u>	Hearing scheduled relating to: Motion to Reconsider Dismissal of Case RE: Order Dismissing Case For Failure To Submit Requested Documents pursuant to SC LBR 3015-2. Document Served by BNC. (Rowell, L) with Certificate of Service Filed by J. Steven Huggins on behalf of Glenda L McMickens, Nathaniel McMickens Sr. (related document(s) <u>27</u>). (Attachments: # (1) Proposed Order) (Huggins, J.). Document Sent to BNC for Service. (related document(s) <u>29</u>) Hearing scheduled for 6/6/2008 at 09:30 AM at Columbia. Objections due by 5/29/2008. (Rowell, L) (Entered: 05/14/2008)
05/16/2008	<u>31</u>	Objection to Motion to Reconsider, filed by Debtor Nathaniel McMickens, Joint Debtor Glenda L McMickens with Certificate of Service Filed by William K. Stephenson Jr. (related document(s) <u>29</u>). (Stephenson, William) (Entered: 05/16/2008)
05/16/2008	<u>32</u>	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Service Date 05/16/2008. (Related Doc # <u>30</u>) (Admin.) (Entered: 05/17/2008)
05/19/2008	<u>33</u>	Objection to Motion to Reconsider, filed by Debtor Nathaniel McMickens, Joint Debtor Glenda L McMickens with Certificate of Service Filed by Robert Cooke (related document(s) <u>29</u>). (Butler,

		John) (Entered: 05/19/2008)
06/06/2008	●	Hearing Held. relating to: Motion to Reconsider, filed by Debtor Nathaniel McMickens, Joint Debtor Glenda L McMickens JW. motion withdrawn - no order necessary (related document(s) <u>29</u>) (Miller, B) (Entered: 06/06/2008)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

In re:)
Nathaniel McMickens Sr. and)
Glenda L. McMickens)
DEBTOR(S))

CASE NO.: 07-07099-W
OBJECTION TO CHAPTER 13 PLAN
AND RELATED MOTIONS

Robert Cooke (Creditor") a creditor in the above case, through his attorney, John B Butler III, objects to the Chapter 13 plan filed in the above case on the following grounds:

1. Creditor is informed and believes that the value proposed by the debtors is not equal to the replacement value of the real estate and home, therefore, the debtors' plan does not pay Creditor the allowed amount of its claim thus violating §1325(a)(5)(B)(ii). See, Associates Commercial Corp. v. Rash, 117 S. Ct. 1879 (1997). Creditor is informed and believes that debtors' schedules list \$120,000 for the real estate and home and that the appraised value may be greater than that propounded by the debtors.
2. Creditor is informed and believes that another mortgage holder, Ocwen Loan Servicing as servicing agent for HBSC filed a claim for \$101,814.14 on January 3, 2008.
3. Creditor is informed and believes that it has a valid mortgage secured by real estate which is the debtors' primary residence and that there is sufficient equity in the real estate and home so as to constitute equity for Creditor's lien to attach and to be protected by §1322(b)(2). See, Nobelman v. American Savings Bank, 113 S. Ct. 2106, 2111 (1993) ([T]o give effect to §506(a)'s valuation and bifurcation of secured claims through a Chapter 13 plan in the manner petitioners propose would require a modification of the rights of the holder of the security interest. Section 1322(b)(2) prohibits such a modification where, as here, the lender's claim is secured only by a lien on the debtor's principal residence."). See, also, Witt v. United Companies Lending Corp. (In re Witt), 113 F.3d 508 (4th Cir. 1997); In re Whack, 02-11864-B (Bankr. D.S.C. 5/16/03) (WTB) (Court granted mortgage creditor's motion pursuant to F.R. Bankr. P. 9024 and F.R. Civ. P. 60(b) to vacate order confirming chapter 13 plan which valued claim secured solely by security interest in debtor's primary residence. Even though the creditor failed to object to the plan, the Court held that the res judicata effect of §1327(a) did not permit the plan to violate the provisions of §1322(b)(2). With respect to the binding effect of the debtor's plan, the Court stated: "In the present case, the debtor's plan does not accurately characterize BOA's claim as a 'long-term mortgage debt' but rather as a 'secured debt.' Neither the debtor nor the trustee objected to BOA's timely filed claim. Because BOA's claim is improperly characterized in the plan and improperly treated pursuant to the applicable provisions of the Bankruptcy Code, this Court concludes that BOA's claim is not 'provided for' by the debtor's plan; thus BOA is not bound by the terms of the confirmed plan, and BOA's lien will survive confirmation even if its claim is paid in full pursuant to the plan's terms." With respect to the relief available to the creditor under F.R. Civ. P. 60(b), the Court stated: "This Court further concludes that the confirmation order in this case is not void because it does contain a provision which indicates that provisions which do not comply with the Bankruptcy Code are not confirmed by the order. Thus BOA is not entitled to relief pursuant to Rule 60(b)(4) of the Federal Rules of Civil Procedure. Generally, courts have held that relief pursuant to Rule 60(b)(6) is only to be granted in exceptional or extraordinary circumstances and that the reason for the motion must be one that is not listed in the other subclauses of Rule 60(b).... In this situation, it appears that none of the remaining subclauses of Rule 60(b) is applicable to afford relief to BOA, and it also appears that the circumstances giving rise to the motion for relief are unusual. This Court concludes that BOA's motion was made within a reasonable time of the entry

of the confirmation order. Further, this Court concludes that because the provision in the debtor's plan for treatment of BOA's claim is prohibited by the provisions of the Bankruptcy Code, specifically 11 U.S.C. §1322(b)(2), BOA is entitled to relief from operation of the order confirming the plan."); In re Utsey, 02-08676-W (Bankr. D.S.C. 10/4/02) (JW) (Court sustained second mortgage creditor's objection to chapter 13 plan which proposed to value second mortgage on residence at \$0. The debtor contended that the value of the house did not exceed the amount of the first mortgage, therefore, the second mortgage was totally undersecured. Even though, neither appraiser testified, the Court considered a recent appraisal of \$65,000 by the debtor's appraiser and a one year old appraisal of \$110,000 by the creditor's appraiser. With respect to the appraisals, the Court stated: "Initially, the Court notes the difficulty in evaluating written appraisals that present such a significant range of difference in values, \$65,000.00 and \$110,000.00, without the supporting testimony from the appraisers or Debtor. However, the Court identifies the following factors as a basis for its decision in this case. First, although Debtor's appraisal is more recent than SCF's appraisal, which was apparently made in connection with the loan made to Debtor in 2001, the comparable sales used in Debtor's appraisal were located between 5 and 11 miles from Debtor's residence, while two of the three comparables used in SCF's appraisal were located within 1.5 miles of Debtor's residence. Secondly, SCF's appraisal indicates that since Debtor purchased the residence in March of 2001, remodeling was done, which increased the value of the residence. However, Debtor did not present further evidence or testimony to explain the apparent decrease in value between 2001 to the date of the recent appraisal. For those reasons, the Court finds the Johnson appraisal more persuasive." In denying confirmation of the debtor's plan, the Court stated: "Weighing the evidence before the Court and recognizing that it is Debtor's burden of proof to establish value for purpose of stripping off the second mortgage... and Debtor's burden to meet the requirements of §1325...the Court finds that Debtor's residence is worth more than the stipulated amount of the first mortgage on the property; therefore, the second mortgage held by SCF is not modifiable as SCF is entitled to the protection of §1322(b)(2).").

4. Debtors' case is not filed in good faith in that debtors are improperly attempting to use §506 to value a claim which is not subject to valuation or stripping down.
5. Debtors are attempting to determine the validity, amount or extent of Creditor's lien without commencing an adversary proceeding as required by Fed. R. Bank. P. 7001(2).
6. Debtors' plan is not feasible in that Debtors do not have sufficient income to propose a plan which pays Creditor's matured, valid and enforceable mortgage debt.
7. Any such matters as may be revealed at the meeting of creditors or through the discovery process.

WHEREFORE, creditor requests that confirmation of the plan proposed by the debtor(s) be denied, that the instant case be dismissed and for such other relief as is just.

/s/ John B Butler
John B Butler III
1217 Anthony Avenue
Columbia, South Carolina 29201
(803)256-9661 Id. #1632

January 11, 2008
cc

J. Steven Huggins
816 Elmwood Ave.
Columbia, SC 29201

Wm. K. Stephenson, Jr
via ECF

Robert Cooke
115 Pine Lane
Pickens, SC 29671

I, the undersigned assistant of John B Butler III, do hereby certify that I have mailed a copy of the above objection to the parties listed above by mailing a copy of the same by United States Mail, First Class, Postage Prepaid, to the addresses listed above.

/s/ Libby B. Berry

Sworn to before me this 11 January 2008

/s/ Allen B. Wise (LS)

Notary Public for South Carolina

My Commission Expires:1/18/16

United States Bankruptcy Court – District of South Carolina
J. Bratton Davis United States
Bankruptcy Courthouse
1100 Laurel Street
Columbia, SC 29201–2423

Case Number: 07–07099–jw

Chapter: 13

In re: (Debtor(s) name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address)

Nathaniel McMickens Sr.
2834 James F Wherry Road
Chester, SC 29706

Glenda L McMickens
2834 James F Wherry Road
Chester, SC 29706

SSN: xxx–xx–9824

SSN: xxx–xx–7268

Filed By The Court

5/14/08

Tammi M. Hellwig
Clerk of Court
US Bankruptcy Court

NOTICE OF HEARING

PLEASE TAKE NOTICE that a hearing will be held at:

**J. Bratton Davis United States
Bankruptcy Courthouse
1100 Laurel Street
Columbia SC 29201–2423**

on **June 6, 2008 at 09:30 AM** , to consider and act upon the following pleading:

Motion to Reconsider Dismissal of Case RE: Order Dismissing Case For Failure To Submit Requested Documents pursuant to SC LBR 3015–2.

The pleadings related thereto are on record in the Office of the Clerk of Court for inspection by any interested party. Any party objecting to the relief sought must file a response in the Office of the Clerk of Court, United States Bankruptcy court, and, in accordance with Local Bankruptcy Rule 9014–4, must serve the party seeking the relief with a copy of said objection **by 5/29/08** . Any party failing to do so may be denied the opportunity to be heard. Please take notice that any party which has filed and served an objection in accordance with Local Bankruptcy Rule 9014–4 and which fails to appear at the time and place above noticed to prosecute that objection, may have its objection not considered by this court.

If the party filing the document referred to above has not served the document as required by the Federal Rules of Bankruptcy Procedure and the Local Rules of this court, the filing party is hereby notified that, at the hearing above referenced, the court may give notice of the possible imposition of sanctions, against the filing party, pursuant to Federal Rule of Bankruptcy Procedure 9011 for failure to effect service. Further, if the above hearing is scheduled as a result of a response or objection being filed to a document served on parties but not filed with the court, the serving party is hereby notified that, at the hearing above referenced, the court may give notice of the possible imposition of sanctions, against the serving party, pursuant to Federal Rule of Bankruptcy Procedure 9011 for failure to effect filing.

Dated: May 14, 2008

Tammi M. Hellwig
Clerk, US Bankruptcy Court

By: L Rowell
Deputy Clerk

District of South Carolina Claims Register

07-07099-hb Nathaniel McMickens and Glenda L McMickens Closed 04/01/2009, Debtor dismissed 05/08/2008, Joint debtor dismissed 05/08/2008

Judge: Helen E. Burris

Chapter: 13

Office: Columbia

Last Date to file claims:

Trustee: William K. Stephenson Jr.

Last Date to file (Govt):

<p><i>Creditor:</i> (540693330) MOSS & ASSOCIATES, ATTORNEYS, P.A. 816 ELMWOOD AVENUE Columbia SC 29201</p>	<p>Claim No: 1 <i>Original Filed</i> Date: 12/22/2007 <i>Original Entered</i> Date: 12/22/2007</p>	<p><i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> Huggins, J. <i>Modified:</i></p>
<p>Unknown claimed: \$1875.00 Total claimed: \$1875.00</p>		
<p><i>History:</i> <u>Details</u> <u>1-1</u> 12/22/2007 Claim #1 filed by MOSS & ASSOCIATES, ATTORNEYS, P.A., total amount claimed: \$1875 (Huggins, J.)</p>		
<p><i>Description:</i></p>		
<p><i>Remarks:</i></p>		

<p><i>Creditor:</i> (540697451) Ocwen Loan Servicing, LLC 12650, Ingenuity Drive Orlando, FL 32826</p>	<p>Claim No: 2 <i>Original Filed</i> Date: 01/03/2008 <i>Original Entered</i> Date: 01/03/2008 <i>Last Amendment</i> Filed: 01/29/2008 <i>Last Amendment</i> Entered: 01/29/2008</p>	<p><i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> OCWEN Loan Servicing, LLC, <i>Modified:</i></p>
<p>Secured claimed: \$102631.91 Total claimed: \$102631.91</p>		
<p><i>History:</i> <u>Details</u> <u>2-1</u> 01/03/2008 Claim #2 filed by Ocwen Loan Servicing, LLC, total amount claimed: \$101814.14 (OCWEN Loan Servicing, LLC) <u>Details</u> <u>2-2</u> 01/29/2008 Amended Claim #2 filed by Ocwen Loan Servicing, LLC, total amount claimed: \$102631.91 (OCWEN Loan Servicing, LLC)</p>		
<p><i>Description:</i></p>		
<p><i>Remarks:</i></p>		

<p><i>Creditor:</i> (540703414) Central Financial Control P.O. BOX 66040 Anaheim, CA 92816-6040</p>	<p>Claim No: 3 <i>Original Filed</i> Date: 01/08/2008 <i>Original Entered</i></p>	<p><i>Status:</i> Withdraw <u>24</u> <i>Filed by:</i> CR <i>Entered by:</i> Central Financial Control, <i>Modified:</i></p>
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KORN LAW FIRM, P. A.
POST OFFICE BOX 11264,
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29211
(803) 252-5817

May 20, 2009

Glenda McMickens
2834 James F. Wherry Road
Chester, SC 29706

RE: HSBC Bank v. Nathaniel McMickens, et al
Case No.2007-CP-12-559
File No.F27-03230

Robert Cooke v. Nathaniel McMickens, et al
Case No.2006-CP-12-034
File No.K27-03230

Dear Ms. McMickens:

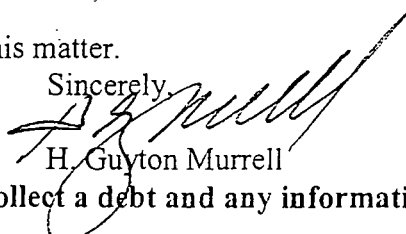
Per your request that I provide documents regarding the mortgage held by HSBC Bank, I have enclosed the following:

Note
Mortgage
Assignment
Proof of claim
Letter dated 3/19/09

I do not understand your confusion over this mortgage debt as you listed it in your Chapter 13 plan in Bankruptcy Case #07-07099-jw. I have enclosed the proof of claim filed by Ocwen in the Bankruptcy as the servicing agent for HSBC. As you had denied receiving the letter from Kirk Abernathy dated March 19, 2009 confirming that you have a mortgage account with HSBC, I have enclosed a copy of that letter as well.

Thank you for your attention in this matter.

Sincerely,


H. Guyton Murrell

This communication is an attempt to collect a debt and any information gained will be used for that purpose.

cc:

Chester County Clerk of Court
P.O. Drawer 580
Chester, SC 29706


CLERK OF COURT
CHESTER COUNTY, SC
2009 MAY 22 11:10 AM



www.mers-servicerid.org

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1 record matched your search:

[Need help?](#) 

MIN:1000460-0008560641-0 Note Date:05/10/2004

MIN Status:Inactive

Servicer: [HSBC Mortgage Services](#)

Phone:(813) 571-8493

Brandon, FL

If you are a borrower on this loan, you can [click here](#) to enter additional information and display the Investor name.

[Return to Search](#)

For more information about MERS please go to www.mersinc.org

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Visit our website:
www.mersinc.org

To: Requester

From: MERS Servicer Identification System

RE: 100103100071864666
MIN is active on MERS

Date: 07/27/2010

**Have you tried our online Servicer Identification System?
It offers additional search options, and is available 24/7 at www.mers-servicerid.org.**

Servicer information for this loan appears below:

Ocwen Loan Servicing, LLC
1000223
West Palm Beach, FL
(800) 746-2936

Investor information for this loan appears below:

Nomura Credit Capital Inc.
1002230
Depew, NY
(716) 204-3693



For More Information.
Visit our website:
www.mersinc.org

To: Requester

From: MERS® ServicerID

RE: 100103100071864666
MIN is active on the MERS® System

Date: 04/26/2012

Have you tried MERS® ServicerID?
It offers additional search options, and is available online 24/7 at www.mers-servicerid.org.

Servicer information for this loan appears below:

Ocwen Loan Servicing, LLC
1000223
West Palm Beach, FL
(800) 746-2936

Investor information for this loan appears below:

HSBC Bank USA, National Association.
1003169
New York City, NY
(800) 338-4626

KORN LAW FIRM, P.A.

ATTORNEYS AND COUNSELORS AT LAW
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29201

Peter D. Korn
John S. Kay
Dean A. Hayes
Alan M. Stewart*
H. Guyton Murrell

**Also Admitted in North Carolina*

MAILING ADDRESS
POST OFFICE BOX 12369
COLUMBIA, SOUTH CAROLINA 29211-2369
(803) 252-5817
FACSIMILE (803) 231-2060

John B. Kelchner
Suzannah Hayes
Meredith S. Lee
Ashley Zarratt
Wylie W. Clarkson
Christopher Truluck

2
August 1, 2012

Chester County Clerk of Court
Post Office Drawer 580
Chester, SC 29706

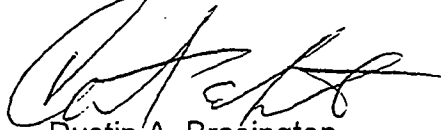
RE: HSBC Bank, et al. v. Nathaniel McMickens, et al.
C/A No.: 2007-CP-12-0559
Our File No.: F27-03230

Dear Sir or Madam:

Enclosed, please find the original and a copy of the Affidavit of Debt in connection with the above referenced action. Please file these for record and return a copy to me in the self-addressed, stamped envelope provided.

Feel free to contact me with any questions or concerns.

Sincerely,



Dustin A. Brasington
Litigation Paralegal

/dab
Enc. (as stated)

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

HSBC Bank as Trustee for the registered
holders of Nomura Home Equity Home Loan,
Inc., Asset-Backed Certificates, Series 2007-2,

PLAINTIFF,

vs.

Nathaniel McMickens, Glenda McMickens and
Robert Cooke,

DEFENDANT(S).

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

Robert Cooke,

PLAINTIFF,

vs.

Glenda McMickens, Nathaniel McMickens and
Mortgage Electronic Registration Systems, Inc.
as nominee for Coastal Capital Corp.,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2007-CP-12-0559

IN THE COURT OF COMMON PLEAS

C/A NO: 2007-CP-12-034

AFFIDAVIT OF DEBT

F27-03230

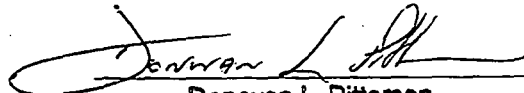
The undersigned, being duly sworn, states that he/she, Donovan L. Pitterson, is an employee of Ocwen Loan Servicing, LLC as Attorney In Fact Under a Limited Power of Attorney for HSBC Bank which, in its regular course of business, keeps records of all loans held by it, including the loan at issue in this case and that he/she is employed as Contract Manager with Ocwen Loan Servicing, LLC, and in that position has access to and personal knowledge of the information contained in the loan records maintained by it.

The undersigned further states that HSBC Bank is the holder of the note and mortgage entered into by Nathaniel McMickens and Glenda McMickens; that copies of the note and mortgage are attached as Exhibits A and B, respectfully; and that the mortgagor is in default for failing to make the monthly payments on the note.

The undersigned further states that the following amounts, exclusive of attorney's fees and costs are due on this loan as follows:

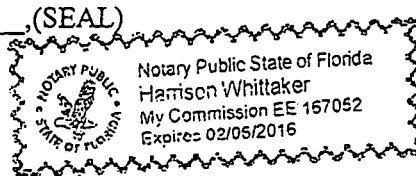
Principal	\$91,524.77
Interest Accrued (June 1, 2007 through July 24, 2012 at 10.75%)	\$50,209.32
Escrow Advances	\$3,566.86
Fees	
Late Charges	\$321.95
Less Suspense Balance	(\$252.14)
TOTAL AMOUNT DUE:	\$145,370.76

OCWEN LOAN SERVICING, LLC, *its Attorney-in-Fact.*


By: Donovan L. Pitterson
Its: Contract Manager

SWORN to before me this
31 day of July, 2012

Notary Public for _____
My Commission expires _____



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHESTER

LIS PENDENS

HSBC Bank as Trustee, for the registered holders of Nomura Home Equity Home Loan, Inc. Asset-Backed Certificates, Series 2007-2,

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 07-CP-12-559

PLAINTIFF,

DEFICIENCY REQUESTED

vs.

Nathaniel McMickens , Glenda L. McMickens and Robert Cooke,

DEFENDANT(S).

2007 NOV - 8 P 2 58

F27-03230

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in this court upon Complaint of the above-named Plaintiff against the above-named Defendant for foreclosure of a certain mortgage of real estate given by Glenda L. McMickens and Nathaniel McMickens to Mortgage Electronic Registration Systems, Inc. solely as nominee for Coastal Capital Corp. in the amount of Ninety-Two Thousand And 00/100 (\$92,000.00) Dollars, dated April 28, 2006, and recorded May 31, 2006 in the Office of the Register of Deeds for Chester County in Book 1293 Page 193.

Thereafter, by virtue of an assignment dated July 23, 2007, recorded September 13, 2007, in Mortgage Book 1370 at page 147, Mortgage Electronic Registration Systems, Inc. acting solely as nominee for Coastal Capital Corp. assigned said mortgage unto HSBC Bank as Trustee, for the registered holders of Nomura Home Equity Home Loan, Inc. Asset-Backed Certificates, Series 2007-2 making HSBC Bank as Trustee, for the registered holders of Nomura Home Equity Home Loan, Inc. Asset-Backed Certificates, Series 2007-2 the present lien holder and Plaintiff herein.

The premises covered and affected by the said mortgage as by the foreclosure thereof, were, at the time of the making thereof, and at the time of the filing of this Notice, described as follows:

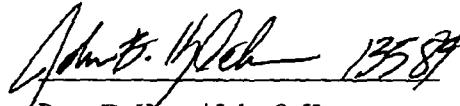
LEGAL DESCRIPTION AND PROPERTY ADDRESS:

The following described property, all that piece, parcel or lot of land, with any and all improvements thereon, lying and being situate in the County of Chester, State of South Carolina, fronting on Road S-12-191 leading to S.C. Highway 72, containing 1.03 acres, more or less and having such courses and distances, metes and bounds as will appear on a plat of same prepared by Fred J. Hager dated June 23, 1969, recorded in Deed Book 442 at Page 141, Office of the Clerk of Court for Chester County; and being the identical premises conveyed to Jessie McMickens and Nathaniel McMickens by deed recorded March 19, 1993 in Deed Book 636, Page 92, Jessie McMickens is conveying all of his interest in this property, which is a one-half (1/2) interest to the grantee.

This being the same property conveyed to Jessie McMickens and Nathaniel McMickens by Deed of Robert M. Thompson, dated March 19, 1993 and recorded on March 19, 1993 in the Clerk of Court's Office for Chester County, South Carolina in Book 636 at page 92. Thereafter, Jessie McMickens conveyed his one-half (1/2) interest to Glenda L. McMickens by deed dated June 16, 1994 and recorded on June 27, 1994 in the Clerk of Court's Office for Chester County, South Carolina in Book 660 at page 129.

2834 James F. Wherry Road, Chester, SC 29706
TMS # 095-00-00-041

KORN LAW FIRM, P.A.
1300 Pickens Street.
P.O. Box 11264
Columbia, SC 29211-1264
S.C. Bar #7914



Peter D. Korn / John S. Kay
Alan M. Stewart / H. Guyton Murrell Brett
Kline / John B. Kelchner
Attorneys for Plaintiff

Columbia, South Carolina
November 5, 2007

PROOF OF SERVICE

I certify that I have served the Appellant's Return to Respondent's Petition for Writ of Certiorari by depositing a copy in the United States Mail postage pre-paid on November 30, 2012, addressed to the Respondents at Korn Law Firm, 1300 Pickens Street P.O.Box 12369 Columbia, SC 29211-2369 and South Carolina Supreme Court Post Office Box 11330 Columbia, South Carolina 29211.

Nathaniel & Glenda McMickens

Nathaniel and Glenda McMickens

2834 James F. Wherry Road

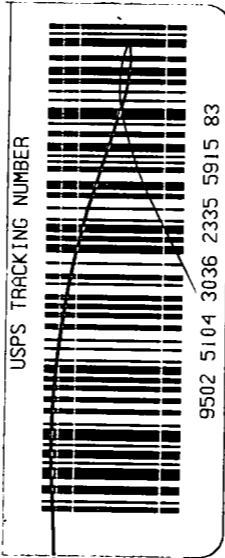
Chester, South Carolina 29706

(803)581-8700

November 30, 2012



Ms. Glenda McMickens
 2834 James F Wherry Rd.
 Chester, SC 29706-8459



USPS TRACKING NUMBER

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