

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Joseph M. Strickland, Master in Equity
Case No. 2010-CP-40-5886

Appellate Case No. 2016-001119.

MidFirst Bank,..... Respondent,

v.

Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Kilgore Marketing Solutions dba RSVP Columbia; Tauheedah Mateen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; South Carolina Attorney General; South Carolina Department of Motor Vehicles,.....Defendants,

of whom Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel, and individually is..... Appellant.

RECORD ON APPEAL

Leonard R. Jordan, Jr.
JORDAN LAW FIRM
211 Veterans Road, Suite D
Columbia, South Carolina 29209
Attorney for Appellant, Mahasin K. Bowen,
as Personal Representative for the Estate of
Mary Lee Samuel, and individually

William S. Koehler
BROCK AND SCOTT PLLC
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
Attorney for Respondent, MidFirst Bank

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Joseph M. Strickland, Master in Equity
Case No. 2010-CP-40-5886

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v.

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of whom Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel, and individually is..... Appellant.

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
C/A NO.: 2010-CP-40-5886

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen, as Personal Representative for the Estate
of Mary Lee Samuel; Mahasin K. Bowen; Raymond Samuel
a/k/a Shamsud-din Raymond Samuel; Cecil Samuel a/k/a
Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Tauheedah Mateen; Kilgore
Marketing Solutions dba RSVP Columbia; South Carolina
Department of Motor Vehicles,

Defendant(s).

ORDER OF REFERENCE
(Action for Foreclosure)

Upon motion of the undersigned attorney for Plaintiff, it appearing that this case is a foreclosure action, and it further
appearing, pursuant to Rule 53(b) South Carolina Rules of Civil Procedure, that this is a proper matter to refer to The Honorable Joseph
M. Strickland as Master In Equity for Richland County.

Now therefore, IT IS ORDERED that the above entitled cause be, and the same is hereby, referred to The Honorable Joseph
M. Strickland as Master In Equity for Richland County for a final foreclosure hearing to be held, wherein the Master In Equity will make
appropriate findings of fact and conclusions of law with authority to dispose of any and all issues and enter a final judgment in the cause,
without further order of court, to order a judicial sale on any day, not just a regular judicial sales day and to hear any issues and make
any orders after sale or judgment, including but not limited to, issues involving surplus funds pursuant to Rule 71(c) SCRCF, Petitions or
Motions relating to Writ of Assistance or any other actions as to possession, and/or removal of property, and issues pursuant to
appraisal proceedings under S.C. Code Ann. Section 29-3-680, et seq. (1976 SC Code of Laws, as amended).

Any appeal from the final judgment in this cause shall be to the South Carolina Court of Appeals.

Clerk of Court

Richland South Carolina

Date: 8-18-13

WE SO MOVE:

Chad Burgess, SC Bar No. 72520
Travis E. Menk, SC Bar No. 79144
Sarah O. Leonard, SC Bar No. 80165
J. Martin Page, SC Bar No. 100200
Brook Dangerfield, SC Bar No. 77912
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Phone 803-454-3540 Fax 803-454-3541
Attorneys for Plaintiff

B&S No.: 08-01399



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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
C/A NO.: 2010-CP-40-5886

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Tauheedah Mateen; Kilgore Marketing Solutions dba RSVP Columbia; South Carolina Department of Motor Vehicles,

Defendant(s).

ORDER OF REFERENCE
(Action for Foreclosure)

Upon motion of the undersigned attorney for Plaintiff, it appearing that this case is a foreclosure action, and it further appearing, pursuant to Rule 53(b) South Carolina Rules of Civil Procedure, that this is a proper matter to refer to The Honorable Joseph M. Strickland as Master In Equity for Richland County.

Now therefore, IT IS ORDERED that the above entitled cause be, and the same is hereby, referred to The Honorable Joseph M. Strickland as Master In Equity for Richland County for a final foreclosure hearing to be held, wherein the Master In Equity will make appropriate findings of fact and conclusions of law with authority to dispose of any and all issues and enter a final judgment in the cause, without further order of court, to order a judicial sale on any day, not just a regular judicial sales day and to hear any issues and make any orders after sale or judgment, including but not limited to, issues involving surplus funds pursuant to Rule 71(c) SCRPC, Petitions or Motions relating to Writ of Assistance or any other actions as to possession, and/or removal of property, and issues pursuant to appraisal proceedings under S.C. Code Ann. Section 29-3-680, et seq. (1976 SC Code of Laws, as amended).

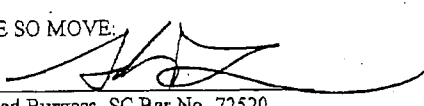
Any appeal from the final judgment in this cause shall be to the South Carolina Court of Appeals.

Clerk of Court

Richland South Carolina

Date: 8-18-13

WE SO MOVE:


Chad Burgess, SC Bar No. 72520
Travis E. Menk, SC Bar No. 79144
Sarah O. Leonard, SC Bar No. 80165
J. Martin Page, SC Bar No. 100200
Brook Dangerfield, SC Bar No. 77912
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3800 Fernandina Road, Suite 110
Columbia, SC 29210
Phone 803-454-3540 Fax 803-454-3541
Attorneys for Plaintiff

B&S No.: 08-01399



STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal
Representative for the Estate of Mary Lee
Samuel; Mahasin K. Bowen; Raymond
Samuel a/k/a Shamsud-din Raymond
Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel;
Tauheedah Mateen; Kilgore Marketing
Solutions dba RSVP Columbia; South
Carolina Department of Motor Vehicles,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO: 2010-CP-40-5886

NOTICE OF HEARING

RICHLAND COUNTY
FILED
2015 MAY - 7 AM 10:16
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

YOU WILL PLEASE TAKE NOTICE THAT, by virtue of the Order of Reference issued in the above-captioned foreclosure action, the Honorable Joseph M. Strickland, Master-In-Equity for Richland County, has appointed June 25, 2015 at 10:00 a.m. at Richland County Judicial Center, 1701 Main Street, Courtroom 2-D, Columbia, South Carolina, as the time and place for holding a hearing on Plaintiff's Motion for Summary Judgment, at which time and place all interested parties should appear.

You are requested to notify Brock & Scott, PLLC at phone number (803) 454-3540 of your intention to appear.

BROCK & SCOTT, PLLC



William P. Stork, SC Bar No: 100242

3800 Fernandina Road, Suite 110

Columbia, SC 29210

Phone 803-454-3540 Fax 803-454-3541

ATTORNEYS FOR PLAINTIFF

May 4, 2015
Columbia, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

MidFirst Bank,

C/A NO: 2010-CP-40-5886

Plaintiff,

v.

Mahasin K. Bowen, as Personal
Representative for the Estate of Mary Lee
Samuel; Mahasin K. Bowen; Raymond
Samuel a/k/a Shamsud-din Raymond
Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel;
Tauheedah Mateen; Kilgore Marketing
Solutions dba RSVP Columbia; South
Carolina Department of Motor Vehicles,

Defendants.

CERTIFICATE OF SERVICE

RICHLAND COUNTY
FILED
2015 MAY -7 AM 10:16
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The undersigned hereby certifies that she is an employee of Brock & Scott, PLLC, and is a person of such age and discretion as to be competent to serve papers.

That on the 4th day of May, 2015, she served a copy of a **NOTICE OF HEARING on PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT** by placing said copy in a postage paid envelope and by causing a copy of the same to be deposited into the U.S. Mail, addressed to each of the following persons at the address stated below, which is the last known address,

Mahasin K. Bowen
3307 Percival Road
Columbia, SC 29223

Raymond Samuel
3309 Percival Road
Columbia, SC 29223

Cecil Samuel
20761 N. Herbert Avenue
Maricopa, AZ 85138

Charles Samuel
1230 Tyler Street
Norristown, PA 19401

Earl Hassan
1324 Weaver Street
Philadelphia, PA 19150

Kenneth Samuel
3307-1/2 Percival Road
Columbia, SC 29223

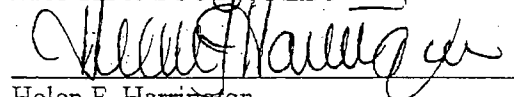
Tauheedah Mateen
2156 Brighton Street
Philadelphia, PA 19149

Kilgore Marketing Solutions
dba RSVP Columbia
4 Whithorn Way
Blythewood, SC 29016

Security Pacific Housing Services, Inc.
2 Office Park Court, Suite 103
Columbia, SC 29201

South Carolina Department of Motor Vehicles
10311 Wilson Boulevard
Blythewood, SC 29016

BROCK & SCOTT, PLLC



Helen F. Harrington

Litigation Paralegal to William P. Stork

Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative
for the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel; Tauheedah
Mateen; Kilgore Marketing Solutions dba
RSVP Columbia; South Carolina Department
of Motor Vehicles,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO: 2010-CP-40-5886

MASTER IN EQUITY'S ORDER AND JUDGMENT OF
FORECLOSURE AND SALE

(GRANTING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT)

DEFICIENCY WAIVED

RICHLAND COUNTY
FILED
2015 JUL 29 AM 9:50
JEANETTE W. MCENEE
C.C.P. & G.S.

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), the above-captioned foreclosure matter was referred to the undersigned Master-In-Equity to make appropriate findings of fact and conclusions of law, with authority to enter a final Judgment in the cause. Any appeal from the decision of the Master-In-Equity shall be directly to the South Carolina Court of Appeals or Supreme Court.

Pursuant to the said reference, a hearing was held, a record was made, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on August 27, 2010.
2. The Summons and Complaint were filed on August 27, 2010.
3. Service was made upon the Defendants named in this Report as is shown by the proofs of service filed herein.

File reference: 08-01399



4. The Defendants Charles Samuel, Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Earl Hassan Samuel, Kenneth Kareem Samuel, Cecil Samuel a/k/a Cecil A. Samuel, Tauheedah Mateen and Kilgore Marketing Solutions dba RSVP Columbia are in default as shown by Affidavit filed herein.

5. According to an Affidavit filed herein, no Defendant is in the military service of the United States of America, as contemplated under the Servicemembers' Civil Relief Act fka Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto..

6. The Defendants South Carolina Department of Motor Vehicles, Mahasin K. Bowen and Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel answered in this action and has/have been notified of the time and date of this hearing.

7. The Defendants were notified of the time, date and place of hearing in this matter.

8. For value received, Mary L. Samuel (a/k/a Mary Lee Samuel) made, executed and delivered a note, dated December 23, 1999, promising thereby to pay to the order of South Trust Mortgage Corporation the sum of \$71,575.00 with interest at the rate of 8% per annum (hereinafter "Note"). Other terms and conditions are stated in the note, which is of record herein.

9. To better secure the payment of the Note described above, the said Mary L. Samuel (a/k/a Mary Lee Samuel) and Raymond Samuel (a/k/a Shamsud-din Raymond Samuel) made, executed and delivered a mortgage to South Trust Mortgage Corporation, in writing, dated December 23, 1999, covering real property in Richland County, which is the same as that described in the Complaint. The Mortgage was recorded on January 5, 2000, and is of record in the Richland County Registry in Book 374 at page 1242.

10. This mortgage constitutes a valid first lien on the subject property.

11. Thereafter, the Mortgage was assigned to Mortgage Electronic Registration Systems, Inc., as nominee for Homeside Lending, Inc. by assignment recorded on December 27, 2000 in Book 469 at Page 2442. Thereafter, the Mortgage was assigned to MidFirst Bank by assignment recorded on March 21, 2008 in Book 1413 at Page 1356.

12. Also included as additional collateral for the subject loan transaction was a 1994/OMNI Destiny mobile/manufactured home containing serial number "036366A&B" (hereinafter "Manufactured Home"). Said Manufactured Home is titled in the records and database of the South Carolina Department of Motor Vehicles (hereafter "DMV"). The Defendants Charles Samuel and Mary Lee Samuel are listed thereon as owners of the said Manufactured Home. The Defendant Security Pacific Housing Services, Inc. is listed thereon as the lienholder of the said Manufactured Home. The mortgage lien is properly affixed and noted on the certificate of title to said Manufactured Home in the records and database of Defendant South Carolina DMV. This information was obtained by a search of the DMV records and database.

It was the intent of all parties to the subject loan transaction that i) that the Manufactured Home was already converted to be considered an improvement and/or permanent fixture of the Property, or that it would be converted as a part of this transaction; and ii) the Manufactured Home would be part of the secured collateral for the Mortgage. However, due to inadvertent error and mistake, the Manufactured Home was not fully described in the Mortgage. The Mortgage's legal description shall include the Manufactured Home's information to indicate the Manufactured Home's permanent fixture status to all future parties.

This information is evidenced by documentation gathered by Glenn Bradley, Private Investigator, from the physical location of said Manufactured Home, a report obtained from the Institute of Building Technology and Safety (IBTS), and information obtained by a search of the DMV records and database. IBTS is the Department of Housing and Urban Development's monitoring contractor under the Federal Manufactured Housing Program, and is required to maintain all reported certification label applications, and has been the sole source of this data since 1976. Upon information and belief, the South Carolina Department of Motor Vehicles has never issued a certificate of title pertaining to the subject Manufactured Home.

13. Subsequent to the execution of the Mortgage and Note, Mary Lee Samuel passed away on February 9, 2008 as evidenced by the estate information that can be found in Estate file 2010-ES-40-01229 in the records for Richland County, South Carolina indicating the heirs/devisees of the Property as Mahasin K. Bowen along with Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel.

14. No party related to Mary Lee Samuel has appeared, answered or come forward in this action claiming an interest in the subject property or the foreclosure as is evidenced by the Affidavit of Kelley Woody, Esquire, Guardian Ad Litem in this case.

15. As required by an Administrative Order issued by the South Carolina Supreme Court dated May 22, 2009, the Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLMC, or the Servicer has signed an agreement to participate in the Home Affordable Modification Program ("HMP"); however, Plaintiff alleges, upon information and belief, that this loan is not eligible for modification under the HMP because the loan is owned or guaranteed by the Federal Housing Administration (HUD) or the Veterans' Administration (VA) and said entities are not participants in the HMP Program and are not eligible as contemplated under the Administrative Order issued by the Supreme Court of South Carolina on May 22, 2009. Furthermore, Plaintiff complied with Administrative Order 2011-05-02-1 issued by the South Carolina Supreme Court.

16. The titleholders of record of the Property as of the filing of the Lis Pendens in this action /were Charles Samuel, Jr., Raymond Samuel (a/k/a Shamsud-din Raymond Samuel), Mahasin Bowen, Earl Samuel, Kenneth Samuel, Cecil A. Samuel (a/k/a Cecil Anthony Samuel) and Tauheedah Mateen.

17. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note and Mortgage in the hands of its attorney of record herein for collection.

18. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice); the time involved in reviewing the various

loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$13,602.00 is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.

19. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal due as of today's date:	06/25/15		\$ 62,787.47
Accrued interest from:	01/01/10	to: 06/25/15	\$ 27,523.12
Accruing at:	8% per annum		
Advancements to Escrow			\$ 8,760.22
Corporate Advances			\$ 345.00
Late charges:			\$ 324.10
Other charges:			\$ 82.10
NSF	\$160.00		
Misc	60.00		
Credit	(137.90)		
Costs of collection prior to hearing:			\$ 3,858.71
Attorney's fees:			<u>\$ 13,602.00</u>

Total Debt secured by Note and Mortgage, including interest to date is \$117,282.72. Interest for the period from the date shown above through the date of this judgment, at above stated rate, to be added to the above stated "Total Debt" to comprise the amount of the Judgment debt entered herein, and interest after the date of Judgment at the rate of 8% per annum, the Note's current rate, pursuant to the terms of the Note and Mortgage on the judgment debt should be added to such judgment debt to comprise the amount of the Plaintiff's debt secured by the Mortgage through the date to which such interest is computed.

16. The Plaintiff is seeking foreclosure of its mortgage and has, in the Complaint or subsequently thereto in writing, expressly Waived the right to a personal or deficiency Judgment pursuant to Rule 71(b), SCRCF.

17. The Defendants, below listed, claim or may claim liens upon or interests in the subject property; and in the event there is a surplus from the sale of the subject property, the validity, priority and amount of any such lien claims will be determined at a hearing subsequent to the sale, in accordance with Rule 71(c), SCRCF. The said Defendants and such claims or liens are as follows:

A. The Defendant, Kilgore Marketing Solutions dba RSVP Columbia, has or may claim to have some interest in the Property by virtue of a judgment lien against Raymond Samuel, in the original principal amount of \$2,690.00, which lien was filed in the Richland County Records on 08/23/2011 in CA, 2011-CP-40-05593. Said lien is junior and subordinate to Plaintiff's Mortgage and should be removed from the title to the Property upon the completion of a properly held foreclosure sale of the Property.

B. The Defendants, Mahasin K. Bowen, Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel, have or may claim to have some interest in the Manufactured Home. The Plaintiff is informed and believes that Mary Lee Samuel took full title to the Manufactured Home upon the death of Charles Samuel, according to Richland County Probate Case No: 99-ES-40-01018, but the records and database of the DMV were not properly updated. Then, upon the death of Mary Lee Samuel, title was transferred to Mashin K. Bowen, Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel. Any interest that said Defendants received in the subject Manufactured Home is "subject to" Plaintiff's Mortgage and this interest should be eliminated through a properly completed foreclosure sale of the Property.

C. The Defendants, Mahasin K. Bowen along with Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and, has or may claim to have some interest in the Property by virtue of being an heir to or devisee of Mary Lee Samuel as shown in Estate file 2010-ES-40-01229 in the Richland County Records. Any interest that this Defendant would have received in the subject property would have been "subject to" Plaintiff's Mortgage and this interest would be eliminated through a properly completed foreclosure sale.

D. The Defendant, Security Pacific Housing Services, Inc., has or may claim to have some interest in the property by virtue of a lien on the Manufactured Home title. The Plaintiff is informed and believes that this lien has been paid in full, but never satisfied of record, and, should be removed from the title of the Manufactured Home.

Plaintiff is foreclosing subject to the following:

A. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$162.50, which lien was recorded/filed in the Richland County Records on 06/19/2002 in Book 675 at Page 2234. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

B. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$171.25, which lien was recorded/filed in the Richland County Records on 11/06/2002 in Book 722 at Page 378. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

C. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$130.00, which lien was recorded/filed in the Richland County Records on 07/14/2003 in Book 819 at Page 3761. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

D. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$144.00, which lien was recorded/filed in the Richland County Records on 12/17/2007 in Book 1384 at Page 2976. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

E. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$193.50, which lien was recorded/filed in the Richland County Records on 01/31/2008 in Book 1396 at Page 3436. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

F. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$45.00, which lien was recorded/filed in the Richland County Records on 03/06/2008 in Book 1408 at Page 3088. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

G. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$261.60, which lien was recorded/filed in the Richland County Records on 07/29/2010 in Book 1621 at Page 2746. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

H. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$561.60, which lien was recorded/filed in the Richland County Records on 08/20/2010 in Book 1626 at Page 690. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

CONCLUSIONS OF LAW: I, therefore, conclude as follows:

1. The Plaintiff's Motion for Summary Judgment should be granted; Defendant Mahasin K. Bowen's counterclaims dismissed with prejudice; the Plaintiff should have judgment of foreclosure of its Mortgage; and, the Property should be ordered sold at public auction after due advertisement.
2. That there is due to the Plaintiff on its Note and Mortgage the sum of \$117,282.72, representing the Total Debt due to the Plaintiff as outlined above, together with interest thereon at the rate provided in the Note to the date hereof.
3. That the amount due in the preceding paragraph (the "Total Debt") and later accrued interest and costs shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter at the rate of 8% per annum, the current interest rate of the Note.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That the Plaintiff's Motion for Summary Judgment is granted and Defendant Mahasin K. Bowen's counterclaims are dismissed with prejudice.
2. That the Defendants liable for the aforesaid Mortgage debt shall, prior to the date and time of the sale of the Property, hereinafter described, pay to the Plaintiff, or the Plaintiff's attorney, the amount of the Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.
3. That on default of payment prior to the date and time of the sale, the Property, hereinafter described, shall be sold by the undersigned Master-In-Equity at public auction, at the Richland County Courthouse, City of Columbia, County and State aforesaid, on some convenient sales day hereafter, on the following terms, that is to say:

- A. FOR CASH: The undersigned Master-In-Equity shall require a deposit of 5% on the amount of the bid (in cash or equivalent) the same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within twenty (20) days the same to be forfeited and applied to the costs and then to the Plaintiff's debt.
 - B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 8% per annum, which is the Note's current interest rate.
 - C. The sale shall be subject to taxes and assessments, existing easements and restrictions of record, and any other senior encumbrances.
 - D. Purchaser to pay for the deed and the cost of recording the deed.
- 4. If the Plaintiff is the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of the Plaintiff in full, the Plaintiff may pay to the undersigned Master In Equity only the amount of the costs and expenses, crediting the balance of the bid on the Plaintiffs indebtedness.
 - 5. That a personal or deficiency Judgment being Waived, the bidding will not remain open for thirty (30) days and bidding will be final on the date of the sale, and compliance with the bid may be made immediately.
 - 6. That the undersigned Master In Equity will, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he will execute to the purchaser, or purchasers, a deed to the Property sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. If such sale is made to anyone other than the Plaintiff or its assignee, should the successful bidder, or his assignee, fail to comply with the terms thereof within twenty (20) after the date of sale, then the undersigned Master In Equity may re-advertise the Property for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so on from time to time thereafter until a full compliance shall be secured.

7. In the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.
8. That the undersigned Master In Equity shall apply the proceeds of the sale as follows:
 - FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court; and
 - NEXT: To the payment of the amount to the Plaintiff, or the Plaintiffs Attorney, of the amount of the Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same; and
 - NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRPC.
9. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whomsoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof, to include the manufactured/mobile home with the exception of the above-named liens which Plaintiff intends to foreclose on "subject to".
10. IT IS FURTHER ORDERED that the South Carolina Department of Motor Vehicles is directed to issue a new certificate of title pertaining to the subject mobile/manufactured home reflecting title in the name of the successful bidder of said sale, free and clear of all lien. Mobile Home serial number is "036366A&B."
11. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Richland County Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

12. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants in possession herein, the Sheriff of Richland County may be ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.
13. That it is further ORDERED ADJUDGED AND DECREED that after the Order Confirming Sale and Disbursements has been issued and filed, the undersigned Master In Equity shall direct the Register of Deeds to release of record the lien(s) being foreclosed, which lien(s) are described in the Findings of Fact herein above.
14. That it is further ORDERED ADJUDGED AND DECREED that the following is a description of the Property herein ordered to be sold:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, CONTAINING 5.67 ACRES, MORE OR LESS, BEING A PORTION OF A TRACT OF LAND COMPRISING 10.4 ACRES, MORE OR LESS, SITUATE ON THE NORTHWESTERN SIDE OF PERCIVAL ROAD, ABOUT 10 MILES FROM THE CITY OF COLUMBIA, IN THE COUNTY OF RICHLAND, STATE OF SOUTH CAROLINA, AND BEING MORE FULLY SHOWN AND DELINEATED UPON A PLAT PREPARED FOR EFFIE MARTIN BY D.T. DUNCAN RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RICHLAND COUNTY IN PLAT BOOK X AT PAGE 485; LESS AND EXCEPTING A TRACT CONTAINING 2.38 ACRES, MORE OR LESS, AS SHOWN ON THAT CERTAIN PLAT PREPARED FOR FRED S. BREELAND, JR. BY DOUGLAS E. PLATT, SR., RLS, DATED DECEMBER 13, 1973 AND RECORDED IN THE RMC OFFICE FOR RICHLAND COUNTY IN PLAT BOOK 44 AT PAGE 895 AND ALSO SHOWN ON THAT CERTAIN PLAT PREPARED FOR JO ANNE B. TURNER BY DOUGLAS E. PLATT, SR., RLS, NO. 4041, DATED 3/9/1998, AND RECORDED IN THE RMC OFFICE FOR RICHLAND COUNTY 3/31/87 IN PLAT BOOK 51 AT PAGE 5630; AND FURTHER LESS AND EXCEPTING A TRACT CONTAINING 2.35 ACRES, MORE OR LESS, SITUATE, LYING AND BEING ON THE SOUTH SIDE OF OLD PERCIVAL ROAD, ABOUT 10 MILES FROM THE CITY OF COLUMBIA, COUNTY OF RICHLAND, STATE OF SOUTH CAROLINA, AND BEING MORE FULLY SHOWN AND DELINEATED UPON A PLAT PREPARED FOR FRED S. BREELAND, JR. AND MILDRED M. BREELAND BY DOUGLAS E. PLATT, SR., DATED AUGUST 24, 1976, AND BEING BOUNDED AND MEASURING ON SAID PLAT AS FOLLOWS: COMMENCING AT A PIN ON THE SOUTHEAST SIDE OF OLD PERCIVAL ROAD AND RUNNING S12°00'E ALONG PROPERTY NOW OR FORMERLY OF CATHERIN MIMMS AND PROPERTY NOW OR FORMERLY OF FRED S. BREELAND FOR A DISTANCE OF 335.2 FEET; THENCE TURNING AND RUNNING S76°40'W ALONG PROPERTY NOW OR FORMERLY OF

FRED S. BREELAND FOR A DISTANCE OF 304.1 FEET; THENCE TURNING AND RUNNING N16°27'W FOR A DISTANCE OF 310.7 FEET ALONG AN OLD FENCE TO OLD PERCIVAL ROAD; THENCE TURNING AND RUNNING N72°21'E ALONG OLD PERCIVAL ROAD FOR A DISTANCE OF 330.9 FEET TO THE POINT OF BEGINNING. THIS BEING THE NORTHWESTERN-MOST PORTION OF PROPERTY HERETOFORE CONVEYED TO FRED S. BREELAND AND MILDRED M. BREELAND BY DEED OF EFFIE CHAMBERS MARTIN DATED MARCH 15, 1968, RECORDED IN DEED BOOK D100 AT PAGE 491.

****SEE CONSENT ORDER IN RICHLAND COUNTY CASE NUMBER 2007-CP-40-6491 WHICH REFORMED THE MORTGAGE LEGAL DESCRIPTION****

ALSO INCLUDED AS COLLATERAL FOR THE SUBJECT MORTGAGE IS THAT CERTAIN 1994 DESTINY OMNI MANUFACTURED/MOBILE HOME BEARING VIN NUMBER 036366A&B.

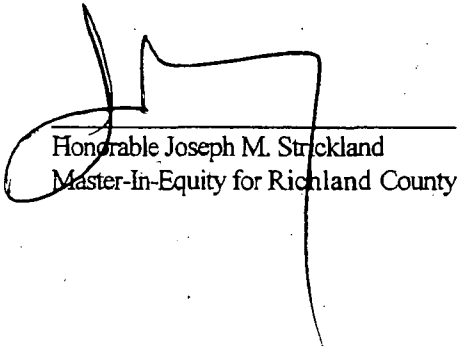
DERIVATION: THIS BEING THE SAME PROPERTY CONVEYED TO JO ANNE D. TURNER BY DEED OF FRED S. BREELAND, JR. AND ELIZABETH B. BREELAND RECORDED JUNE 3, 1982 IN BOOK 611 AT PAGE 8. THIS PROPERTY WAS SUBSEQUENTLY CONVEYED TO RAYMOND SAMUEL BY DEED OF JO ANNE B. TURNER DATED MAY 6, 1993 AND RECORDED MAY 11, 1993 IN BOOK 1141 AT PAGE 11. RAYMOND SAMUEL SUBSEQUENTLY CONVEYED AN UNDIVIDED 1/3 INTEREST TO CHARLES SAMUEL, SR. AND AN UNDIVIDED ONE-THIRD INTEREST TO MARY L. SAMUEL BY DEED DATED JANUARY 23, 1995 AND RECORDED JANUARY 31, 1995 IN BOOK 1240 AT PAGE 751. CHARLES SAMUEL, SR.'S UNDIVIDED 1/3 INTEREST WAS CONVEYED TO MARY LEE SAMUEL BY DEED OF DISTRIBUTION DATED OCTOBER 2, 1998 AND RECORDED DECEMBER 20, 1999 IN BOOK 369 AT PAGE 2227. MARY LEE SAMUEL CONVEYED HER UNDIVIDED 2/3 INTEREST TO RAYMOND SAMUEL BY QUIT CLAIM DEED DATED SEPTEMBER 20, 2000 AND RECORDED SEPTEMBER 27, 2000 IN BOOK 445 AT PAGE 2684.

CURRENT ADDRESS OF PROPERTY: 3307 Percival Road, Columbia, SC 29223

TMS: R22606-01-01

AND IT IS SO ORDERED.

Date: July 28, 2015
Columbia, South Carolina


Honorable Joseph M. Strickland
Master-In-Equity for Richland County

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen as Personal
Representative for the Estate of Mary Lee
Samuel; Mahasin K Bowen; Cecil Samuel
a/k/a Cecil A. Samuel; Charles Samuel, Jr.;
Earl Hassan Samuel; Kenneth Kareem
Samuel; Kilgore Marketing Solutions dba
RSVP Columbia; Tauheedah Mateen;
Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; South Carolina Attorney
General; South Carolina Department of
Motor Vehicles,

Defendants.

FIFTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS
C/A No.: 2010-CP-40-05886

ORDER DENYING DEFENDANT'S
MOTION TO ALTER OR AMEND
JUDGMENT, PETITION TO SET ASIDE
JUDICIAL SALE, AND POINTS AND
AUTHORITIES

2016 APR 25 AM 11:36
JANETTE W. MCBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

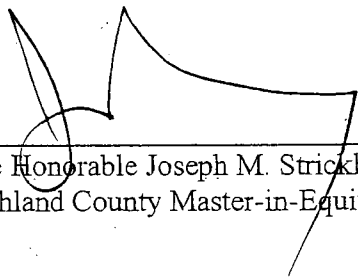
THIS MATTER came before me on the Motion to Alter or Amend Judgment and Petition to Set Aside Judicial Sale filed by Defendant Mahasin K. Bowen, *pro se*, and a document entitled Points and Authorities filed by attorney Leonard R. Jordan, Jr. as counsel for Defendant Mahasin K. Bowen. After an initial hearing on these motions, the record was kept open to allow for counsel for the Plaintiff and Defendant to submit supplemental memorandums.

Careful review was given to the arguments presented and the applicable South Carolina Law governing the motions. Based upon that review, I find that the Motion to Alter or Amend Judgment and Petition to Set Aside Judicial Sale filed by Defendant Mahasin K. Bowen, *pro se*, and the document entitled Points and Authorities filed by attorney Leonard R. Jordan, Jr. should be denied.

NOW, THEREFORE, IT IS HEREBY ORDERED that the Motion to Alter or Amend Judgment and Petition to Set Aside Judicial Sale filed by Defendant Mahasin K. Bowen, *pro se*, and the document entitled Points and Authorities filed by attorney Leonard R. Jordan, Jr. are denied.

Signature Block on Following Page

IT IS SO ORDERED.



The Honorable Joseph M. Strickland
Richland County Master-in-Equity

Dated: April 22, 2016
Columbia, South Carolina

COPY

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Joseph M. Strickland, Master in Equity

RECEIVED

MAY 26 2016

SC Court of Appeals

Case No. 2010-CP-40-5886

MidFirst Bank, ... Respondent,

v.

Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Tauheedah Mateen; Kilgore Marketing Solutions dba RSVP Columbia; South Carolina Department of Motor Vehicles; Defendant,

of whom Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel, and individually is Appellant.

NOTICE OF APPEAL

Appellant appeals the Master in Equity's Order and Judgment of Foreclosure and Sale (Granting Summary Judgment), filed on July 29, 2015, and the Order Denying Defendant's Motion to Alter or Amend Judgment, Petition to Set Aside Judicial Sale, and Points and Authorities, filed on April 25, 2016, and the Order (announced on May 19, 2016, but not yet issued and filed), which summarily denied the Appellant's Motion to Reconsider and to Alter or Amend Order Denying Motion to Alter or Amend Judgment and Petition to Set Aside Judicial Sale. Copies of the said filed Orders are attached hereto.

May 26, 2016



Leonard R. Jordan, Jr.
JORDAN LAW FIRM
4500 Fort Jackson Boulevard
Columbia, South Carolina 29209
(803) 726-1950 Tel
(803) 726-1951 Fax
ljordan@ljordanlaw.com
Attorney for Appellant, Mahasin K. Bowen,
as Personal Representative for the Estate of
Mary Lee Samuel, and individually

RICHLAND COUNTY
FILED
JUN 8 AM 11:07
CLERK OF COURT
C. C. & G.S.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative
for the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel; Tauheedah
Mateen; Kilgore Marketing Solutions dba
RSVP Columbia; South Carolina Department
of Motor Vehicles,

Defendants,

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

C/A No: 2010-CP-40-05886

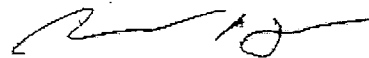
**PLAINTIFF'S NOTICE OF MOTION
AND MOTION
FOR SUMMARY JUDGMENT**

**TO: DEFENDANTS MAHASIN K. BOWEN, AS PERSONAL REPRESENTATIVE FOR
THE ESTATE OF MARY LEE SAMUEL, MAHASIN K. BOWEN, RAYMOND
SAMUEL A/K/A SHAMSUD-DIN RAYMOND SAMUEL, CECIL SAMUEL A/K/A
CECILE A. SAMUEL, CHARLES SAMUEL, JR., EARL HASSAN SAMUEL,
KENNETH KAREEM SAMUEL, TAUHEEDAH MATEEN:**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, by and through its undersigned attorney, will, on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, move before the Honorable Joseph M. Strickland, Master-in-Equity for Richland County, for an Order, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, granting the Plaintiff summary Judgment in this matter. This Motion is made upon the grounds that there is no genuine issue as to any material fact and that the Plaintiff is entitled to judgment as a matter of law.

This Motion is supported by the South Carolina Rules of Civil Procedure, relevant case law, and any discovery, affidavits, or memoranda presented.

BROCK & SCOTT, PLLC



William P. Stork, SC Bar No: 100242

3800 Fernandina Road, Suite 110

Columbia, SC 29210

Phone 803-454-3540 Fax 803-454-3541

ATTORNEYS FOR PLAINTIFF

April 28, 2015.
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MIDFIRST BANK,

Plaintiff,

v.

Mahasin K. Bowen as Personal
Representative for the Estate of Mary
Lee Samuel; Mahasin K. Bowen; Cecil
Samuel a/k/a Cecil A. Samuel; Charles
Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Kilgore
Marketing Solutions dba RSVP
Columbia; Tauheedah Mateen;
Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; South Carolina
Attorney General; South Carolina
Department of Motor Vehicles,

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

C/A NO: 2010-CP-40-5886

**PLAINTIFF'S MEMORANDUM OF
LAW IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

**TO: MAHASIN K. BOWEN AS PERSONAL REPRESENTATIVE FOR THE ESTATE
OF MARY LEE SAMUEL AND IN HER INDIVIDUAL CAPACITY;**

I. INTRODUCTION AND FACTS

On or about December 23, 1999, Mary L. Samuel gave a Note (See Exhibit "1") whereby she promised to pay to SouthTrust Mortgage Corporation (hereinafter "Lender"), the principal sum of \$71,575.00, together with interest at the rate of 8% per annum on the unpaid balance. In order to secure the payment of said Note, Mary L. Samuel and Raymond Samuel

did, on or about the same date make, execute, and deliver to Lender, its successors and assigns, a certain mortgage dated December 23, 1999 securing the property described as:

All that certain piece, parcel or tract of land, containing 5.67 acres, more or less, being a portion of a tract of land comprising 10.4 acres, more or less, situate on the northwestern side of Percival Road, about 10 miles from the City of Columbia, in the County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Effie Martin by D.T. Duncan recorded in the Office of the Register of Deeds for Richland County in Plat Book X at Page 485; less and excepting a tract containing 2.38 acres, more or less as shown on that certain plat prepared for Fred S. Breeland, Jr. by Douglas E. Platt, Sr., RLS, dated December 13, 1973 and recorded in the RMC Office for Richland County in Plat Book 44 at Page 895 and also shown on that certain plat prepared for Jo Anne B. Turner by Douglas E. Platt, Sr., RLS, No. 4041, dated 3/9/1998, and recorded in the RMC Office for Richland County in Plat Book 51 at Page 5630; and further less and excepting a tract containing 2.35 acres, more or less, situate, lying and being on the south side of Old Percival Road, about 10 miles from the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Fred S. Breeland and Mildred M. Breeland by Douglas E. Platt, Sr., dated August 24, 1976, and being bounded and measuring on said plat as follows: commencing at a pin on the southeast side of Old Percival Road and running S12°00'E along property now or formerly of Catherin Mimms and property now or formerly of Fred S. Breeland for a distance of 335.2 feet; thence turning and running S76°40'W along property now or formerly of Fred S. Breeland for a distance of 304.1 feet; thence turning and running N16°27'W for a distance of 310.7 feet along an old fence to Old Percival Road; thence turning and running N72°21'E along Old Percival Road for a distance of 330.9 feet to the point of beginning. This being the northwestern-most of property heretofore conveyed to Fred S. Breeland and Mildred M. Breeland by deed of Effie Chambers Martin Dated March 15, 1968, recorded in Deed Book D100 at Page 491.

(See Exhibit "2"). On February 9, 2008, Mary Lee Samuel passed away on February 9, 2008.

(See Exhibit "3"). On August 27, 2010, Plaintiff filed a Complaint for Foreclosure. On or about, January 2, 2011, Plaintiff filed a Complaint for Foreclosure and filed an amended Complaint for Foreclosure on or about May 11, 2012. (See Exhibit "4").

On or about March 15, 2013, Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel and in her individual capacity (hereinafter "Defendant"), filed an answer. Ms. Bowen in her answer adds as third party Defendants SouthTrust Mortgage Corporation, Mortgage Electronic Registration Systems, Inc., Homeside Lending, Inc., and John Does 1-10. (See Exhibit "5"). Ms. Bowen denies all allegations of the complaint except that the mortgage was recorded and also alleges 27 defenses and 12 counterclaims.

On or about July 16, 2013, Attorney for MidFirst Bank (hereinafter "Plaintiff") and Mortgage Electronic Registration Systems (hereinafter "MERS") sent discovery, on behalf of MidFirst Bank, including Requests for Admissions to Ms. Bowen. (See Exhibit "6"). To date, Ms. Bowen has never responded to these admissions.

Counsel for the Plaintiff filed this instant Motion for Summary Judgment simultaneously with this memo alleging that no material issues of fact remain and that summary judgment is appropriate. When no issue of material fact exists, the appropriate action is summary judgment. Midland Mut. Life Ins. Co. v. Harrell, 331 S.C. 394, 397-98 (Ct. App. 1998). This memorandum will further reflect that the allegations set forth in the Defendants' various filings fail as a matter of law to constitute a claim or defense to this action for foreclosure and, as such, the Plaintiff and MERS are entitled to the relief sought in its Complaint.

II. DISCUSSION

1. The Plaintiff has established all of the facts necessary to recover on its cause of action for foreclosure and the reformation of the mortgage.

The Note and Mortgage are direct evidence of the terms and existence of the agreement entered into by Ms. Samuel. (See Exhibits "1" & "2"). The note endorsement and assignments

demonstrate that the Note and Mortgage were properly transferred to the Plaintiff. (See Exhibits "1" & "7"). Further bolstering its motion, the Plaintiff submits an Affidavit of Verified Statement of Account (See Exhibit "8"). The Plaintiff's Affidavit clearly establishes the breach of the note and mortgage and the amount and measures of damages sustained by the Plaintiff as a result of the Ms. Samuel's breach. Additionally, looking at the exhibits to the discovery and in particular the appraisal of the property utilized for the loan, it is clear that the mortgage intended to encumber the manufactured home on the property and thus the mortgage should be reformed to include the manufactured home.

With the copies of the note, mortgage, and the Plaintiff's Affidavit, the essential elements and facts of the Plaintiff's cause of action for foreclosure have been established. As such there are no material issues of fact and summary judgment is appropriate. Summary judgment is appropriate when "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), South Carolina Rules of Civil Procedure. Further, the Plaintiff is entitled to recover from the Defendants reasonable attorney's fees and court costs incurred in bringing this action, (See Exhibit "2") and, as evidence of these costs expended by the Plaintiff in this action, the Plaintiff submits an Affidavit of Attorney's Fees and Court Costs to the Court (See Exhibit "9").

2. The Defendant, by failing to respond to the requests for admissions, has rendered the requests conclusively admitted leaving no genuine issue of material fact.

Ms. Bowen, by failing to respond to the request for admissions, has rendered the requests conclusively admitted leaving no genuine issue of material fact. In South Carolina, a party's failure to respond to Requests for Admissions render the matters listed in the requests

conclusively admitted. Rule 36(a), SCRCF. Admissions obtained from a failure to respond to a request for admission are just as binding on a party as answers in pleadings or stipulations. Commerce Center of Greenville, Inc. v. W. Powers McElveen and Assocs., Inc., 347 S.C. 545, 554, 556 S.E.2d 718, 723 (Ct. App. 2001). "[O]ur courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party's pleadings." Scott v. Greenville Housing Authority, 353 S.C. 639, 646, 579 S.E.2d 151, 154-55 (Ct. App. 2003).

By failing to respond to the admissions, Ms. Bowen has admitted the following:

- Mary L. Samuel entered into the note under its terms;
- Mary L. Samuel & Raymond Samuel agreed to be bound by the terms of the note;
- The note was secured by the mortgage that they executed;
- The mortgage included the mobile home
- Installments of principal and interest falling due from and after February 1, 2010, have not been paid although demand for the payment thereof has been made, thereby placing Mary L. Samuel in default under the terms of the note and mortgage;
- There is now due and owing the principal sum of \$62,787.47;
- Any notice required by the terms of the mortgage or by state or federal law has been given to all applicable defendants prior to the commencement of this action;
- The Defendants have no legal defenses to this action;
- Mortgage Electronic Registration Systems, Inc. and MidFirst Bank are not liable for any of the counterclaims alleged;

- Mary L. Samuel and Raymond Samuel received and signed the Federal Truth in Lending Document;
- Mary L. Samuel received and signed the RESPA Servicing Disclosure on November 29, 1999; and
- Mary L. Samuel received and signed the Notice of Right to Cancel on December 23, 1999.

Given that each of these facts has been admitted as a matter of law, there is no genuine issue of material fact and summary judgment and reformation of the mortgage should be properly entered in this matter.

3. Defendant's pleading fails to meet even the most fundamental pleading standards to properly articulate a recognizable cause of action under the law

Defendant's answer with defenses and counterclaims fails to meet the most basic pleading standards to articulate a recognizable cause of action under the law. Rule 8(a) of the South Carolina Rules of Civil Procedure, states that

Claims for Relief. A pleading which sets forth a cause of action, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain (1) a short and plain statement of the grounds including facts and statutes upon which the court's jurisdiction depends, unless the court already has jurisdiction to support it, (2) a short and plain statement of the facts showing that the pleader is entitled to relief, and (3) a prayer or demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded. Relief for a sum certain in money may be demanded for actual damages, but claims for punitive or exemplary damages shall be in general terms only and not for a stated sum, provided however, a party may plead that the total amount in controversy shall not exceed a stated sum which shall limit the claim for all purposes.

Rule 8(b) of the South Carolina Rules of Civil Procedure, further states:

(b) **Defenses; Form of Denials.** A party shall state in short and plain terms the facts constituting his defenses to each cause of action asserted and shall admit or deny the averments upon which the adverse party relies. If he is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied.

It appears that Ms. Bowen has attempted to put forth every defense and every counterclaim possible to a foreclosure action. However, a simple glance at the answer reveals immediately to the reader that the answer filed by Ms. Bowen fails to reach the requisite standards. In the defenses put forth, the Ms. Bowen fails to give any facts to support any of the defenses and simply just gives the name of the defenses. Borrowers have to put forth more than just mere labels and conclusions and have to give some factual basis. None is given in this case.

Turning to the counterclaims, Ms. Bowen fails to give in short and plain statements the factual basis for any of these counterclaims. Ms. Bowen simply puts forth the names of the counterclaims, generalized allegations, details the elements of a possible claim, cites section after section of possible claims, but fails to put forth any statement of specific facts applying to the specific loan in this matter as is required under Rule 8(a) of the South Carolina Rules of Civil Procedure. As the administrator and heir of the estate, and not the borrower on the loan, who would have personal knowledge of the loan and the events of the loan, this is not surprising. Ms. Bowen even admits that she had no prior knowledge of the alleged actions taken by Plaintiff and MERS as seen in Paragraph 28 of the Answer. (See Exhibit "5" ¶ 28). However, this is not sufficient for a valid pleading. Further, Ms. Bowen lumps the Plaintiff and third party defendants together as one without delineating which acts were allegedly taken by which party. Under South Carolina Rules of Civil Procedure Rule 56(e), "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise

provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him." As a result, the answer including the defenses and counterclaims should be dismissed for failure to state a claim upon which relief may be granted under 12(b)(6) and 56(c) under the South Carolina Rules of Civil Procedure.

4. Defendant's defenses fail as a matter of law and thus summary judgment should be properly granted.

Ms. Bowen's twenty seven defenses fail as a matter of law and thus summary judgment should be properly granted. As discussed, Ms. Bowen has included the kitchen sink of defenses in her answer and counterclaim. Unfortunately, she has failed to provide a factual basis or support for any of the defenses. Going through the defenses, quickly one by one, Plaintiff and MERS will demonstrate that there is no validity to any of them. Ms. Bowen has put forth a general denial of almost all the allegations of the complaint and alleges that Defendant did not violate any duty to or Right to the Plaintiff. However, as has been clearly delineated in Section 1 of the Memorandum and the exhibits to the Memorandum, while Ms. Bowen has not violated any duty or right to the Plaintiff, the borrower Ms. Samuel clearly agreed to a note and mortgage and has failed to make payment on those contracts. (See Exhibit "4"). Thus, this lawsuit is clearly not in bad faith as Ms. Bowen alleges. Ms. Bowen also alleges that it is clearly improper for the reformation action and for the foreclosure action to be done at the same time in the same matter. However, as the court is aware, these reformations in foreclosure actions are done on a routine basis throughout South Carolina, and as a result this defense also has no merit.

Defendant has additionally failed to put forth any valid facts demonstrating any conduct of Plaintiff causing any damages. She has also failed to identify any inappropriate late charges or attorneys' fees in this matter. As discussed in Section 1 of the Memorandum and as can be clearly seen in the Complaint, Plaintiff has stated a claim for foreclosure upon which relief can be granted, thus the allegations that this suit are frivolous and the Defendants are entitled to attorneys' fees and court costs are without merit. Ms. Bowen's defense of fraud should be denied on the same grounds as the counterclaim of fraud as discussed in Section 5(g) of the Memorandum, as "[t]he standards for alleging and proving fraud are the same whether the claim of fraud is a cause of action or an affirmative defense." See, e.g., Davis v. Monteith, 289 S.C. 176, 345 S.E.2d 724 (1986). Hansen v. DHL Labs., Inc., 316 S.C. 505, 512, 450 S.E.2d 624, 628, 1994 WL 606192 (Ct. App. 1994) cert. granted, decision aff'd, 319 S.C. 79, 459 S.E.2d 850, 1995 WL 431845 (1995).

Continuing through the Defenses quickly, Ms. Bowen puts forward the defenses of the doctrines of illegality, consent, justification, parol evidence, release, and payment without any evidence, support, or factual basis for any of these defenses. Ms. Bowen's defense that she is not personally liable, while true, is not a valid defense to stop the foreclosure from moving forward as the account of Ms. Samuel is delinquent. Ms. Bowen's allegation that the Complaint is barred in whole or part due to Plaintiff's failure to support its alleged damages with documentation fails as the complaint references the relevant documents and puts forth the valid allegations that are supported by this memorandum and its exhibits. Further, Ms. Bowen's allegations that Plaintiff's conduct is barred in whole or in part by the South Carolina Rules of Civil procedure is clearly without any support, factual basis, or legal basis.

Defendant's defense of lack of standing also fails as a matter of law. "Standing refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right." Powell ex rel. Kelley v. Bank of Am., 379 S.C. 437, 444, 665 S.E.2d 237, 241 (Ct.App.2008) (alteration and internal quotation marks omitted). . . . "Generally, a party must be a real party in interest to the litigation to have standing." Hill v. S.C. Dep't of Health & Envtl. Control, 389 S.C. 1, 22, 698 S.E.2d 612, 623 (2010) (internal quotation marks omitted). Bank of Am., N.A. v. Draper, 405 S.C. 214, 219-20, 746 S.E.2d 478, 480-81, 2013 WL 2422875 (Ct. App. 2013). Section 36-3-301 of the South Carolina Code (Supp.2012) states: "[A] Person entitled to enforce" an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to Section 36-3-309 or 36-3-418(d). As Plaintiff has clearly shown by presenting the note, mortgage, and assignments that it is the holder of the note and mortgage, it therefore has standing in this matter. (See Exhibits "1, 2 & 7").

The Defendant's defense that Plaintiff failed to mitigate damages also fails as well. According to a South Carolina Court of Appeals case, Collins Entertainment Corp. v. Coats and Coats Rental Amusement, "South Carolina does not require a party to make an unreasonable effort to mitigate". 355 S.C. 125, 584 S.E.2d 120 (2003). Moreover, the South Carolina courts have been clear that this duty shall not interfere with a Bank's right to recover the entire unpaid balance of a loan. In a South Carolina Supreme Court case, E.E. Dargon v. Metropolitan Properties, Inc., the Court ruled that: "The appellant was in default and the respondent had the legal right, without further notice or demand, to declare the entire balance due and commence this foreclosure action. This right could not be taken away or nullified by a partial tender."

Further, the foreclosure case of Cisson Const., Inc. v. Reynolds & Associates, Inc. explained that there is no duty to mitigate. The court stated in this matter:

Our review of the record establishes that the master erred by suggesting that Security Federal owed Campbell a duty to mitigate.⁴ See **850 22 Am.Jur.2d Damages § 506 (1988) (there is no obligation to minimize avoidable damages where a party has a vested right to recover the full amount sought). Both the note and guaranty provide remedies to Security Federal at default. Under the note, Security Federal is permitted to enforce the note in its full amount against any party to the note or guaranty. Under the guaranty, Security Federal is not obligated to preserve *504 the collateral given by Reynolds, to pursue or exhaust a particular remedy, or to take any action before seeking full payment of the note from Campbell.⁵ We conclude that under the terms of the note and guaranty, Campbell, a sophisticated party to these agreements, is precluded from asserting that Security Federal owed him a duty to mitigate. Cisson Const., Inc. v. Reynolds & Associates, Inc., 311 S.C. 499, 503-04, 429 S.E.2d 847, 849-50, 1993 WL 125021 (S.C. Ct. App. 1993).

Given that there is no duty to mitigate in a foreclosure matter, this defense must fail.

In another SC Court of Appeal's case, the Court ruled that once the debt and default have been established, the *borrower* has the burden of establishing a defense as to why the injured party should not be allowed to seek equitable remedy. US Bank Trust National Association v. Bell, 385 S.C. 364, 684 S.E.2d 199 (2009). There is a distinction between the common injured party's duty to mitigate, such as in landlord tenant cases or employer employee case, and a bank's undeniable right to collect the entire unpaid balance of a loan. While this duty to mitigate exists, the injured party is only required to make *reasonable* mitigations. If a bank had a *duty* to seek less money than it lent out in the first place due to a borrowers breach, it would be entirely impractical for banks to even be in the loan business. In mortgage cases, the mortgagee or the trustee under a deed of trust has a general duty to conduct the foreclosure sale fairly, openly, reasonably and with due diligence, exercising sound discretion to protect the rights of the mortgagor and others. The Plaintiff will be mitigating damages by conducting a foreclosure sale. Thus, the Defendant's defense of failure to mitigate damages fails as well.

Ms. Bowen's defense of equitable estoppel fails as a matter of law. The Court has stated:

The essential elements of estoppel as related to the party to be estopped are (1) conduct that amounts to a false representation or concealment of material facts or at least, which is calculated to convey the impression that facts are otherwise than and inconsistent with, those which the party subsequently attempts to assert; (2) intention, or at least expectation, that such conduct shall be action upon by the other part; and (3) knowledge, actual, or constructive, of the real facts. The elements of estoppel as relates to the party claiming estoppel are: (1) lack of knowledge and of the means of knowledge of the truth as to the facts; (2) reliance upon the misleading conduct of the party estopped; and (3) prejudicial change in position. Southern Dev. Land and Golf Co., Ltd. V. South Carolina Pub. Serv. Auth., 311 S.C. 29, 426 S.E.2d 748 (1993) See Heritage Federal Sav. And Loan v. Eagle Lake and Golf Condominiums, 318 S.C. 535, 544, 458 S.E.2d 561, 566 (1995).

"Estoppel cannot exist if the knowledge of both parties is equal and nothing is done by one to mislead the other." Helsel v. City of North Myrtle Beach, 307 S.C. 24, 413 S.E. 2d 821 (1992) See Heritage Federal Sav. And Loan v. Eagle Lake and Golf Condominiums, 318 S.C. 535, 544, 458 S.E.2d 561, 566 (1995). Defendant fails to give any specifics in its defense as to why specifically, Plaintiff should be estopped from moving forward with this action, as this defense is just one sentence. (See Exhibit "4"). As no facts have been shown that Plaintiff or MERS mislead Ms. Bowen or that any information was concealed, the defense of estoppel must fail.

The Defense of Waiver also fails as well. "Waiver is an intentional relinquishment of a known right and the party claiming waiver has the burden of establishing it." Frady v. Smith, 247 S.C. 353, 147 S.E.2d 412 (1966) See Heritage Federal Sav. And Loan v. Eagle Lake and Golf Condominiums, 318 S.C. 535, 545, 458 S.E.2d 561, 566 (1995). The Defendant puts forth the defense of waiver in one sentence and does not specify what the Plaintiff allegedly waived or give any evidence of what the Plaintiff has waived. (See Exhibit "4"). As a result, the defense of waiver must fail. In fact, by the Plaintiff moving forward with the foreclosure, Plaintiff has

clearly shown that it did not waive its right to foreclose on Defendant. Further, as the Defendant had the burden to establish waiver and has failed to do so, this defense must fail as well.

As this analysis clearly shows each and every one of the Defenses put forth by Ms. Bowen must fail as a matter of law.

5. Defendants counterclaims fail as a matter of law and thus summary judgment should be properly granted.

Each of the Defendant's counterclaims fail as a matter of law for a multitude of reasons. As previously discussed, each of the counterclaims fail as Ms. Bowen, by failing to respond to requests for admissions, has conclusively admitted that Plaintiff and MERS are not liable on the counterclaims, and Ms. Bowen has failed to plead the counterclaims with the requisite sufficiency. Further, turning to the each of the counterclaims individually, each of the counterclaims on their face fail as a matter of law and each is barred by the statute of limitations.

a. *Defendant's counterclaim for violation of the Consumer Protection Act (Unfair Trade Practices) ("The Act") fails as a matter of law.*

First of all, it is not clear what act Ms. Bowen is alleging was violated. While it is not the Plaintiff or any third party-defendant's duty to decipher the allegations of the defendant, the Plaintiff and MERS put forth these arguments out of an abundance of caution. It is possible, that the borrower is referring to the Dodd-Frank Wall Street Reform and Consumer Protection Act. However, this act did not become effective until December 30, 2011 and this case was filed August 27, 2010 concerning a loan taken out on December 23, 1999 and thus this act is not applicable to this matter. It is also possible that the Defendant has combined the counterclaims of Violation of the South Carolina Consumer Protection Code and The South Carolina Unfair

Trade Practices Act in this counterclaim. Nonetheless, each of the counterclaims fails as a matter of law as well.

First of all, Defendant's counterclaim under the South Carolina Consumer Protection code is barred by the applicable three year statute of limitations provided in S.C. Code Ann. §37-10-105(a) as the basis of these allegations arises at or near the origination of the loan at or on December 23, 1999, nearly 15 years ago. Ms. Bowen did not bring up this issue until she filed the answer and counterclaims on March 15, 2013, over thirteen years later and well after the statute of limitations had run. (See Exhibit "4").

The Defendant's counterclaim for violation of the Unfair Trade Practices Act must fail as well. Again, it is very difficult to determine what specifically Ms. Bowen is alleging are the acts of unfair and deceptive trade practices. She alleges that the Counterclaim Defendants (it is assumed she is including Plaintiff in this characterization as well) caused confusion or misunderstanding with respect to the loan and that they misrepresented the character, extent or amount of the debt. Ms. Bowen, who again was not a party to the origination of the loan, has brought forth no facts showing any confusion or misunderstanding. In fact, as can be seen from the exhibits to the discovery submitted to Ms. Bowen, Ms. Samuel was presented with and signed a Truth in Lending Statement, RESPA disclosure, and a right to cancel among other documents, clearly indicating to her the important terms and conditions of the loan on the face of these documents. (See Exhibit "6"). Further, Ms. Bowen alleges that the Defendants imposed credit costs prohibited by law but has failed to specifically identify what costs were prohibited. Additionally she states that the Counterclaim Defendants failed to comply with TILA, HOEPA, RESPA, FDCPA and FCEUA. These allegations will be dispelled in full in each of the respective paragraphs below.

Not only do each of the allegations of actions allegedly taken by Plaintiff fail to be deceptive acts and practices, the alleged actions fail to be actions that affect the public interest. "A plaintiff bringing a private cause of action under the Unfair Trade Practices Act must allege and prove the [Plaintiff's] actions adversely affected the public interest. Daisy Outdoor Adver. Co. v. Abbott, 322 S.C. 489, 493, 473 S.E.2d 47, 49 (1996). See Robertson v. First Union Nat. Bank at 350. "Therefore, conduct which only affects the parties to the transaction provides no basis for a UTPA [Unfair Trade Practices Act] claim." Jefferies v. Phillips, 316 S.C. 523, 527, 451 S.E.2d, 23 (Ct.App. 1994). See Robertson v. First Union Nat. Bank at 350. The present action is a mere dispute between two parties to a private contract. Therefore the conduct alleged only affects the parties to the contract, and, consequently, does not impact the public interest, a required element for a claim to be actionable under the South Carolina Unfair Trade Practices Act. Defendant has not alleged facts to support a finding that the actions of Plaintiff in this matter would cause injury to the public, nor have Defendants alleged facts sufficient to show that Plaintiff has engaged in any deceptive acts that rise to the level of an unfair trade practice.

Further, MidFirst Bank is a bank regulated by the Federal Reserve System and is therefore exempt from the application of the South Carolina Unfair Trade Practices Act. See, e.g. Anderson v. Citizens Bank, 294 S.C. 387, 399, 365 S.E.2d 26, 33 (Ct. App. 1987) (finding on grounds other than general activity test that banks are exempt from SCUTPA, names that banks unfair and deceptive practices are regulated under rules of the Federal Reserve System not under Federal Trade Commission Act, which guides interpretation of SCUTPA), overruled on other grounds by Ward v. Dick Dyer & Assoc., 304 S.C. 152, 403 S.E.2d 310 (1991) (discontinuing the "general activity test" only). The court has stated: "The circuit court held the conduct which appellants contend forms the basis for a UTPA cause of action are exempt from

the UTPA pursuant to § 39-5-40. Section 39-5-40 (emphasis added) provides, in part: 'Nothing in this article shall apply to: (a) Actions or transactions *permitted under laws* administered *12 by any regulatory body or officer acting under statutory authority of this State or the United States or actions or transactions permitted by any other South Carolina State law.' Gentry v. Yonce, 337 S.C. 1, 11-12, 522 S.E.2d 137, 142, RICO Bus. Disp. Guide 9741, 1999 WL 525440 (1999)

Finally, even if the South Carolina Unfair Trade Practices Act was applicable to this case, it contains a three year statute of limitations, codified as S.C. Code Ann. § 39-5-150 and which had expired prior to the filing of the counterclaim. Therefore, this counterclaim fails as a matter of law.

b. Defendant's counterclaims for violation of the Truth-in-Lending Act ("TILA") and the Home Ownership and Equity Protection Act ("HOEPA") fails as a matter of law.

Defendant's counterclaims for Violation of TILA and HOEPA also must fail. First of all, any action alleged under HOEPA would be barred by the applicable one year statute of limitations found in 15 U.S.C. § 1640(e). Further, there is also a one year statute of limitations under the Truth in Lending Act as can be found in sections 108 and 130 of the act. As all of the allegations arise out of the origination of the loan, and these counterclaims were brought nearly fourteen years too late, they must fail. Additionally, as discussed above and can be seen by the court, Ms. Samuel was presented with and signed the documents alleged not to have been presented to her as can be seen in the exhibits to the admissions that Ms. Bowen failed to answer. (See Exhibit "6"). As a result, Ms. Bowen's counterclaims for violation of TILA and HOEPA fail as a matter of law.

c. Defendant's counterclaim for violation of the Real Estate Settlement Procedures Act ("RESPA") fails as a matter of law.

Ms. Bowen's counterclaim for violation of RESPA also must fail. For starters, Ms. Bowen fails to identify or give any factual support to her allegation that the prepaid finance charges were neither properly disclosed, bona fide, reasonable or that any fee split occurred. Further, as Plaintiff and MERS have already pointed out, proper disclosures were made in this matter as can be seen by the exhibits to the unanswered discovery. (See Exhibit "6"). Certain actions under RESPA are governed by the one year statute of limitations while others are governed by a three year statute of limitations under 12 U.S.C. § 2614. Again, as all of the allegations arise at or around the time of origination of the loan, nearly fourteen years prior to the filing of the answer and counterclaims, this counterclaim must also fail.

d. Defendant's counterclaim for violation of the Fair Debt Collection Practices Act ("FDCPA") fails as a matter of law.

Ms. Bowen's counterclaim for violation of the Fair Debt Collection Practices Act also fails as a matter of law. Ms. Bowen simply quotes parts of the FDCPA statute and puts forth no factual support in this matter for any of the claims under each of the sections of the FDCPA. As a result, the borrower's allegation must fail as a matter of law. Further, under the FDCPA, 15 U.S.C. § 1692k(d), the statute of limitations on any such claim is one year from the date of any alleged action by a creditor. The lack of factual support also extends to the dates for any actions allegedly taken by the Plaintiff or MERS. However, Ms. Samuel has been deceased since February of 2008, thus allegations of communicating false credit information against her, giving a false impression as to character or legal status of the debt, using false or deceptive collection methods, or by threatening or communicating false credit information would have had to have

occurred over six years ago, well beyond the statute of limitations. Thus the allegations for violation of the Fair Debt Collection Practice Act fails as a matter of law.

e. Defendant's counterclaim for violation of the Fair Credit Extension Uniformity Act ("FCEUA") fails as a matter of law.

Ms. Bowen's counterclaim for violation of the Fair Credit Extension Uniformity Act also fails as a matter of law, as this act is a Pennsylvania Act and not an act that is law in South Carolina. The FCEUA is the State Fair Debt Collections Practice Act for Pennsylvania. As this is not a law for the State of South Carolina, this counterclaim must fail.

f. Defendant's counterclaim for Declaratory Relief fails as a matter of law.

Defendant's counterclaim for Declaratory Relief must also fail as a matter of law as the grounds for the declaratory relief are based on the other counterclaims in this action. As the other counterclaims in this actions have been shown to fail or will be shown to fail as a matter of law in this memorandum, the counterclaim for Declaratory Relief must also fail as a matter of law.

g. Defendant's counterclaim for Fraud fails as a matter of law.

Ms. Bowen's counterclaim for fraud fails as a matter of law as she has failed to plead with particularity. Under Rule 9(b) of the South Carolina Rules of Civil Procedure, "In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally." The South Carolina Courts have stated:

To establish fraud, the following elements must be shown: (1) a representation; (2) the falsity of the representation; (3) the materiality of the representation; (4) knowledge of its falsity, or reckless disregard for its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of the falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. *Ardis v. Cox*, 314 S.C. 512, ---, 431

S.E.2d 267, 269 (Ct.App.1993), *cert. denied* (April 8, 1994). Failure to allege all elements is fatal to a claim of fraud. *Id.* Hansen v. DHL Labs., Inc., 316 S.C. 505, 511-12, 450 S.E.2d 624, 628, 1994 WL 606192 (Ct. App. 1994) cert. granted, decision aff'd, 319 S.C. 79, 459 S.E.2d 850, 1995 WL 431845 (1995)

Ms. Bowen has failed to allege these nine elements with particularity. She has failed to identify any specific representation giving any facts as to who made the representation, when the representation was made, where the representation was made, what the representation that was made or how it was specifically a misrepresentation. She claims numerous ways the Plaintiff and the Third Party Defendants committed fraud but not with any particularity. She has detailed no where what any party represented and what specifically should have been represented, therefore failing to show how the representation was false. Ms. Bowen makes generalized assertions with no detail in order to attempt to lay out the elements of fraud but this is not sufficient. Each of the elements must be plead with particularity and this has not been done. As a result, this counterclaim must fail.

This cause of action also must fail as the statute of limitations for fraud under South Carolina Code Annotated Section 15-3-530 is three years. As the alleged fraud arises at or near the time of the origination of the loan, almost fifteen years ago, this action must fail as a matter of law.

In addition to directly addressing the counterclaim for fraud, it is necessary to address the counterclaim for conspiracy buried within the counterclaim for fraud and later counterclaims.

This counterclaim for conspiracy must also fail. The Courts have stated:

The tort of civil conspiracy has three elements: (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, and (3) causing plaintiff special damage. *Vaught v. Waites*, 300 S.C. 201, 208, 387 S.E.2d 91, 95 (Ct.App.1989). The difference between civil and criminal conspiracy is in criminal conspiracy, the gravamen of the offense is the agreement itself, whereas in civil conspiracy, the gravamen of the tort is the damage resulting to plaintiff from an overt act done pursuant to a common design. *Id.*; see also *Pye v. Estate of Fox*, 369 S.C. 555, 567-68, 633 S.E.2d 505, 511 (2006) ("The gravamen of the

tort of civil conspiracy is the damage resulting to the plaintiff from an overt act done pursuant to the combination, not the agreement or combination per se.”). Hackworth v. Greywood at Hammett, LLC, 385 S.C. 110, 115, 682 S.E.2d 871, 874, 2009 WL 2488146 (Ct. App. 2009)

The courts have further stated:

In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful *116 acts alleged in the complaint, and the failure to properly plead such acts will merit the dismissal of the claim. See *id.* at 293, 278 S.E.2d at 611 (dismissing plaintiff's civil conspiracy claim because “ the [civil conspiracy] action does no more than incorporate the prior allegations and then allege the existence of a civil conspiracy and pray for damages resulting from the conspiracy If a plaintiff merely repeats the damages from another claim instead of specifically listing special damages as part of their civil conspiracy claim, their conspiracy claim should be dismissed. See *Vaught*, 300 S.C. at 209, 387 S.E.2d at 95 (“The damages sought in the conspiracy cause of action are the same as those sought in the breach of contract cause of action. Because no special damages are alleged aside from the breach of contract damages, we hold the conspiracy action is barred under *Todd*”); *Charleston Aluminum, Inc. v. Samuel, Son & Co., Inc.*, No. 3:05-02337-MBS, 2006 WL 2370292, at *3 (D.S.C. Aug.15, 2006) (granting defendant's motion to dismiss plaintiff's civil conspiracy claim because “the damages pleaded by [p]laintiff in the civil conspiracy cause of action are duplicative of the damages asserted with respect to the contract causes of action”); *Doe*, 2006 WL 1473853, at * 17 (holding plaintiff's conspiracy claim failed as a matter of law because plaintiff failed to plead special damages; instead plaintiff's conspiracy count “merely realleged[d] the same damages [p]laintiff claim[ed] to have suffered in relation to her other claims”). Hackworth v. Greywood at Hammett, LLC, 385 S.C. 110, 117, 682 S.E.2d 871, 875, 2009 WL 2488146 (Ct. App. 2009).

Ms. Bowen does not allege additional acts in furtherance of a conspiracy. She merely states that the counterclaims were the actions that the Plaintiff and Counterclaimant Defendants allegedly conspired to do. She has solely realleged these claims within the pleadings involving a conspiracy. Additionally, she has not alleged any special damages beyond the damages alleged in the counterclaimed causes of action. Therefore, any of her allegations of a conspiracy within the fraud counterclaims and any of the other counterclaims must fail as a matter of law.

h. Defendant's counterclaim for Promissory Estoppel fails as a matter of law.

Ms Bowen's counterclaims for promissory estoppel also must fail as a matter of law.

The court has held

In order to recover under a theory of promissory estoppel, a claimant must demonstrate: (1) the presence of a promise unambiguous in its terms; (2) reasonable reliance on the promise; (3) the reliance was expected and foreseeable; and (4) injury in reliance on the promise. *Satcher v. Satcher*, 351 S.C. 477, 483-84 570 S.E.2d 535, 538 (Ct.App.2002). The applicability of the doctrine of promissory estoppel depends on whether the refusal to apply it would virtually sanction the perpetration of fraud or would result in other injustice. *Citizens Bank v. Gregory's Warehouse, Inc.*, 297 S.C. 151, 154, 375 S.E.2d 316, 318 (Ct.App.1988). *Craft v. S. Carolina Comm'n for Blind*, 385 S.C. 560, 565, 685 S.E.2d 625, 627, 2009 WL 3734514 (Ct. App. 2009).

Looking at both the promissory estoppel section and all paragraphs preceding it, nowhere in the answer and counterclaim does Ms. Bowen lay out what the explicit promise is and what the specific terms of such promise were. She simply gives a general promise, "made the aforesaid statements" and then just effectively quotes the elements of promissory estoppel without any factual support whatsoever. She also does not give any factual support of any reliance or any injury either. In fact, Ms. Samuel agreed to the Note and Mortgage under the specific terms of the documents as seen by her signatures on the documents. As a result, Ms. Bowen's counterclaim for Promissory Estoppel must fail as a matter of law.

Further, as the basis for this claim results from events occurring at or near the time of origination of the loan, the statute of limitations for this counterclaim has also lapsed. Under South Carolina Code Annotated Section 15-3-530, "an action upon a contract, obligation or liability, express or implied" which would encompass an action under promissory estoppel is three years. As the origination of the loan occurred nearly fifteen years ago, this cause of action is barred by the statute of limitations and the counterclaim must fail.

i. *Defendant's counterclaim for Slander of Credit fails as a matter of law.*

Ms. Bowen's Counterclaim for Slander of Credit also fails as a matter of law. Ms. Bowen has put forth no facts to support her allegations that Plaintiff or MERS has harmed her credit. Further, as Ms. Bowen is not Ms. Samuel, the borrower, and the mortgage account is not hers, this account would not appear on Ms. Bowen's credit history and therefore, any negative reporting, would not be reported against her. The only party against which Plaintiff could report negatively is the party who had the account, Ms. Samuel. Any negative credit reporting on Ms. Samuel's credit would have occurred prior to her death in February of 2008. If any negative credit reporting would have occurred after that date against her credit report, it would be irrelevant as Ms. Samuel is deceased and, as such, the reporting would have no effect on her. Further, the statute of limitations under Section 15-3-550 of the South Carolina General Statutes for slander is two years. As a counterclaim was not filed for this until January of 2011, this claim is barred by the statute of limitations.

j. *Defendant's counterclaim for Violation of the Equal Credit Opportunity Act ("ECOA") (15 U.S.C. § 1691, et. seq.) fails as a matter of law.*

Defendant's counterclaim for Violation of the Equal Credit Opportunity Act fails as a matter of law. Ms. Bowen states that the Plaintiff and Third Party Defendants failed to give a meaningful review to a loan modification application that was allegedly submitted and that Plaintiff and Third Party Defendants failed to give written notice that the loan modification request was denied. First of all, Ms. Bowen has given no factual support that a meaningful review was given except for Plaintiff allegedly not giving written notice of a denial. However, Ms. Bowen's allegation fails as a matter of law because the courts have deemed it only a violation of this section of the ECOA if the borrower is current on the loan. If the borrower is

delinquent or in default on the loan, then failure of a party to send out written notice of a denial of the loan modification application, is not a violation. (See Exhibits "10 & 11"). The court in the case of Davis v. Citimortgage, Inc., 10-12136, 2011 WL 891209 (E.D. Mich. Mar. 11, 2011) lays this out very clearly.

When a consumer applies for a mortgage loan modification under the HAMP and a creditor denies the request, the denial may implicate the ECOA. "Originally enacted in 1974 to prohibit discrimination in credit transactions, the ECOA was amended in 1976 to require creditors to furnish written notice of the specific reasons for adverse action taken against a consumer." Fischl v. Gen. Motors Acceptance Corp., 708 F.2d 143, 146 (5th Cir.1983) (citing 15 U.S.C. §§ 1691(d)(2) and (3)). In this case, Plaintiff claims that when Defendant denied her request for a mortgage loan modification, the ECOA required Defendant to provide Plaintiff with written notice of the specific reasons for the denial. However, the ECOA's notice requirements do not apply where the consumer requesting credit is delinquent or in default on an existing credit arrangement with the creditor. 15 U.S.C. § 1691(d) (6) (stating that adverse action "does not include a refusal to extend additional credit under an existing credit arrangement where the applicant is delinquent or otherwise in default"); 12 C.F.R. § 202.2(c)(2)(ii) (stating that adverse action does not include "[a]ny action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account"). The default status of a consumer is determined at the time the creditor takes action with respect to the consumer, rather than at the time the consumer applies for credit. See Lewis v. ACB Bus. Servs. Inc., 135 F.3d 389, 406-07 (6th Cir.1998) (stating that the filing of a lawsuit was not adverse action where the debtor was in default when the lawsuit was filed); Haynes v. Bank of Wedowee, 634 F.2d 266, 272 (5th Cir.1981) ("We therefore conclude that appellant was in default at the time her note was accelerated and that the acceleration was not adverse action within the meaning of 12 CFR § 202.2(c)."). Davis v. Citimortgage, Inc., 10-12136, 2011 WL 891209 (E.D. Mich. Mar. 11, 2011).

Given that the account is clearly in default, (See Exhibits "5"), the borrowers counterclaim for a violation of the ECOA fails as a matter of law. Furthermore, the ECOA's has a two year statute of limitations (15 U.S.C. § 1691, et. seq.) which has almost certainly elapsed as well. Thus, this counterclaim also must fail.

k. Defendant's counterclaims for Negligence and Gross Negligence fails as a matter of law.

The Defendant's counterclaims for Negligence and Gross Negligence also must fail as a matter of law. "The elements "of negligence are: (1) a duty owed to the plaintiff by the defendant, (2) a breach of that duty by the defendant, and (3) damages proximately resulting from the breach of duty." *Hubbard v. Taylor*, 339 S.C. 582, 588, 529 S.E.2d 549, 552 (Cl.App.2000); *Bishop v. S.C. Dep't of Mental Health*, 331 S.C. 79, 88, 502 S.E.2d 78, 82 (1998). *Thomas Sand Co. v. Colonial Pipeline Co.*, 349 S.C. 402, 408, 563 S.E.2d 109, 112, 156 Oil & Gas Rep. 216, 2002 WL 265983 (Ct. App. 2002). The courts have expounded on the individual elements and explained:

Proximate cause requires proof of both causation in fact and legal cause. *Rush v. Blanchard*, 310 S.C. 375, 379, 426 S.E.2d 802, 804 (1993). "Causation in fact is proved by establishing the injury would not have occurred 'but for' the *409 defendant's negligence." *Id.* at 379, 426 S.E.2d at 804. "Legal cause, in contrast to the 'but for' nature of causation in fact, turns on the issue of foreseeability." *Olson v. Faculty House of Carolina, Inc.*, 344 S.C. 194, 210, 544 S.E.2d 38, 46 (Cl.App.2001), cert. granted (Oct. 10, 2001). "[I]t is not necessary that the actor must have contemplated or could have anticipated the particular event which occurred...." *Young v. Tide Craft, Inc.*, 270 S.C. 453, 463, 242 S.E.2d 671, 675 (1978). . . . "Proximate cause does not mean the sole cause. The defendant's conduct can be a proximate cause if it was at least one of the direct, concurring causes of the injury." *Small*, at 464, 494 S.E.2d at 843. *Id.* At 408-409.

First as shown throughout this memorandum, the Plaintiff and MERS have not been shown to have done anything wrong, thus, not breaching any duty to Ms. Bowen or the late Ms. Samuel. Looking specifically at the allegations in the negligence and gross negligence section, Plaintiff & MERS have not violated ECOA or any Federal or State servicing laws. Further, the proximate cause of the potential loss of the property as alleged is the failure to pay the mortgage payments and nothing that the Plaintiff or MERS has done. As a result, the counterclaim for negligence must fail as a matter of law.

The allegations for gross negligence must also fail. "Gross negligence is the intentional, conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do." Clyburn v. Sumter County Sch. Dist. No. 17, 317 S.C. 50, 53, 451 S.E.2d 885, 887 (1994); accord Jinks v. Richland County, 355 S.C. 341, 344, 585 S.E.2d 281, 283 (2003); Worsley Cos., Inc. v. Town of Mount Pleasant, 339 S.C. 51, 57, 528 S.E.2d 657, 661 (2000); Marietta Garage, Inc. v. S.C. Dep't of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct.App.1999). It is the failure to exercise even the slightest care. Faile v. South Carolina Dep't of Juvenile Justice, 350 S.C. 315, 331-32, 566 S.E.2d 536, 544 (2002); Rakestraw v. S.C. Dep't of Highways and Public Transp., 323 S.C. 227, 473 S.E.2d 890 (Ct.App.1996). Proctor v. Dep't of Health & Envtl. Control, 368 S.C. 279, 294, 628 S.E.2d 496, 504, 2006 WL 706734 (Ct. App. 2006). As gross negligence is a subset of negligence that is based on the conscious action or intentional action, and as detailed above, Plaintiff and MERS have not been negligent even anything without that relative mindset, the counterclaim for gross negligence must also fail as a matter of law.

Finally, the counterclaims for negligence and gross negligence must fail as the statute of limitation has lapsed. The Statute of limitations on a claim for negligence or gross negligence is three years under South Carolina General Statute section 15-3-530(5). As such this counterclaim fails as well

1. Defendant's counterclaim for Intentional Infliction of Emotional Distress fails as a matter of law.

Ms. Bowen's counterclaim for Intentional Inflection of Emotional Distress fails as a matter of law. The courts have stated:

In order to state a claim for intentional infliction of emotional distress, a party must establish (1) the defendant intentionally or recklessly inflicted severe

emotional distress, or was certain or substantially certain such distress would result from his conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community; (3) the actions of defendant caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure. Williams v. Lancaster Cnty. Sch. Dist., 369 S.C. 293, 305, 631 S.E.2d 286, 293, 210 Ed. Law Rep. 479, 2006 WL 1526003 (Ct. App. 2006).

As has been discussed at length in this memorandum, each and every one of the Ms. Bowen's allegations fail as a matter of law. Ms. Bowen has not identified a single action taken by the Plaintiff or MERS that is valid or actionable. As none of the allegations are valid or actionable, the defendant could not have inflicted severe emotional distress on Ms. Bowen. Further, the actions alleged are those alleging mistakes in the handling of a loan. None of these actions, even if valid or actionable, which they are not, could rise to the level of conduct deemed to be "so extreme or outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized society." In fact, looking at cases where there was significantly worse conduct than what the Defendant has alleged, the court stated:

We held in *Shipman v. Glenn*, 314 S.C. 327, 443 S.E.2d 921 (Ct.App.1994), that a supervisor's conduct in ridiculing the speech impediment of and threatening to fire an employee who had cerebral palsy did not provide a sufficient basis for intentional infliction of emotional distress. Moreover, we further found a homeowner's association president's refusal to give members access to the association's books and records in violation of the associations bylaws did not constitute outrage. *Shupe v. Settle*, 315 S.C. 510, 445 S.E.2d 651 (Ct.App.1994). Approximately one month later we held a doctor's action in mistakenly informing a patient's daughter that her father had died, when in fact he was *155 still alive, was not sufficiently outrageous for intentional infliction of emotional distress. *Strickland v. Madden*, 323 S.C. 63, 448 S.E.2d 581 (Ct.App.1994). Gattison v. S. Carolina State Coll., 318 S.C. 148, 154-55, 456 S.E.2d 414, 417, 99 Ed. Law Rep. 627, 1995 WL 112028 (Ct. App. 1995).

Thus, the counterclaim for Intentional Infliction of Emotional Distress must fail as the alleged conduct does not rise to level necessary for such a claim.

Further, the borrower has not given any facts to show emotional distress that the Plaintiff was so severe that no reasonable person could be expected to endure. Ms. Bowen alleges general pain and suffering, including general emotional distress and general embarrassment but nothing that rises to the level of being so severe that no reasonable person be expected to endure. As a result, this cause of action must fail as well.

6. All of the Counterclaims against MERS should fail as a matter of law as MERS is not involved in any of the activities that would form the basis for any of the counterclaims.

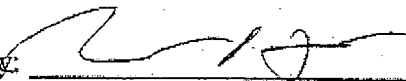
Each of the Counterclaims alleged by Ms. Bowen against MERS should fail as a matter of law as MERS is not involved in any of the activities that would form the basis for any of the counterclaims. Mortgage Electronic Registration Systems, Inc. (MERS) is a wholly-owned subsidiary of MERSCORP Holdings, and its sole purpose is to serve as mortgagee in the land records for loans registered on the MERS® System. The MERS® System is a national electronic database that tracks changes in mortgage servicing rights and beneficial ownership interests in loans secured by residential real estate. MERS, MERSCORP Holdings and the MERS® System do not service mortgages. Mortgage lenders, or other mortgage servicing companies, collect payments from borrowers and manage their loans. As the mortgagee of record, MERS receives service of process, legal notices and other mail regarding the mortgaged properties. MERSCORP Holdings, Inc., on behalf of MERS, sorts, scans and transmits documents electronically to the appropriate member. Because MERS is a common agent for its members, recording an assignment of the mortgage is eliminated when ownership of the promissory note or servicing rights transfer between members. This reduces work and cost. The MERS® System also provides information on undisclosed liens, which reduces fraud.

In this action, all of the allegations arise out of the origination and servicing of the loan, none of which MERS actually does. As a result, as MERS does not have any involvement in these activities, each and every one of the counterclaims should fail as a matter of law as against MERS.

III. CONCLUSION

The Plaintiff has clearly established that the essential elements necessary to prevail on its action for foreclosure and to reform the mortgage. The Plaintiff and MERS have further established that the various filings of the Defendant fail to constitute a defense to the Plaintiff's foreclosure action or the mortgage reformation and the counterclaims in this action have no validity or merit. When taken as a whole, no material issue of fact remains to be decided. Thus, when no issue of material fact exists, the appropriate action is Summary Judgment. Spencer v. Miller, 259 S.C. 453, 192 S.E.2d 863 (1972). Accordingly, the Plaintiff prays that the Court award it Summary Judgment as to its cause of action and the relief requested in its Complaint and Plaintiff and MERS pray that the Court deny each of the counterclaims in this matter.

Brock and Scott, PLLC
3800 Fernandina Rd., Suite 110
Columbia, South Carolina 29210
Telephone: (803) 454-3540

By: 
William P. Stork
Attorney for the Plaintiff

Dated: April 24, 2015
Columbia, South Carolina

EXHIBIT 1

Loan No. [REDACTED]

MFB-4685-3094

NOTE

Multistate

FHA Case No.
[REDACTED]

DECEMBER 23, 1999

[Date]

3307 1/2 PERCIVAL RD
COLUMBIA, SOUTH CAROLINA 29223-

[Property Address]

1. PARTIES

"Borrower" means each person signing at the end of this Note, and the person's successor and assigns. "Lender" means SOUTHRUST MORTGAGE CORPORATION and its successors and assigns.

2. BORROWER'S PROMISE TO PAY; INTEREST

In return for a loan received from Lender, Borrower promises to pay the principal sum of Seventy One Thousand Five Hundred Seventy Five and 00/100 Dollars (U.S. \$ 71,575.00), plus interest, to the order of Lender. Interest will be charged on unpaid principal, from the date of disbursement of the loan proceeds by Lender, at the rate of Eight per cent (8.000 %) per year until the full amount of principal has been paid.

3. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." That Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on FEBRUARY 1, 2000 . Any principal and interest remaining on the first day of JANUARY 1, 2030 will be due on that date, which is called the "Maturity Date."

(B) Place

Payment shall be made at SOUTHRUST MORTGAGE CORPORATION
210 WILDWOOD PARKWAY BIRMINGHAM, ALABAMA 35209-
or at such other place as Lender may designate in writing by notice to Borrower.

(C) Amount

Each monthly payment of principal and interest will be in the amount of U.S. \$ 525.20 . This amount will be part of a larger monthly payment required by the Security Instrument, that shall be applied to principal, interest and other items in the order described in the Security Instrument.

(D) Allonge to this Note for payment adjustments

If an allonge providing for payment adjustments is executed by Borrower together with this Note, the covenants of the allonge shall be incorporated into and shall amend and supplement the covenants of this Note as if the allonge were a part of this Note. [Check applicable box]

☐

Graduated Payment Allonge

☐

Growing Equity Allonge

☐

Other (specify)

5. BORROWER'S RIGHT TO PREPAY

Borrower has the right to pay the debt evidenced by this Note, in whole or in part, without charge or penalty, on the first day of any month. Lender shall accept prepayment on other days provided that borrower pays interest on the amount prepaid for the remainder of the month to the extent required by Lender and permitted by regulations of the Secretary. If Borrower makes a partial prepayment, there will be no changes in the due date or in the amount of the monthly payment unless Lender agrees in writing to those changes.

Loan No. _____

6. BORROWER'S FAILURE TO PAY

(A) Late Charge for Overdue Payments

If Lender has not received the full monthly payment required by the Security Instrument, as described in Paragraph 4(C) of this Note, by the end of fifteen calendar days after the payment is due, Lender may collect a late charge in the amount of

Four _____ per cent (4.000 %) of the overdue amount of each payment.

(B) Default

If Borrower defaults by failing to pay in full any monthly payment, then Lender may, except as limited by regulations of the Secretary in the case of payment defaults, require immediate payment in full of the principal balance remaining due and all accrued interest. Lender may choose not to exercise this option without waiving its rights in the event of any subsequent default. In many circumstances regulations issued by the Secretary will limit Lender's rights to require immediate payment in full in the case of payment defaults. This Note does not authorize acceleration when not permitted by HUD regulations. As used in this Note, "Secretary" means the Secretary of Housing and Urban Development or his or her designee.

(C) Payment of Costs and Expenses

If Lender has required immediate payment in full, as described above, Lender may require Borrower to pay costs and expenses including reasonable and customary attorneys' fees for enforcing this Note to the extent not prohibited by applicable law. Such fees and costs shall bear interest from the date of disbursement at the same rate as the principal of this Note.

7. WAIVERS

Borrower 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 Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the property address above or at a different address if Borrower has given Lender a notice of Borrower's different address.

Any notice that must be given to Lender under this Note will be given by first class mail to Lender at the address stated in Paragraph 4(B) or at a different address if Borrower is given a notice of that different address.

9. 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. Lender may enforce its rights under this Note against each person individually or against all signatories together. Any one person signing this Note may be required to pay all of the amounts owed under this Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

Mary L Samuel

MARY L SAMUEL

Social Security Number _____

(Seal)

-Borrower

(Seal)

-Borrower

Social Security Number _____

(Seal)

-Borrower

(Seal)

-Borrower

Social Security Number _____

Social Security Number _____

**PAY TO THE ORDER OF
MIDFIRST BANK**

EXHIBIT 2

MFB-46553499

Loan No. [REDACTED]
Instrument Prepared by:

Book 00374-1247
Fee \$13.00 County Tax \$0.00 State Tax \$0.00

Mortgage

Record & Return to

[REDACTED]
2800001085 John G. North

THANK
5th

Recorded - January 5 2000

[Space Above This Line For Recording Data]

ST

PHA Case No. [REDACTED]

State of South Carolina

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on DECEMBER 23, 1999
The mortgagor is MARY L SAMUEL, UNMARRIED and RAYMOND SAMUEL

whose address is 3307 1/2 PERCIVAL RD COLUMBIA, SC 29223-

("Borrower"). This Security Instrument is given to SOUTHRUST MORTGAGE CORPORATION

which is organized and existing under the laws of THE STATE OF DELAWARE

and whose address is 210 WILDWOOD PARKWAY BIRMINGHAM, ALABAMA 35209-

("Lender"). Borrower owes Lender the principal sum of Seventy One Thousand Five Hundred Seventy Five and 00/100

Dollars (U.S. \$ 71,575.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument

("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on JANUARY 1, 2030

This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) 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 RICHLAND County, South Carolina:

See attached SCHEDULE for legal description

DERIVATION: Book D1240 Page 751 and Estate # 99ES4001018

TMS#: 22606-01-01A

which has the address of 3307 1/2 PERCIVAL RD
[Street]

COLUMBIA
[City]

South Carolina 29223-

("Property Address")

GFS Form - 0000200 (6/05)
[Zip Code]

Page 1 of 5

2014 South Carolina Mortgage - 1085

Together with all the improvements now or hereafter created 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 seized of the estate hereby conveyed and has the right to mortgage, 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.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. **Payment of Principal, Interest and Late Charge.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. **Monthly Payments of Taxes, Insurance and Other Charges.** Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) household payments or ground rents on the Property, and (c) premiums for insurance required under Paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to the Lender are called "Escrow Funds."

Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for anticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to the foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. **Application of Payments.** All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, household payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note;

Fifth, to late charges due under the Note.

4. **Fire, Flood and Other Hazard Insurance.** Borrower shall insure all improvements on the Property, whether now in existence or subsequently created, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently created, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in Paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in Paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in Paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in Paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in Paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by Paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in Paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

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; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; 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 may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) Default. Lender may, except as limited by regulations issued by the Secretary in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment; or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) Sale Without Credit Approval. Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1704(j)-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent); and
- (ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property, but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) No Waiver. If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) Regulations of HUD Secretary. In many circumstances regulations issued by the Secretary will limit Lender's rights in the case of payment defaults to require immediate payment in full and foreclosure if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) Mortgage Not Insured. Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, the option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance by Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or 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 Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 9.b. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower'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 may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. **Governing Law; Severability.** This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. 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. To this end the provisions of this Security Instrument and the Note are declared to be severable.

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

16. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. 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 the maintenance of the Property.

Borrower shall promptly give Lender written notice of 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. If Borrower learns, or is notified by any governmental or regulatory authority, 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.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, material containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

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

17. **Assignment of Rents.** Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this Paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

18. **Foreclosure Procedure.** If Lender requires immediate payment in full under paragraph 9, Lender may foreclose this Security Instrument by judicial proceeding and pursue any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of due diligence, all of which shall be additional sums secured by this Security Instrument.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 et seq.) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. 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 without charge to Borrower. Borrower shall pay any recordation costs.

20. Waivers. Borrower waives all rights of homestead exemption in the Property. Borrower waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Borrower in the event of foreclosure under this Security Instrument.

21. 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 one hundred fifty percent (150%) of the original principal amount of the Note plus interest thereon, attorney's fees and court costs.

22. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

[Check applicable box(es)]

- ☐ Rehabilitation Loan Rider
☐ Condominium Rider
☐ Planned Unit Development Rider
☐ Other [Specify]

- ☐ Tax-Exempt Financing Rider
☐ Graduated Payment Rider

- ☐ Rider for Section 245 Mortgage
☐ Growing Equity Rider

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

CC McCarthy

Mary L. Samuel (Seal)
MARY L SAMUEL
Borrower

William Heath Foy

Raymond Samuel (Seal)
RAYMOND SAMUEL
Borrower

____ (Seal)
Borrower

____ (Seal)
Borrower

STATE OF SOUTH CAROLINA,) SS:
County of Richland

Personally appeared before me the undersigned witness
and made an oath that he saw the within-named MARY L SAMUEL

sign, seal, and as his / her / their act and deed deliver the within deed, and (if a deponent, with the other subscribing witness
witnessed the execution thereof.

CC McCarthy

Sworn before me this 23RD day of DECEMBER, 1999

William Heath Foy
Notary Public for South Carolina

My Com. Expires 2-29-04

SCHEDULE

All that certain piece, parcel or tract of land containing 5.67 acres, more or less, with any improvements thereon, being located near Columbia, County of Richland, State of South Carolina, and being a portion of the property shown on that certain plat prepared for Jo Anne B. Turner by Douglas E. Platt, Sr., RLS, No. 4041, dated 3/9/87, and recorded in the RMC Office for Richland County 3/31/87 in Plat Book 51 at page 5630 and on a plat prepared for Ellie Martin by Dr. T. Duncan, recorded in the RMC Office for Richland County in Plat Book X page 485. Reference is craved to said plats for a more complete description of boundaries and measurements; be all measurements a little more or less.

TMS#: 22606-01-01 (Portion).

RLS

M.L.S.

EXHIBIT 3

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF RICHLAND

IN THE MATTER OF: Mary L. Samuel

CASE NUMBER: 2010 ES 401229

APPLICATION FOR

(check any that apply)

PETITION FOR

INFORMAL

☐ PROBATE OF WILL

☒ APPOINTMENT

FORMAL

☐ TESTACY

☐ APPOINTMENT

Applicant/Petitioner: Melba M. K. Bowers

Address: [REDACTED]

Telephone: [REDACTED]

10 SEP 21 PM 12:52
FILED
CLERK OF COURT
RICHLAND COUNTY, S.C.

FILED

1. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Give your relationship to the decedent, if any, and your interest in this proceeding.

2. Decedent information

Name: Mary L. Samuel
Social Security Number: [REDACTED]
Date of Birth: [REDACTED]
Date of Death: February 9, 2006
Age at date of death: 79
Domicile at date of death: 3207 72 Percival Rd
(County) (State)

3. Venue for this proceeding is proper in this county because:

☒ Decedent was domiciled in this county at date of death.

☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this county at date of death.

☐ Decedent has a right to take legal action in this county because:

4. Names and addresses of devisees in the will including dates of birth of minors. If there are no minors, so state.

Name	Date of Birth	Address	Relationship to Decedent
<u>Charles Samuel Jr.</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>Son</u>
<u>Theresa Ann Raymond Samuel</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>Son</u>
<u>Melba M. K. Bowers</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>Daughter</u>
<u>Brandon M. Bowers</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>Daughter</u>

(use additional sheet if necessary)

EXHIBIT 6



THOMAS E. BROCK *
GREGORY A. SCOTT *
JAMES P. BONNER *
MARK A. PEARSON **
BRIAN L. CAMPBELL **
SEAN M. CORCORAN *

5121 PARKWAY PLAZA BOULEVARD
CHARLOTTE, NC 28217
PHONE: 704-643-0290
FAX: 704-553-7225

ATLANTA, GA
CHARLOTTE, NC
RALEIGH, NC
WILMINGTON, NC
WINSTON-SALEM, NC
COLUMBIA, SC
FRANKLIN, TN

www.brockandscott.com

* Licensed in North Carolina

** Licensed in North Carolina and South Carolina

July 16, 2013

Mahasin K. Bowen
Administrator of Estate of Mary L. Samuel (Deceased)
3307 Percival Road
Columbia, South Carolina 29223

RE: MidFirst Bank vs. Mahasin K. Bowen et al.
C/A No.: 2010-CP-40-5886
B&S No.: 08-01399

Dear Ms. Bowen:

Enclosed please find the Plaintiff's First Set of Interrogatories, First Requests for Production, First Requests for Admissions, and Certificate of Mailing all of which are served upon you in the above-referenced matter.

Should you have any questions or comments please do not hesitate to contact me.

With kind regards, I am

Sincerely,

Travis E. Menk

Enclosures

*** THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE BEEN DISCHARGED IN CHAPTER SEVEN BANKRUPTCY, WE ARE NOT SEEKING PERSONAL LIABILITY AGAINST YOU, BUT ARE PURSUING THE RIGHTS AGAINST THE PROPERTY AS PROVIDED IN THE SECURITY AGREEMENTS***

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K Bowen; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Kilgore Marketing Solutions dba RSVP Columbia; Tauheedah Mateen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; South Carolina Attorney General; South Carolina Department of Motor Vehicles,

Defendant(s).

vs.

South Trust Mortgage Corporation, Mortgage Electronic Registration Systems, Inc. (MERS), Homeside Lending, Inc., and John Does 1-10 (identities and addresses to be supplied upon discovery)

Third-Party Defendants

FIFTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS
C/A No.: 2010-CP-40-5886

PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO DEFENDANT(S)
MAHASIN K. BOWEN AS PERSONAL
REPRESENTATIVE FOR THE ESTATE OF
MARY LEE SAMUEL AND IN HER INDIVIDUAL
CAPACITY;

TO: MAHASIN K. BOWEN AS PERSONAL REPRESENTATIVE FOR THE ESTATE OF MARY LEE SAMUEL AND IN HER INDIVIDUAL CAPACITY;

YOU WILL PLEASE TAKE NOTICE, that, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure (SCRCP), you are required to answer in writing and under oath each of the following interrogatories within thirty (30) days after service hereof on the undersigned attorney at Brock & Scott, PLLC, 5121 Parkway Plaza Boulevard, Charlotte, NC 28217. In addition, these interrogatories shall be deemed to be continuing so as to require the Defendants to reasonably supplement or amend their answers thereto in accordance with Rule 26(e) of the South Carolina Rules of Civil Procedure.

INTERROGATORIES

1. Give the names and addresses and phone numbers of persons known to the Defendant(s) or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.
2. Set forth a list of photographs, plats, sketches or other documents in possession of the party that relate to the claim or defense in the case.
3. List the names and addresses and phone numbers of any expert witnesses whom the Defendants propose to use as a witness at the trial of the case.

4. For each person known to the Defendant(s) or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the Plaintiff and 3rd Party Defendant (counterclaim defendant) Mortgage Electronic Registration Systems, Inc. (MERS) of the important facts known to or observed by such witness or provide a copy of any written or recorded statements taken from such witnesses.

5. With respect to each expert or opinion witness whom you will or may call upon to give evidence in connection with this case, please state: his or her name, address, telephone number, occupation, and current employment; the subject matter of his or her expertise; any opinions to which you contend qualify him or her as an expert; the substance of all facts and opinions to which he or she could testify if called as a witness; a summary of the grounds for each such opinion, and identify all documents, reports or statements made by any such expert.

6. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the Defendant(s).

7. Identify any and all payments from the Defendant(s) to the Plaintiff and Third Party Defendants (Counterclaim Defendants) that the Defendant(s) claim were negotiated but not applied to the subject loan.

8. Identify any and all payments made by the Defendant(s) that were returned to the Defendant(s) by the Plaintiff or Third Party Defendants (Counterclaim Defendants).

9. Please identify for each allegation which Plaintiff or Third Party Defendant (Counterclaim Defendant) (MidFirst Bank, South Trust Mortgage Corporation, Mortgage Electronic Registration Systems, Inc. or Homeside Lending, Inc.) allegedly committed each of the allegations identified in your answer and counterclaims.

9. Identify with specific details in what way the Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed Predatory Lending, Committed Bait and Switch of Mortgage Terms, refused to refund a deposit, and committed Unfair and Deceptive Acts and Practices and the specific Plaintiff or Third Party Defendant allegedly committing such actions.

10. Identify specifically and in detail the fraud Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed and the predatory lending tactics Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly used against Defendants and the specific Plaintiff or Third Party Defendant (Counterclaim Defendant) that allegedly committed such acts.

11. Identify the other parties that Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly conspired with or acted in concert with and with which Plaintiff or Third Party Defendant (Counterclaim Defendant) the unnamed party allegedly conspired with.

12. Identify in what way with specific details Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly specifically falsified Defendants socioeconomic documents and which Plaintiff or Third Party Defendant (Counterclaim Defendant) committed such acts.

13. Identify specifically in what way in detail the settlement statement was allegedly inaccurate, and not timely submitted (See Exhibit B), an appraisal was inaccurate or untrue (See Exhibit C), the debt-to-income ratio and loan-to-value ratio were inaccurate or untrue, the RESPA Good Faith Estimate were not timely presented and properly explained (See Exhibit D), and representations made were untrue and identify which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

14. Identify in detail what payments were not properly disclosed as "pre-paid finance charges" or legally required, how payments were neither bona fide nor reasonable, what improper payments or disclosures were concealed or not disclosed, and in what way they were concealed or not disclosed and identify which Plaintiff or Third Party Defendant allegedly committed such acts (See Exhibits B & E).

15. Identify in what way and how the loan allegedly was maintained and physically held negligently, carelessly, or recklessly performed, misrepresented, or in violation of duties and identify which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

16. Identify specifically how assignments were failed to be properly and timely recorded and specifically which assignments you are referring to, how loan payments were not properly attributed to principal and interest, taxes, or insurance and which loan payments you are referring to, how monthly pay-offs were improperly calculated, what monthly pay-offs were improperly calculated, what charges were improperly assessed, what charges the Defendants were improperly notified of, how the borrowers were improperly notified of these charges, how delinquency charges were improperly calculated and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

17. Identify when and how the Defendant accepted a loan modification agreement, how Plaintiff or Third Party Defendants ignored the loan modification agreement and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

18. Identify in what way the Plaintiff lacks standing and jurisdiction to bring this action and otherwise who has the proper standing and jurisdiction to bring this action.

19. Identify who specifically (and from which Third Party Defendant (Counterclaim Defendant) or Plaintiff) and how specifically Plaintiff or Third Party Defendants (Counterclaim Defendants) misrepresented and omitted material facts identified in Paragraph 94 of your Answer and Counterclaims.

20. Identify in what way in detail the Plaintiff or Third Party Defendants (Counterclaim Defendants) misrepresented the character, extent, amount of debt, and its status in a legal proceeding and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

21. Identify specifically and in detail the alleged fraudulent conduct, misrepresentations, and deceptive conduct allegedly undertaken by Plaintiff or Third Party Defendants and which Plaintiff or Third Party Defendant allegedly committed such acts.

22. Identify specifically what Credit Costs Plaintiff or Third Party Defendants (Counterclaim Defendants) imposed upon Defendants that were expressly Prohibited by Federal and South Carolina law and failed to comply with TILA, HOEPA, RESPA, FDCPA, FCEUA, and the Consumer Protection Act and which Plaintiff or Third Party Defendant allegedly committed such acts.

23. Identify specifically what disclosures Defendants did not receive in compliance with TILA (See Exhibit E), HOEPA, The Consumer Protection ACT, Regulation Z, or RESPA (See Exhibit F) and which Plaintiff or Third Party Defendant allegedly committed such acts.

24. Identify specifically, when, where, by whom, in what way, and how the Plaintiff or Third Party Defendant threatened or communicated false credit information including failure to communicate that a debt is disputed, gave a false impression of the character or legal status of the debt and what was false about the impression of the character or legal status of the debt, used false and deceptive collection methods and what these false and deceptive collection methods were, and the threatening or communicating of false credit information and what false credit information you are referring to, specifically how it is false, and which Plaintiff or Third Party Defendant allegedly committed such acts.

25. Identify in detail and explain by giving all the specific examples with dates, times, by whom and how, what actions of Plaintiff or Third Party Defendants (Counterclaim Defendants) were unfair methods of

competition or unfair or deceptive acts and practices and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

26. Identify in detail and explain by giving the specific examples with dates, times, by whom, and how the Plaintiff or Third Party Defendants (Counterclaim Defendants) allegedly used unfair and unconscionable collection methods including how they were unfair or unconscionable, how the Plaintiff or Third Party Defendants (Counterclaim Defendants) gave a false impression of the character, amount or legal status of the alleged debt, used false and deceptive collection methods, made threats and took illegal action, and used false deceptive, misleading, unfair, and unconscionable means to collect or attempt to collect a debt and which Plaintiff or Third Party Defendant (Counterclaim Defendants) allegedly committed such acts.

27. Please Identify in detail how and in what way Plaintiff or Third Party Defendants (Counterclaim Defendants) specifically violated the Consumer Protection Act by giving all the specific examples with dates, times, by whom, and how and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

28. Please identify and explain in detail specifically how any of the other Defendants had knowledge of any alleged fraud or violations of the Consumer Protections Act, what evidence you have for this assertion, what fraud and violations of the Consumer Protections Act you believe other Defendants had knowledge of and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

29. Please identify what materials terms Plaintiff or Third Party Defendants misrepresented or concealed, how they misrepresented or concealed, what the terms were as opposed to what they were represented to be and which Plaintiff or Third Party Defendant allegedly committed such acts.

30. Please identify how the mortgage was different from as allegedly promised and which Plaintiff or Third Party Defendant allegedly committed such acts.

31. Please identify specifically how the Plaintiffs or Third Party Defendants (Counterclaim Defendants) have impaired Defendants credit, which Defendants credit was allegedly impaired, and if they have impaired the credit, how this was wrong, improper, or illegal and which Plaintiff or Third Party Defendant (Counterclaim Defendants) allegedly committed such acts.

32. Please identify specifically how the Plaintiff or Third Party Defendants (Counterclaim Defendants) failed to evaluate the Defendant's loan in good faith and refused to give a meaningful review to their loan application and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

33. Please identify in detail how the Plaintiff or Third Party Defendants (Counterclaim Defendants) failed to conduct due diligence inquiries into its mortgage transaction with the Defendants and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

34. Please specifically identify the severe emotional distress suffered by Defendants by specifically identifying who suffered the severe emotional distress, what severe emotional distress was suffered, and when it was suffered and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts causing the severe emotional distress and what specific acts caused what specific severe emotional distress on what specific defendant.

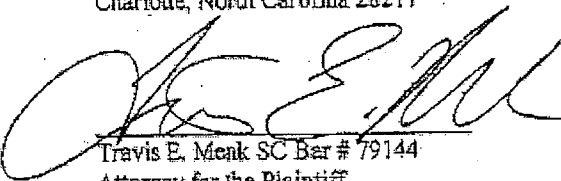
35. Please specifically identify what intentional and negligent actions have caused the Defendants to suffer severe emotion distress and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

36. Please identify what attorneys' fees and late charges have been attempted to be collected and identify how they are inappropriate and which Plaintiff or Third Party Defendant (Counterclaim Defendant) allegedly committed such acts.

37. Please identify with specificity what actions Mortgage Electronic Registration Systems, Inc. has taken to make it liable under any of the counterclaims in this action.

38. Please identify with specificity what actions Midfirst Bank has taken to make it liable under any of the counterclaims in this action.

Brock & Scott, PLLC
5121 Parkway Plaza Boulevard
Charlotte, North Carolina 28217



Travis E. Menk SC Bar # 79144
Attorney for the Plaintiff

Dated: July 16, 2013
Charlotte, North Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

FIFTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS
C/A No.: 2010-CP-40-5885

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen as Personal Representative for the
Estate of Mary Lee Samuel; Mahasin K Bowen; Cecil
Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.;
Earl Hassan Samuel; Kenneth Kareem Samuel;
Kilgore Marketing Solutions dba RSYF Columbia;
Tauheedah Mateen; Raymond Samuel a/k/a
Shamsud-din Raymond Samuel; South Carolina
Attorney General; South Carolina Department of
Motor Vehicles,

Defendant(s).

vs.

South Trust Mortgage Corporation, Mortgage
Electronic Registration Systems, Inc. (MERS),
Homeside Lending, Inc., and John Does 1-10
(Identities and addresses to be supplied upon
discovery)

Third-Party Defendants

PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION TO DEFENDANT(S) MAHASIN K.
BOWEN AS PERSONAL REPRESENTATIVE FOR
THE ESTATE OF MARY LEE SAMUEL AND
MAHASIN K. BOWEN IN HER INDIVIDUAL
CAPACITY

TO: MAHASIN K. BOWEN AS PERSONAL REPRESENTATIVE FOR THE ESTATE OF MARY LEE
SAMUEL AND MAHASIN K. BOWEN IN HER INDIVIDUAL CAPACITY

YOU WILL PLEASE TAKE NOTICE, that, pursuant to Rule 34 of the South Carolina Rules of Civil
Procedure, the Defendants are hereby requested to produce copies of the documents listed below for inspection and
copying at Brock & Scott, PLLC, 5121 Parkway Plaza Boulevard, Charlotte, North Carolina 28217 on or before
Thirty (30) days from the date of this request.

REQUEST FOR PRODUCTION

The term "documents" when used herein means all originals of any nature whatsoever, identical copies, and
all nonidentical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your
possession, custody or control, regardless of where located; including, without limiting the generality of the
foregoing, plats, sketches, punch cards, print out sheets, movie film, slides, photographs, records, microfilm, notes,
letters, memoranda, ledgers, worksheets, books, magazines, notebooks, diaries, calendars, appointment book
registers, charts, cables, papers, agreements, contracts, purchase orders, acknowledgments, invoices, authorizations,
budgets, analysis, projections, transcripts, minutes of meetings of any kind, correspondence, telegrams, drafts, data
processing discs or tapes, or computer-produced interpretations thereof, instructions, announcements, schedules and

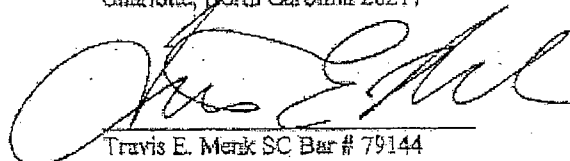
price lists. In all cases where originals and/or nonidentical copies are not available, "document" also means identical copies of original documents and copies of non-original documents.

These requests shall be deemed to be continuing so as to require supplemental production pursuant to Rule 26(e) of the South Carolina Rules of Civil Procedure.

The following documents are requested:

1. All documents which the Defendant(s) propose to introduce at the trial of this case.
2. All documents which the Defendant(s) mailed, sent or gave to the Plaintiff or any Third Party Defendant.
3. All documents which the Defendant(s) received from the Plaintiff or any Third Party Defendant.
4. All documents, including, but not limited to, cancelled checks, giving evidence that payments have been made to the Plaintiff or Third Party Defendant on the debt in question.
5. All documents in possession of Defendant(s) that relate to any claim or defense in the case.
6. Copies of any documents evidencing payments the Defendant(s) allege were negotiated by the Plaintiff or Third Party Defendant but not applied to the loan, including any proof that the same was actually negotiated by the Plaintiff or Third Party Defendant.
7. All documents referenced to answer any of the interrogatories or utilized to support any the allegations in your answer and counterclaims.
8. All documents showing the accurate socio-economic situation of defendants at the time of the loan.
9. All signed and accepted loan modification agreements.
10. All calculations you believe to be proper for the attributing of loan payments towards principal and interest, taxes and insurance with the calculations you believe to be improper and the calculations you believe to be proper for delinquency calculations and the calculations you believe to be improper.
11. All credit reports of Defendants allegedly impaired.
12. All documents relating to the loan or the application for the loan.
13. All documents demonstrating violations of TILA, HOEPA, RESPA, Regulation Z, the FDCPA, PCEUA, The Consumer Protection Act, South Carolina Law, or Federal Law.

Brock & Scott, PLLC
5121 Parkway Plaza Boulevard
Charlotte, North Carolina 28217



Travis E. Merk SC Bar # 79144
Attorney for the Plaintiff

Dated: July 16, 2013
Charlotte, North Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K Bowen; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Kilgore Marketing Solutions dba RSVP Columbia; Taubeedah Mateen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; South Carolina Attorney General; South Carolina Department of Motor Vehicles,

Defendant(s).

vs.

South Trust Mortgage Corporation, Mortgage Electronic Registration Systems, Inc. (MERS), Homeside Lending, Inc., and John Does 1-10 (Identifies and addresses to be supplied upon discovery)

Third-Party Defendants

FIFTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS
C/A No.: 2010-CP-40-5886

PLAINTIFF'S FIRST REQUEST FOR
ADMISSIONS TO DEFENDANT(S) MAHASIN K.
BOWEN AS PERSONAL REPRESENTATIVE
FOR THE ESTATE OF MARY LEE SAMUEL
AND MAHASIN K. BOWEN IN HER
INDIVIDUAL CAPACITY

TO: MAHASIN K. BOWEN AS PERSONAL REPRESENTATIVE FOR THE ESTATE OF MARY LEE
SAMUEL AND MAHASIN K. BOWEN IN HER INDIVIDUAL CAPACITY

YOU WILL PLEASE TAKE NOTICE, that pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, the Plaintiff requests that the Defendant(s) admit or deny the truth of the following matters of fact within thirty (30) days after service hereof. Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, a matter will be deemed admitted unless, within 30 days of service hereof, the Defendant(s) serve a written answer or objection to the matter on the undersigned attorney at Brock & Scott, PLLC, 5121 Parkway Plaza Boulevard, Charlotte, North Carolina 28217. If an objection is made, the reasons for the objection shall be stated. An answer shall specifically deny the matter or set forth in detail the reasons why the Defendant(s) cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that the Defendant(s) qualify their answer or deny only a part of the matter of which an admission is requested, the Defendant(s) shall specify so much of it as is true and qualify or deny the remainder. The Defendant(s) may not give lack of information or knowledge as a reason for failure to admit or deny unless the Defendant(s) state that they have made reasonable inquiry and that the information readily obtainable by them is insufficient to enable them to admit or deny.

REQUEST FOR ADMISSIONS

1. Admit or deny that on December 23, 1999, the Mary L. Samuel (a/k/a Mary Lee Samuel), by and through their duly authorized attorney-in-fact, entered into a Mortgage Note (hereinafter "Note") with South Trust Mortgage Corporation, mortgagee, whereby the Mary L. Samuel (a/k/a Mary Lee Samuel), promised to repay the principal sum of \$71,575.00.

2. Admit or deny that the Note provides that the Mary L. Samuel (a/k/a Mary Lee Samuel) will repay the principal sum, plus interest at the rate of 8.0% per annum in monthly installments of \$525.20.

3. Admit or deny that the Mary L. Samuel (a/k/a Mary Lee Samuel), through signed the Note and agreed to be bound by the provisions of the Note.

4. Admit or deny that the document attached as Exhibit "A" is a true and accurate copy of the Note.

5. Admit or deny that, to secure payment of the Note, the Mary L. Samuel (a/k/a Mary Lee Samuel) and Raymond Samuel (a/k/a Shamsud-din Raymond Samuel) did execute a real estate mortgage (hereinafter "Mortgage") covering real property located in Richland County and in said Mortgage described property as follows:

All that certain piece, parcel or tract of land, containing 5.67 acres, more or less, being a portion of a tract of land comprising 10.4 acres, more or less, situate on the northwestern side of Percival Road, about 10 miles from the City of Columbia, in the County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Effie Martin by D.T. Duncan recorded in the Office of the Register of Deeds for Richland County in Plat Book X at Page 485; less and excepting a tract containing 2.38 acres, more or less, as shown on that certain plat prepared for Fred S. Breeland, Jr. by Douglas E. Platt, Sr., RLS, dated December 13, 1973 and recorded in the RMC Office for Richland County in Plat Book 44 at Page 895 and also shown on that certain plat prepared for Jo Anne B. Turner by Douglas E. Platt, Sr., RLS, No. 4041, dated 3/9/1998, and recorded in the RMC Office for Richland County 3/31/87 in Plat Book 51 at Page 5630; and further less and excepting a tract containing 2.35 acres, more or less, situate, lying and being on the south side of Old Percival Road, about 10 miles from the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Fred S. Breeland, Jr. and Mildred M. Breeland by Douglas E. Platt, Sr., dated August 24, 1976, and being bounded and measuring on said plat as follows: commencing at a pin on the southeast side of Old Percival Road and running S12°00'E along property now or formerly of Catherin Mimms and property now or formerly of Fred S. Breeland for a distance of 335.2 feet; thence turning and running S76°40'W along property now or formerly of Fred S. Breeland for a distance of 304.1 feet; thence turning and running N16°27'W for a distance of 310.7 feet along an old fence to Old Percival Road; thence turning and running N72°21'E along Old Percival Road for a distance of 330.9 feet to the point of beginning. This being the northwestern-most portion of property heretofore conveyed to Fred S. Breeland and Mildred M. Breeland by deed of Effie Chambers Martin dated March 15, 1968, recorded in Deed Book D100 at Page 491.

See Consent Order in Richland County Case Number 2007-CP-40-6491 which reformed the mortgage legal description

Also included as collateral for the subject mortgage is that certain 1994 Destiny Omni manufactured/mobile home bearing VIN number 036366A&B.

Derivation: This being the same property conveyed to Jo Anne D. Turner by deed of Fred S.

Breeland, Jr. and Elizabeth B. Breeland recorded June 3, 1982 in Book 611 at Page 8. This property was subsequently conveyed to Raymond Samuel by deed of Jo Anne B. Turner dated May 6, 1993 and recorded May 11, 1993 in Book 1141 at Page 11. Raymond Samuel subsequently conveyed an undivided 1/3 interest to Charles Samuel, Sr. and an undivided one-third interest to Mary L. Samuel by deed dated January 23, 1995 and recorded January 31, 1995 in Book 1240 at Page 751. Charles Samuel, Sr.'s undivided 1/3 interest was conveyed to Mary Lee Samuel by Deed of Distribution dated October 2, 1998 and recorded December 20, 1999 in Book 369 at Page 2227. Mary Lee Samuel conveyed her undivided 2/3 interest to Raymond Samuel by Quit Claim Deed dated September 20, 2000 and recorded September 27, 2000 in Book 445 at Page 2684.

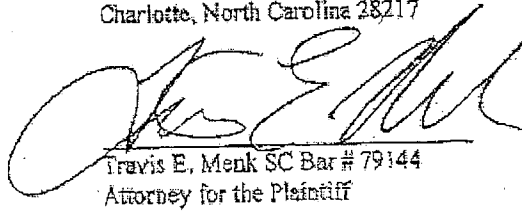
TMS No.: R22606-01-01

Property Address: 3307 Percival Road, Columbia, SC 29223

6. Admit or deny that the installments of principal and interest falling due from and after February 1, 2010 have not been paid although demand for the payment thereof has been made, thereby placing the Mary L. Samuel (a/k/a Mary Lee Samuel) and Raymond Samuel (a/k/a Shamsud-din Raymond Samuel) in default under the terms of the Note and Mortgage.
7. Admit or deny that there is now due and owing the principal sum of \$62,787.47.
8. Admit or deny that any notice required by the terms of the Mortgage or by state or federal law has been given to all applicable defendants prior to the commencement of this action.
9. Admit or deny that the Defendant(s) have no legal defense(s) to this action.
10. Admit or Deny that Mortgage Electronic Registration Systems, Inc. is not liable for any of the counterclaims alleged.
11. Admit or Deny that MidFirst Bank is not liable for any of the counterclaims alleged.
12. Admit or Deny that Mary L. Samuel and Raymond Samuel received and signed the Federal Truth in Lending (see Exhibit E).
13. Admit or Deny that Mary L. Samuel received and signed the Good Faith Estimate of Settlement Charges on November 29, 1999 (See Exhibit D).
14. Admit or Deny that Mary L. Samuel received and signed the RESPA Servicing Disclosure on November 29, 1999. (See Exhibit F).
15. Admit or Deny that Mary L. Samuel received and signed the Notice of Right to Cancel on December 23, 1999 (See Exhibit G).

If any of the above Requests for Admissions is denied, please state with particularity the reason for your denial.

Brock & Scott, PLLC
5121 Parkway Plaza Boulevard
Charlotte, North Carolina 28217



Travis E. Menk SC Bar # 79144
Attorney for the Plaintiff

Dated: July 16, 2013
Charlotte, North Carolina

EXHIBIT A

Loan No.

NOTE

Multistate

JRA Cont. No.

DECEMBER 21, 1999

[Date]

3307 1/2 PERCIVAL RD
COLUMBIA, SOUTH CAROLINA 29223

[Property Address]

1. PARTIES

"Borrower" means each person signing at the end of this Note, and the person's successors and assigns. "Lender" means SOUTHRUST MORTGAGE CORPORATION and its successors and assigns.

2. BORROWER'S PROMISE TO PAY; INTEREST

In return for a loan received from Lender, Borrower promises to pay the principal sum of Seventy One Thousand Five Hundred Seventy Five and 00/100 Dollars (U.S. \$ 71,575.00), plus interest, to the order of Lender. Interest will be charged on unpaid principal, from the date of disbursement of the loan proceeds by Lender, at the rate of Eight per cent (8.000 %) per year until the full amount of principal has been paid.

3. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." That Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on FEBRUARY 1, 2000. Any principal and interest accumulating on the first day of JANUARY 1, 2000 will be due on that date, which is called the "Maturity Date."

(B) Place

Payments shall be made at SOUTHRUST MORTGAGE CORPORATION
210 WILLOW PARKWAY BIRMINGHAM, ALABAMA 35203
or at such other place as Lender may designate in writing by notice to Borrower.

(C) Amount

Each monthly payment of principal and interest will be in the amount of U.S. \$ 5625.20. This amount will be part of a higher monthly payment required by the Security Instrument, that shall be applied to principal, interest and other items in the order described in the Security Instrument.

(D) Allonge to this Note for payment adjustments

If an allonge providing for payment adjustments is attached by Borrower along with this Note, the conditions of the allonge shall be incorporated into and shall extend and supplement the covenants of this Note as if the allonge were a part of this Note. (Check applicable box)

☐ Conditional Payment Allonge

☐ Growing Debt Allonge

☐ Other (specify)

5. BORROWER'S RIGHT TO PREPAY

Borrower has the right to pay the debt evidenced by this Note, in whole or in part, without charge or penalty, on the first day of any month. Lender shall accept prepayment on other days provided that borrower pays interest on the amount prepaid for the remainder of the month to the extent required by Lender and permitted by regulations of the Secretary. If Borrower makes a partial prepayment, there will be no change in the due date or in the amount of the monthly payment unless Lender agrees in writing to those changes.

GHS Form 0000211 (6/92S)

Page 1 of 2

2014 Lender Form 0000000000

ORIGINAL

6. BORROWER'S FAILURE TO PAY

(A) Late Charge for Overdue Payments

If Lender has not received the full monthly payment required by the Security Instrument, as described in Paragraph 4(C) of this Note, by the end of fifteen calendar days after the payment is due, Lender may collect a late charge in the amount of Four percent (4.00%) of the overdue amount of each payment.

(B) Default

If Borrower defaults by failing to pay in full any monthly payment, then Lender may, except as limited by regulations of the Secretary in the case of payment defaults, require immediate payment in full of the principal balance, including due and all accrued interest. Lender may choose not to exercise this option without losing its rights in the event of any subsequent default. In many circumstances regulations issued by the Secretary will limit Lender's right to require immediate payment in full in the case of payment defaults. This Note does not authorize acceleration when not permitted by HUD regulations. As used in this Note, "Secretary" means the Secretary of Housing and Urban Development or his or her designee.

(C) Payment of Costs and Expenses

If Lender has required immediate payment in full, as described above, Lender may require Borrower to pay costs and expenses including reasonable and customary attorneys' fees for enforcing this Note to the extent not prohibited by applicable law. Such fees and costs shall bear interest from the date of disbursement of the sums due up to the principal of this Note.

7. WAIVERS

Borrower 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 Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the property address shown or at a different address if Borrower has given Lender a notice of Borrower's different address.

Any notice that must be given to Lender under this Note will be given by first class mail to Lender at the address stated in Paragraph 4(B) or at a different address if Borrower is given a notice of that different address.

9. 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. Lender may enforce its rights under this Note against each person individually or against all signatories together. Any one person signing this Note may be required to pay all of the amounts owed under this Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

<u>Mary I Samuel</u> (Borrower)		_____ (Borrower)	
MARY I. SAMUEL	_____	Social Security Number	_____
Social Security Number	_____		
_____ (Borrower)		_____ (Borrower)	
Social Security Number	_____	Social Security Number	_____

PAY TO THE ORDER OF
MIDFIRST BANK

Without Recourse

SOUTHWEST MORTGAGE CORPORATION

ORIGINAL

Thomas A. Meyer
Thomas A. Meyer
Assistant Secretary

77

11/10/2019 10:44 AM

L SETTLEMENT CHARGES				PROPRIO- RIETARY SETTLEMENT	PROPRIO- RIETARY SETTLEMENT
700. TOTAL COMMISSION Based on Price					
701. \$	to				
702. \$	to				
703. Commission Paid at Settlement					
704. \$	to				
800. ITEMS PAYABLE IN CONNECTION WITH LOAN					
801. Loan Origination Fee	0.5750 %	to	Southwest Mortgage Corporation		700.00
802. Loan Discount	0.7500 %	to	Southwest Mortgage Corporation		80.00
803. Appraisal Fee		to	Southwest Mortgage Corporation		100.00
804. Credit Report		to	Southwest Mortgage Corporation		25.00
805. Inspection Fee		to			
806. Tax Service Fee		to			
807. Underwriting Fee		to			
808. Escrow Fee		to			
809. Flood Certification Fee		to	Southwest Mortgage Corporation		17.00
810. \$					
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901. Interest from 12/20/00 to 01/01/01 @ \$ 15.50000/day (3 days 8.0000 %)					47.00
902. Mortgage Insurance Premium		to	Southwest Mortgage Corporation		1,575.00
903. Hazard Insurance Premium for 120 days		to	Southwest Mortgage Corporation		100.00
904. \$					
1000. VA Funding Fee					
1001. RESERVES DEPOSITED WITH LENDER					
1001. Hazard Insurance	10.000 months @ \$	48.57 per month			485.70
1002. Mortgage Insurance	2.500 months @ \$	25.00 per month			62.50
1003. City/Town Taxes	months @ \$	per month			
1004. County Taxes	months @ \$	per month			
1005. Assessments	months @ \$	per month			
1006. \$					
1007. \$					
1008. Appraisal Adjustment	months @ \$	per month			
1100. TITLE CHARGES					
1101. Settlement or Closing Fee	to				
1102. Abstract or Title Search	to	William F. Galt			450.00
1103. Title Examination	to	William F. Galt			
1104. Title Insurance Commitment	to	William F. Galt			
1105. Deed Preparation	to				
1106. Notary Fees	to				
1107. Attorney's Fees	to				
1108. Title Insurance	to	First Security & Escrow Company			215.00
1109. Title Insurance	to	First Security & Escrow Company			
1110. Lender's Coverage	to	William F. Galt			
1111. Owner's Coverage	to	William F. Galt			
1112. Title Insurance	to	William F. Galt			
1113. \$					
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording Fees: Deed \$	Mortgage \$ 15.00	Release \$ 10.00			25.00
1202. County Recording Fees					
1203. State Recording Fees					
1204. Record Fee					
1205. \$					
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey	to	John-Adams Surveying			
1302. Post Inspection	to	State Landmark Service			
1303. HVAC Inspection					25.00
1304. Survey Waiver Affidavit	to	William F. Galt			14,700.00
1305. Payoff Date	to				10,700.00
1400. TOTAL SETTLEMENT CHARGES (Based on Lines 110, Section 2 and 100, Section 3)					

William F. Galt
Settlement Agent

Certified to be a true copy

ADDENDUM TO HUD-1
SETTLEMENT STATEMENT

Loan No: [REDACTED]

DECEMBER 23, 1999

Property Address: 3707 1/2 PERCIVAL RD.
COLUMBIA, SOUTH CAROLINA 29223

NOTICE TO ALL PARTIES: If information is obtained which indicates that the source of the borrower's financial contribution is other than from the borrower or other than stated by the lender in its closing instructions, the settlement agent is to obtain written instructions from the lender before proceeding with settlement.

CERTIFICATION OF BUYER IN AN FHA-INSURED LOAN TRANSACTION

I certify that I have no knowledge of any loans that have been or will be made to me (us) or loans that have been or will be assumed by me (us) for purposes of financing this transaction, other than those described in the sales contract dated (including addenda). I certify that I (we) have not been paid or reimbursed for any of the cash downpayment. I certify that I (we) have not and will not receive any payment or reimbursement for any of my (our) closing costs which have not been previously disclosed in the sales contract (including addenda) and/or my application for mortgage insurance submitted to my (our) mortgage lender.


MARY L. SAMUEL

Buyer

Buyer

CERTIFICATION OF SELLER IN AN FHA-INSURED LOAN TRANSACTION

I certify that I have no knowledge of any loans that have been or will be made to the borrower(s), or loans that have been or will be assumed by the borrower(s), for purposes of financing this transaction, other than those described in the sales contract dated (including addenda). I certify that I have not and will not pay or reimburse the borrower(s) for any part of the cash downpayment. I certify that I have not and will not pay or reimburse the borrower(s) for any part of the borrower's closing costs which have not been previously disclosed in the sales contract (including any addenda).



Seller

Seller

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details, see: Title 18 U.S. Code Sections 1001 and 1010.

Page 1 of 1

GFS Form 6000406 (FA16)

CERTIFICATION OF SETTLEMENT AGENT IN AN FHA-INSURED LOAN TRANSACTION

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were (i) received, or (ii) paid outside closing, and the funds received have been or will be disbursed by the undersigned as part of the settlement of this transaction. I further certify that I have obtained the above certifications which were executed by the borrower(s) and seller(s) as indicated.



Settlement Agent

DECEMBER 23, 1999

Date

[The certifications contained herein may be obtained from the respective parties at different times or may be obtained on separate addenda]

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details, see Title 18 U.S. Code Sections 1001 and 1010.

DE-43

EXHIBIT C

HUIET APPRAISAL COMPANY
1925 PICKENS STREET
COLUMBIA, SC 29201
803-252-3753

December 16, 1999

SOUTHERNTRUST MORTGAGE CORP
1400 Main St.
Columbia, SC
29201

Property - 1307 1/2 Percival Road
Columbia, SC 29223
Borrower - SAMUEL, Mary L. & Charles
File No. - PHANV978
Case No. - 461-948337

Dear :

In accordance with your request, I have made a Complete Appraisal Analysis and prepared a Summary Appraisal of the real property located at 1307 1/2 Percival Road, Columbia, SC.

The purpose of the Summary Appraisal is to estimate the market value of the property described in the body of this report.

Enclosed, please find the Summary Appraisal which describes certain data gathered during our investigation of the property. The methods of approach and reasoning in the valuation of the various physical and economic factors of the subject property are contained in this report.

An inspection of the property and a study of pertinent factors, including valuation trends and an analysis of neighborhood data, led the appraiser to the conclusion that the market value, as of December 03, 1999 is :

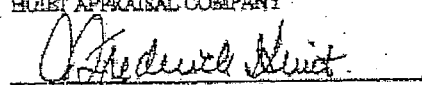
\$105,000

The opinion of value expressed in this report is contingent upon the Limiting Conditions attached to this report.

It has been a pleasure to assist you. If I may be of further service to you in the future, please let me know.

Respectfully submitted,

HUIET APPRAISAL COMPANY


J. Frederick Huie
SC Certification #CR-236

[illegible]

UNIFORM RESIDENTIAL APPRAISAL REPORT

ESTIMATED SITE VALUE: 56,700

ESTIMATED REPRODUCTION COST: 56,700

DEPRECIATION: 0.02% (None)

REMAINING ECONOMIC LIFE: 39

REMAINING PHYSICAL LIFE: 39

COMPARABLE NO. 1: 2588 Watson Street, Elgin/Northeast, 5+ miles east, 75,000, 55.56 Acre, 01/07/09/99, Suburban NB, Free Simple, 5.67 Acres, Average/homes, 1847/Midst Ranch, Average/Vinyl, A1993/E6, Similar, 8, 3, 2, 1.628 sq. ft., None, average/typical, fwa / electric, insulated/fans, none/open, open Porch (60sf), 1 prefab PP, 1 prefab PP, 40,600, Gross 59.5%, Net 54.1%, 115,600

COMPARABLE NO. 2: 1567 Brazel Road, Elgin/northeast, 5+ miles west, 85,000, 56.22 Acre, 01/04/22/99, Rural Elgin, Free Simple, 4.0 Acre, Average/homes, 1847/Midst Ranch, Average/Vinyl, A1993/E3, Similar, 6, 3, 2, 1.512 sq. ft., None, average/typical, fwa / electric, insulated/fans, none/open, similar decks, 1 prefab PP, 19,800, Gross 30.4%, Net 23.3%, 104,800

COMPARABLE NO. 3: 121 Stonemarrow Street, Elgin/northeast, 5+ miles east, 66,350, 38.76 Acre, 01/05/25/99, Suburban Elgin, Free Simple, 0.47 Acre/SD, Average/homes/Pt Jay, 1847/Midst Ranch, Average/Vinyl, A1980/E10, Similar, 6, 1, 3, 1.712 sq. ft., None, average/typical, fwa / electric, insulated/fans, det. Garage, 1 prefab PP, 38,800, Gross 83.2%, Net 58.5%, 105,150

Comments on Sales Comparison: The three comparables analyzed here are recent closed sales located in the subject market area. They are the most similar and most recent sales available. All three are considered good indicators of value for the subject property and were given similar weight. The adjustments made to the sales represent the appraiser's attempt to isolate and compensate for significantly dissimilar features or conditions. Adjustments for significant differences in gross living area were made on the basis of \$20 per square foot and rounded to the nearest hundred dollars.

INDICATED VALUE BY SALES COMPARISON APPROACH: 105,000

INDICATED VALUE BY INCOME APPROACH: 105,000

Condition of Property: This appraisal was prepared with the subject in its condition, assuming there are no problems with the structure, plumbing, electrical, mechanical, interior or exterior. There were no noted problems.

Final Recommendation: The Sales Comparison Analysis is given the most weight since it best reflects the actions of buyers and sellers in the market. The Cost Approach supports the Sales Analysis but was given less weight overall. The Income Approach was not considered appropriate for this type of single family residential property. See Additional Comments.

Signature: Frederick H. Hule

Date: December 15, 1999

State: CR-236

Page: 2 OF 2

HUIET APPRAISAL COMPANY
GENERAL ADDENDUM COMMENT

File# NV978

Appraiser: SMITH, Mary L. & Charles
Lender: SOUTHEAST MORTGAGE CORP.

Appraisal: 3307 & 1/2 Perimeter Road
Columbia, SC 29223

This is a Limited Summary Appraisal. The subject is a single family residence in a residential area that is predominately owner occupied. There was no meaningful income data available, therefore, an Income Approach to Value was not used in this appraisal. This appraiser exercised the Departure Provision in accordance with the Uniform Standards of Professional Appraisal Practice.

Comparable sales #2&3 occurred over six months prior to the appraisal date, but are considered the best available due to similar manufactured homes in similar, nearby markets.

All comparable sales are located more than 10 blocks from the subject but are considered the best available.

All five comparable sales are located in the Columbia northeast/Elgin home market but sales outside the home market are not considered appropriate and the sales chosen are the best available.

The estimated land value exceeds 30% of the appraised value. The land to value ratio is typical of the neighborhood and is in line with assessed values and comparable land sales in the market area. The higher than typical land to value ratio is due to positive locational factors and does not have an adverse impact on the subject's marketability.

The subject's appraised value is greater than the predominant neighborhood value range. The subject is not considered an over-improvement and the predominant neighborhood value range has no impact on the subject's marketability.

The net adjustment for all comparable sales exceed 15%. This adjustment is larger than normal but the sales chosen are considered the best available. Other sales analyzed would have required less desirable adjustments and were not used for that reason. This large adjustment is due to subject's high value land.

The property's heating, plumbing and electrical systems appear to be functioning properly to the best of the appraiser's knowledge and expertise.

Please be advised that in the market approach grid, bathrooms are adjusted for on the first line and gross living area/room count are adjusted together as a single adjustment on the second line.

Subject is on a well which is typical of the neighborhood and does not adversely impact marketability.

The lack of storm sewers, curbs, gutters, sidewalks and/or street lights is typical of the neighborhood and does not adversely impact marketability.

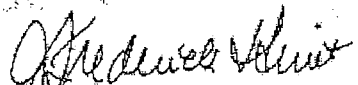
All comparable sales are settled to the best of the appraiser's knowledge. Verification is with county and/or realtor.

The individual adjustments for all sales exceed 10% but the sales chosen are considered to be the best available from the market search.

I am unable to verify the insulation "R" factor. Any information about insulation stated on the appraisal was provided by inspection, owner or agent, and is assumed to be accurate.

It has been a pleasure to serve you in this matter. If there are any further questions please feel free to contact me.

Sincerely,


J. Frederick Huie, SCREA #CR-236
State Certified Residential Real Estate Appraiser
State Accredited Affiliate of the Appraisal Institute

PHOTOGRAPH ADDENDUM

Owner or Owner: SAMUEL, Mary L & Charles

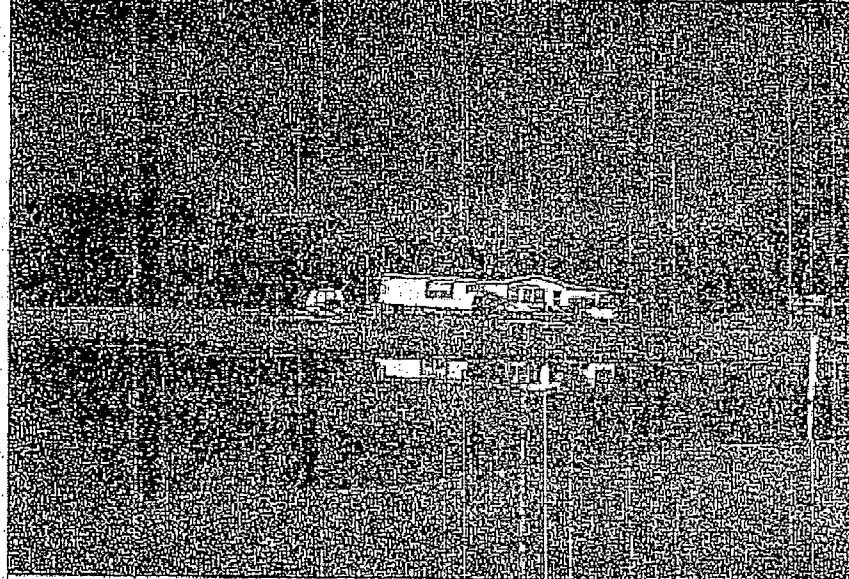
Property Address: 3307 1/2 Percival Road

City: Columbia County: Richland

State: SC

Zip Code: 29223

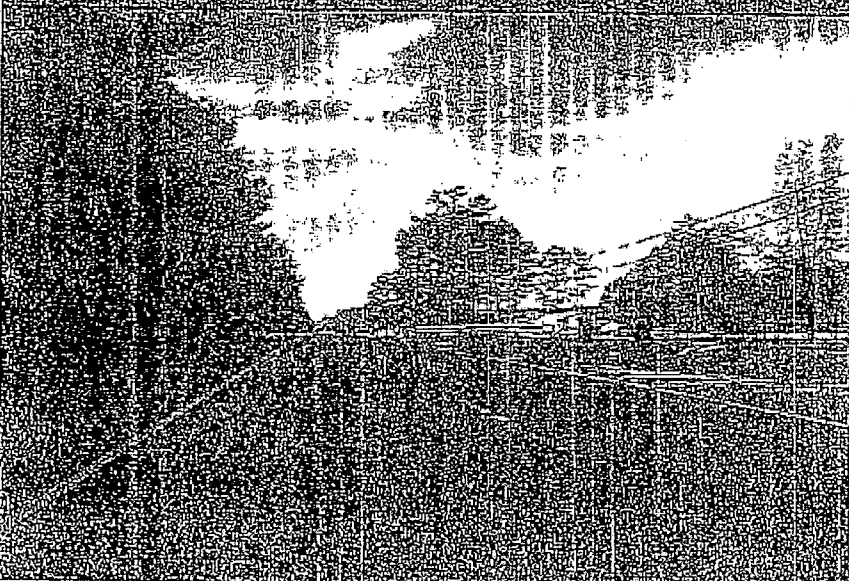
Lender or Client: SOUTHTRUST MORTGAGE CORP



FRONT VIEW OF
SUBJECT PROPERTY



REAR VIEW OF
SUBJECT PROPERTY



STREET SCENE OF
SUBJECT PROPERTY

PHOTOGRAPH ADDENDUM

Recorder of Deeds: **SAMUEL Mary L & Charles**

Property Address: **3307 1/2 Percival Road**

City: **Columbia**

County: **Rippling**

State: **SC**

Zip Code: **29223**

Lender or Client: **SOUTHERN TRUST MORTGAGE CORP**



COMPARABLE #1

2588 Watson Street
Elgin/northeast

Price \$75,000
Price/SF 55.56
Date Cl 07/09/99
Age A1980/E10
Room Count 6-3-2
Living Area 1,350

Value Indication \$115,600

COMPARABLE #2

1567 Brazell Road
Elgin/northeast

Price \$85,000
Price/SF 56.22
Date Cl 04/22/99
Age A1996/E3
Room Count 6-3-2
Living Area 1,512

Value Indication \$104,800

COMPARABLE #3

121 Stonerow Street
Elgin/northeast

Price 266,350
Price/SF 38.76
Date Cl 05/25/99
Age A1980/E10
Room Count 6-3-2
Living Area 1,712

Value Indication \$105,150

PHOTOGRAPH ADDENDUM

Beneficiary or Owner: SAMUEL, Mary L & Charles

Property Address: 3207 1/2 Perceval Road

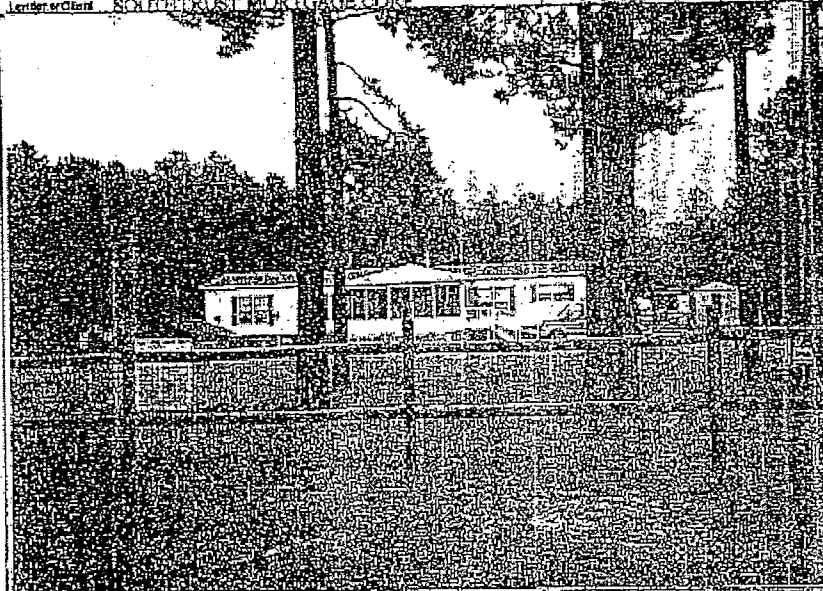
City: Columbia

County: Richland

State: SC

Zip Code: 29223

Lender or Client: SOUTHEAST MORTGAGE CORP

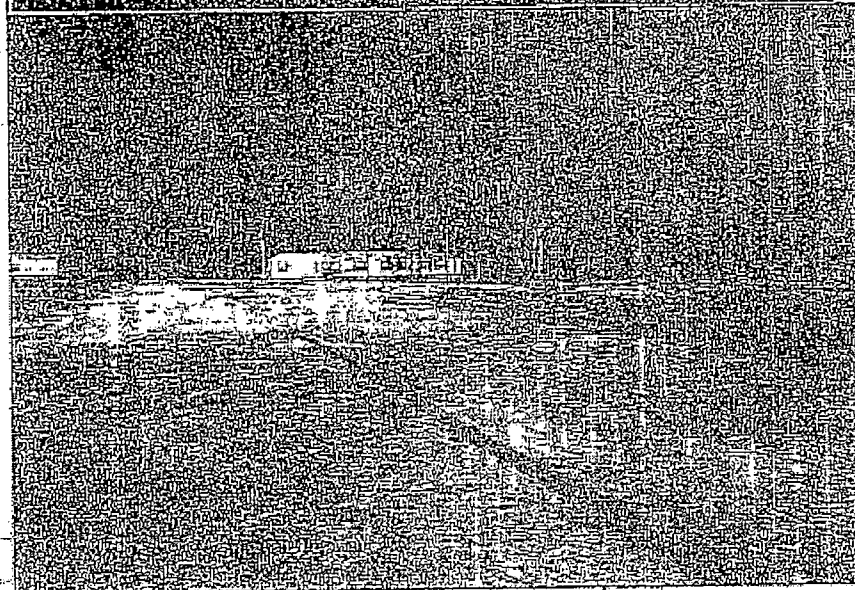


COMPARABLE #4

1019 Rocky Branch Lane
Elgin/northeast

Price \$100,000
 Price/SF 47.48
 Date 01/09/03/99
 Age A1996/E3
 Room Count 8-3-2+
 Living Area 2,106

Value Indication \$111,400



COMPARABLE #5

160 Elton Walker Road
Blythewood/northeast

Price \$69,900
 Price/SF 34.95
 Date 01/11/05/99
 Age A1997/E2
 Room Count 7-4-2+
 Living Area 2,000

Value Indication \$94,500

COMPARABLE #6

Price \$
 Price/SF
 Date
 Age
 Room Count
 Living Area

Value Indication \$

Form No. HANV978

ADDITIONAL COMPARABLES

Page No. 25923

Buyer: SAMUEL, Mary L & Cha		County: Richland		State: SC		AP Code: 25923	
Property Address: 3307 1/2 Percival Road							
City: Columbia							
Lender/Client: SOUTHWEST MORTGAGE CORP							
ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3			
3307 1/2 Percival Road		1019 Rocky Branch Lane	180 Ellen Walker Road				
Address: Columbia northeast		Elgin/northeast	Shilohwood/northeast				
Property to Subject		5+ miles northwest	5+ miles northwest				
Value Price	\$	\$ 100,000	\$ 69,900				
Property Tax, Ann	\$	47.48	34.95				
One third	Inspection	Cards/Appraiser files	Cards-34180/Ageant				
Verbal no source	Owner	Inspection	Exterior Inspection				
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+ (-) Adjustment	DESCRIPTION	+ (-) Adjustment	DESCRIPTION	+ (-) Adjustment
Style of Planning	N/A	Conventional					
Condition	CL 11/05/99	CL 11/05/99					
Location	Suburban NE	Suburban NE					
Lot/Size/Pool/Shape	Fee Simple	Fee Simple					
Size	5.67 Acres	0.96 Ac/SD lot	+30,000	3.28 Acres	+35,000		
View	Average/typical	Average/typical					
Design and Appeal	1st/2nd/3rd	1st/2nd/3rd					
Construction/Condition	Average/typical	Average/typical					
Age	1993/96	1996/93	-3,000	1997/92	-3,000		
Condition	Average/typical	Similar					
Age/Style	Total: 8, 3, 2+	Total: 8, 3, 2+		Total: 7, 4, 2+		Total: 8, 3, 2+	
Room/Detail	1, 628	2, 106	-9,600	2,600	-7,400		
Ground/Chap. Area	None	None		None			
Interior & Finish	None	None		None			
Rooms Below Grade	None	None		None			
Foundation/Utility	average/typical	average/typical		average/typical			
Heating/Cooling	fire / electric	fire / electric		fire / electric			
Energy Efficient Windows	insulated/fans	insulated/fans		insulated/fans			
Garage/Carport	open/open	det Shop	-2,000	open/open			
Porch, Patio, Deck, Fireplaces, etc.	open Porch 160sf	EnoloPorch/Decks	-4,000	similar decks			
Fence, Pool, etc.	1 prebld PP	1 prebld PP		1 prebld PP			
Kitchen eqp.	all kitchen eqp.	sim. kitchen eqp.		sim. kitchen eqp.			
Net Adj. Value		11,400		24,600			
Adjusted Sales Price of Comparable		Net 11.4%	111,400	Net 35.2%	94,500		
Notes, Price and Date	None			None			
Source, for subject	N/A			N/A			
Within year of appraisal	Public Reports			Public Record Service			

☒ SUBJECT PRO R1 OFFERING AND CONTRACT INFORMATION				
☒ The subject property has not been offered for sale during the past 30 days. ☐ The subject property has been offered for sale during the past 30 days for \$ _____ ☐ The subject property is currently for sale for \$ _____ ☐ The subject property is not currently under contract for sale. ☐ The subject property is currently under contract for sale as described: _____				
Contract Date	Offer Date	Contract Price	Seller	Buyer
			Samuel	SAMUEL, Mary L. & Charles
☐ The sales contract and/or escrow instructions were reviewed. ☐ The contract indicated that personal property was not included in the sale. ☐ The contract indicated that the following personal property was included in the sale: _____				
☐ The personal property estimated contributory value is \$ _____ ☐ Personal property was considered in the final estimate of market value and has been addressed in the attached report. ☐ Financing concessions were not indicated in the contract. ☐ The following financing concessions were indicated in the contract: _____ Source: _____				
☐ Offering and/or contract information was considered in the final estimate of market value. ☐ Offering and/or contract information was not considered in the final estimate of market value. ☐ Offering and/or contract information was not available to the appraiser. (For additional information, see attached narrative addenda)				
☒ MARKET OVERVIEW				
A reasonable marketing period of <u>3-6</u> months has been projected based on <u>this appraiser's experience in the market and</u>				
☒ ADDITIONAL CERTIFICATION				
This appraisal conforms to the Uniform Standards of Professional Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation, except that the Departure Provision does not apply. This certification is not contingent upon the reporting of predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.				
☒ ENVIRONMENTAL DISCLAIMER				
The value estimated is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions unless otherwise stated in this report. The appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. The appraiser's routine inspection and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions which would affect the property negatively unless otherwise stated in this report. It is possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.				
☒ ADDITIONAL COMMENTS				
see attached sheets				
☒ APPRAISER'S SIGNATURE & LICENSE/CERTIFICATION				
Appraiser's Signature <u>[Signature]</u>		Effective Date <u>12/03/99</u>	Date Prepared <u>12/15/99</u>	
Appraiser's Name (print) <u>J. Frederick Huiet</u>		Phone # <u>803-252-3763</u>		
State <u>SC</u>	☐ License	☒ Certification # <u>CR-236</u>	Tax ID # <u>[REDACTED]</u>	
☐ CO-SIGNING APPRAISER'S SIGNATURE & LICENSE/CERTIFICATION				
☐ The co-signing appraiser has inspected the property, both inside and out, and has made an exterior inspection of all comparable sales listed in the report. The report was completed by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the report including the value conclusions and the listing conditions, and certifies that the conditions apply fully to the co-signing appraiser. ☐ The co-signing appraiser has not inspected the interior of the subject property. ☐ The co-signing appraiser has not inspected the exterior of the subject property and all comparable sales listed in the report. ☐ The report was completed by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the report including the value conclusions and the listing conditions, and certifies that the conditions, with the exception of physical inspection apply fully to the co-signing appraiser. ☐ The co-signing appraiser's level of inspection, involvement in the appraisal process, and certification are covered elsewhere in the addenda section of this appraisal.				
Co-Signing Appraiser's Signature _____		Effective Date _____	Date Prepared _____	
Co-Signing Appraiser's Name (print) _____		Phone # <u>803-252-3763</u>		
State _____	☒ License	☐ Certification # _____	Tax ID # _____	

MULTI-PURPOSE APPRAISAL ADDENDUM
FOR FEDERALLY REGULATED TRANSACTIONS

Borrower or Owner SAMUEL, Mary L. & Charles
Property Address 3307 1/2 Percival Road
City Columbia County Richland State SC Zip Code 29223
Lender or Client SOUTHTRUST MORTGAGE CORP

This addendum is for use with all appraisal reports to comply with current appraisal standards and requirements of the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Resolution Trust Corporation (RTC), the Office of Thrift Supervision (OTS), the National Credit Union Administration (NCUA), and the Federal Reserve.

Instructions: Check only those sections which apply to the subject property being appraised.

☒ APPRAISAL PURPOSE AND FUNCTION

The purpose of this appraisal is to estimate the market value of the subject property as defined within this report. The function of this appraisal is to assist the lender in collateral valuation and/or portfolio management.

☒ EXTENT OF APPRAISAL PROCEDURE

☒ The data contained in the attached appraisal report has been compiled by the appraiser from the following sources:

Inspection and research of the subject property to identify dimensions, nature of construction, physical condition, and any other physical, functional or external factors;

Research of multiple listings and records of deeds to identify assessments, transfer activity, site parameters, and other pertinent factors;

Contact with appropriate real estate brokers, developers, managers, appraisers, and other knowledgeable sources to identify relevant market data such as comparable sales, comparable rents, vacancy rates, depreciation rates, operating costs, development costs, and any trends that may influence such as economic or demographic trends.

☐ The estimated reproduction cost is based upon the appraiser's knowledge of the local market, surveys of local developers and contractors, and not applicable.

☒ All forms of depreciation (physical, functional, and external) are specifically addressed in the attached report or other addenda. Physical depreciation is based on the estimated effective age of the subject property.

☒ The site value estimate is based on analysis of site sales, and abstraction of site values from sales of improved properties.

☐ For income-producing properties, actual rents, expenses and vacancies have been reported and analyzed for subject and comparable income-producing properties. Potential rents, expenses, and vacancies have been projected based on market data derived from prior and current market surveys.

☒ The subject is a single family residence located in predominantly owner-occupied area. The lack of rental data and the lack of sales of rented dwellings make meaningful rental and gross rent multiplier conclusions impossible, therefore the income approach was not applied.

☒ All sources and data utilized are considered accurate and reliable. Unreliable data has been disregarded. All sources have been noted where appropriate, and all data has been confirmed whenever possible.

☒ SUBJECT PROPERTY SALES HISTORY

☒ The subject property has not transferred during the last twelve months.

☐ The subject property has transferred during the last twelve months.

☐ Any transfer activity which has occurred during the past twelve months is listed below and is addressed in the attached appraisal report.

Date	Sales Price	Document # / Book and Page	Seller	Buyer
				Samuel

Source:

☒ FEMA FLOOD HAZARD DATA

Zone	Map/Parcel	Date	Name of Community
X	45079C 0115 G	01/19/94	Columbia

☐ The subject property is located in a FEMA Special Flood Hazard Area.

☒ The subject property is not located in a FEMA Special Flood Hazard Area.

☒ The subject property's community does participate in the National Flood Insurance Program.

☐ The subject property's community does not participate in the National Flood Insurance Program.

☐ The subject property's community is covered by a Regular Program.

☐ The subject property's community is covered by an Emergency Program.

HUET APPRAISAL COMPANY

HUIET APPRAISAL COMPANY CLERICAL INFORMATION AND LIMITING CONDITIONS

Appraiser(s)	GAMUEL, Mary L. & Charles	Report Address	3307 E 1/2 Percival Road
Lender/Client	SOUTHERN TRUST MORTGAGE CO.,		Columbia, SC 29223

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale at of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he considers his own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* generated by anyone associated with the sale.

*Adjustment to the comparables must be made for special or creative financing or sale concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF LIMITING CONDITIONS AND APPRAISER'S CERTIFICATION

CONTINGENT AND LIMITING CONDITIONS: The appraiser's certification that appears in the appraisal report is subject to the following conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinion about the title. The property is appraised on the basis of it being under responsible ownership.
2. The appraiser has provided a sketch in the appraisal report to show approximate dimensions of the improvements and the sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size.
3. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
4. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
5. The appraiser has estimated the value of the land in the cost approach at its highest and best use and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used.
6. The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as environmental assessment of the property.
7. The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
8. The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice.
9. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that completion of the improvements will be performed in a workmanlike manner.
10. The appraiser must provide his or her prior written consent before the lender/client specified in the appraisal report can distribute the appraisal report (including conclusions about the property value, the appraiser's identity and professional designations, and references to any professional appraisal organizations or the firm with which the appraiser is associated) to anyone other than the borrower; the mortgagee or its successors and assigns; the mortgage broker; consultants; professional appraisal organizations; any state or federally approved financial institution; or any department, agency, or instrumentality of the United States or any state or the District of Columbia; except that the lender/client may distribute the property description section of the report only to data collection or reporting service(s) without having to obtain the appraiser's prior written consent. The appraiser's written consent and approval must also be obtained before the appraisal can be conveyed by anyone to the public through advertising, public relations, news, sales, or other media.

HUNET APPRAISAL COMPANY
CE IFI TION AND LIMITING CON TI IS File# M976

Appraiser	SAMUEL, Mary L. & Charles	Property Address	3307 & 1/2 Pecival Road
Lender	SOUTHERN MORTGAGE CORP.	City, State, Zip	Columbia, SC 29223

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have researched the subject market area and have selected a minimum of three recent sales of properties most similar and proximate to the subject property for consideration. In the sales comparison analysis and have made a dollar adjustment when appropriate to reflect the market reaction to those items of significant variation. If a significant item in a comparable property is superior to, or more favorable than, the subject property, I have made a negative adjustment to reduce the adjusted sales price of the comparable and, if a significant item in a comparable property is inferior to, or less favorable than the subject property, I have made a positive adjustment to increase the adjusted sales price of the comparable.
2. I have taken into consideration the factors that have an impact on value in my development of the estimate of market value in the appraisal report. I have not knowingly withheld any significant information from the appraisal report and I believe, to the best of my knowledge, that all statements and information in the appraisal report are true and correct.
3. I stated in the appraisal report only my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the contingent and limiting conditions specified in this form.
4. I have no present or prospective interest in the property that is the subject to this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or the estimate of market value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owner or occupants of the properties in the vicinity of the subject property.
5. I have no present or contemplated future interest in the subject property, and neither my current or future employment nor my compensation for performing this appraisal is contingent on the appraised value of the property.
6. I was not required to report a predetermined value or direction in value that favors the cause of the client or any related party, the amount of the value estimate, the attainment of a specific result, or the occurrence of a subsequent event in order to receive my compensation and/or employment for performing the appraisal. I did not base the appraisal report on a requested minimum valuation, a specific valuation, or the need to approve a specific mortgage loan.
7. I performed this appraisal in conformity with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place as of the effective date of this appraisal, with the exception of the departure provision of those Standards, which does not apply. I acknowledge that an estimate of a reasonable time for exposure in the open market is a condition in the definition of the market value and the estimate I developed is consistent with the marketing time noted in the neighborhood section of this report, unless I have otherwise stated in the reconciliation section.
8. I have personally inspected the interior and exterior areas of the subject property and the exterior of all properties listed as comparables in the appraisal report. I further certify that I have noted any apparent or known adverse conditions in the subject improvements, on the subject site, or on any site within the immediate vicinity of the subject property of which I am aware and have made adjustments for these adverse conditions in my analysis of the property value to the extent that I had market evidence to support them. I have also commented about the effect of the adverse conditions on the marketability of the subject property.
9. I personally prepared all conclusions and opinions about the real estate that were set forth in the appraisal report. If I relied on significant professional assistance from any individual or individuals in the performance of the appraisal or the preparation of the appraisal report, I have named such individual(s) and discussed the specific tasks performed by them in the reconciliation section of this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in the report; therefore, if an unauthorized change is made to the appraisal report, I will take no responsibility for it.

SUPERVISORY APPRAISER'S CERTIFICATION: If a supervisory appraiser signed the appraisal report, he or she certifies and agrees that: I directly supervise the appraiser who prepared the appraisal report, have reviewed the appraisal report, agree with the statements and conclusions of the appraiser, agree to be bound by the appraiser's certifications numbered 4 through 7 above, and am taking full responsibility for the appraisal and the appraisal report.

ADDRESS OF PROPERTY APPRAISED: 3307 & 1/2 Pecival Road, Columbia, SC

APPRAISER:

Signature: [Signature]
Name: _____
Date Signed: 12-28-99
State Certification #: CH-236
(Expires): _____
or State License #: _____
(Expires): _____

SUPERVISORY APPRAISER (only if required):

Signature: _____
Name: _____
Date Signed: _____
State Certification #: _____
(Expires): _____
or State License #: _____
(Expires): _____

☐ Yes ☐ No (Not Applicable)

EXHIBIT D

GOOD FAITH ESTIMATE OF SETTLEMENT CHARGES

Creditor
SOUTHEAST MORTGAGE CORPORATION
1600 MAIN STREET, SUITE 800
COLUMBIA, SC 29201
Phone # (803) 733-5514

Borrower(s)
MARY L SAMUEL

Property Address
3307 1/2 PERCIVAL RD
COLUMBIA, SC 29223

Mailing Address
3307 1/2 PERCIVAL RD
COLUMBIA, SC 29223

Loan No. 518502
Estimated Closing Date 12/17/1999
Preparation Date 10/18/1999

Sale Price \$0.00
Base Loan Amount \$70,000.00
Loan Amount \$71,575.00
Est. Finance Costs Of: \$1,575.00
Rate 6.000%

ESTIMATED CASH TO CLOSE

Extending Nts \$32,133.00
Financing Costs \$1,895.73
Prepaid \$2,743.70
Repairs/Impvt \$15,000.00
New Loan Amt \$70,000.00
Less Orig Eqt \$0.00
Less Seller P'd \$-400.00

LESS STRUCTURED \$1,575.00
CASH PROCEEDS \$579,681.57
ESTIMATED PAYMENT

PMI Payment \$225.20
Taxes \$15.57
Interest Inv. \$25.00
Mortgage Inv. \$25.00
Fluct Inv. \$0.00
Acct. Chrg \$0.00
Waiver Fee \$0.00
Other Fee \$0.00

TOTAL PAYMENT \$225.73

The information provided below reflects ESTIMATES of the charges which you are likely to incur at the settlement of your loan. The fees listed are ESTIMATES - the actual charges may be more or less. Your guarantor may not invoice a fee for every item listed.

The numbers listed beside the ESTIMATES generally correspond to the numbered lines contained in the HUD-1 or HUD-1A settlement statement which you will be receiving at settlement. The HUD-1 or HUD-1A settlement statement will show you the actual cost for items paid at settlement.

	Paid Outside of Closing (P.O.C.)	Estimated Charge	Total	Service Provider
	Borrower	Seller		
CLOSING COSTS				
001 ORIGINATOR FEE	\$700.00		\$700.00	SOUTHEAST MORTGAGE CORP
003 APPRAISAL FEE	\$370.00	\$350.00	\$720.00	
004 CREDIT REPORT	\$50.00	\$50.00	\$100.00	
005 FLOOR CERT		\$17.00	\$17.00	
DESCRIPTION OF LENDER'S RELATIONSHIP WITH REQUIRED SERVICE PROVIDER:				
011 EXPRESS SERV FEE	\$15.00		\$15.00	
1107 ATTORNEY FEE	\$450.00		\$450.00	
1108 TITLE INSURANCE	\$214.73		\$214.73	
1201 RESURFACING FEE	\$25.00		\$25.00	
1302 PEST INSPECTION	\$75.00		\$75.00	
SUBTOTAL	\$400.00	\$1,895.73	\$2,295.73	
PREPAID				
009 PREPAID INTEREST	\$225.32		\$225.32	
15 days @ \$15.600/day				
005 FINANCED ITEMS	\$1,575.00		\$1,575.00	
1001 HAZARD EXTENS	\$700.00		\$700.00	
1004 COUNTRY TAX	\$223.58		\$223.58	
SUBTOTAL	\$0.00	\$2,743.70	\$2,743.70	
Paid BY LENDER				
SUBTOTAL	\$0.00			
1400 TOTAL CHARGES	\$400.00	\$4,639.43	\$5,039.43	

Note: * Indicates provider of service which we require you to use to perform the item listed on this form. The charge indicated for the particular item is based on customary charges for the required service provider.

The fees collected in advance to initiate the processing of your application are non-refundable except as otherwise provided by applicable law; however, they will be credited to the above ESTIMATED cash at date of loan closing. These ESTIMATES are provided pursuant to the Real Estate Settlement Procedures Act of 1974, as amended (RESPA). Additional information can be found in the HUD Special Information booklet, which is to be provided to you by your mortgage broker or lender, if your application is to purchase residential real property and the lender will take a first lien on the property.

I/We hereby acknowledge receiving and reading a copy of this good faith estimate and, if applicable, the HUD Special Information booklet. I/We understand this estimate is not a commitment from the creditor to make a loan, and there is no obligation for me/us to accept a loan from this creditor upon delivery or signing of these disclosures.

Mary L Samuel Date 11/29/99

EXHIBIT E

FEDERAL RUTH-IN-LENDING DISC IRE

☐ INITIAL ☒ FINAL
 Credit: SOUTHTRUST MORTGAGE CORPORATION
 210 WILLOW PARKWAY
 BIRMINGHAM, AL 35209
 Phone # : (205) 667-8100

Borrower: MARY L SAMUEL

Loan No. [REDACTED]
 Date of Disclosure: 12/22/1999
 Est. Settlement Date (Date of Closing): 12/23/1999

Mailing Address: 3307 1/2 PERCIVAL RD
 COLUMBIA, SC 29223

Amount Financed	Total of Payments	Total Sales Price
The amount of credit provided to you at the time of this loan.	The amount you will have paid after you have made all payments as scheduled.	The total cost of your purchase on credit including your down payment of \$
\$ 69,131.47	\$ 191,427.43	\$

☐ I do not want to have an itemization of this loan is an itemization of amount financed.

☐ I do not want to have an itemization of this loan is an itemization of amount financed.

Your MONTHLY PAYMENT SCHEDULE will be:

# Payments	\$ Payment	Beginning On	PMI	# Payments	\$ Payment	Beginning On	PMI	# Payments	\$ Payment	Beginning On	PMI
12	\$554.34	2/01/2000	\$25.66								
12	\$554.00	2/01/2001	\$25.00								
12	\$553.73	2/01/2002	\$24.53								
12	\$553.43	2/01/2003	\$24.23								
12	\$553.11	2/01/2004	\$23.91								
12	\$552.76	2/01/2005	\$23.56								
12	\$552.39	2/01/2006	\$23.19								
25	\$525.20	2/01/2007									
1	\$513.27	1/01/2030									

- ☐ REQUIRED DEPOSIT: The annual percentage rate does not take into account any required deposit.
☐ DEFERRED RATE: This obligation has a deferred feature.
☐ VARIABLE RATE MORTGAGE: Variable Rate Mortgage Program disclosures have been provided earlier which discuss this and other variable rate features of your loan. The annual percentage rate may increase during the term of this transaction if the "index" increases. The index is the:

- ☐ The interest rate will not increase or decrease more than once every payment(s) effective with payment number
☐ Interest rate cannot increase or decrease more than % of the first adjustment or % of each subsequent adjustment.
☐ The maximum interest rate increase over the term of the loan will be % over the initial rate.
☐ The maximum interest rate decrease over the term of the loan will be % below the initial rate.
☐ The maximum interest rate will be %.
☐ The maximum interest rate will be %.
☐ The maximum payment increase or decrease at any one time will be %.
☐ Unpaid interest will be added to the principal.
☐ Any increase or decrease in the interest rate may take the form of:
☐ Increased or decreased payment amount.
☐ An increased or decreased amount due at maturity.
☐ If the interest rate increases by % at the end of payment(s), your payment(s) effective with payment number would increase to \$
☐ You may convert to a fixed interest rate on _____, with only during the following time period: _____

You should be aware that if you exercise this option, the interest rate may be increased from the adjustable rate you have been paying. Your new interest rate will be determined by: _____

- ☐ The first or lowest rate change or each adjustment does not apply to the conversion to fixed rate.
☐ ASSUMPTION: Someone buying your property assumes the responsibility of your loan on the original terms.
☐ PROPERTY INSURANCE: Property insurance is required in this transaction. You are doing such insurance from before this is acceptable to the creditor. If you purchase from the creditor you will pay \$ _____ for a _____ month term.
☐ SECURITY: You are giving a security interest in:
☐ The goods or property being purchased
☐ Real property you own located at 3307 1/2 PERCIVAL RD, COLUMBIA, SC 29223
☐ Other Collateral

FILED FEES AND TAXES: \$
 LATE CHARGE: If a payment is more than 15 days late, you will be charged 4.00% of the principal and interest payment.

PREPAYMENT: If you pay off early, you
☐ may ☐ will not have to pay a penalty.
☐ may ☐ will not be entitled to a refund of part of the finance charge.

See your actual contract documents for any additional information about prepayment, default, or any required repayment in full before the scheduled date or well as prepayment, refund and penalties.

☐ All other loan material disclosures, except the prepayment disclosure, are ESTIMATES.

I have acknowledged receiving and reading a copy of this disclosure. I have understood there is no commission for the creditor to make this loan, and there is no obligation for me to accept this loan or to sign this disclosure.

Borrower: MARY L SAMUEL Date: 12-23-99

Borrower: RAYMOND SAMUEL Date: 12-23-99

Borrower: _____ Date: _____

Borrower: _____ Date: _____

EXHIBIT F

RESPA SERVICING DISCLOSURE

Lender: **SOUTHERN TRUST MORTGAGE CORPORATION**

Loan No. **[REDACTED]**

NOTICE TO FIRST LIEN MORTGAGE LOAN APPLICANTS: THE RIGHT TO COLLECT YOUR MORTGAGE LOAN PAYMENTS MAY BE TRANSFERRED. FEDERAL LAW GIVES YOU CERTAIN RELATED RIGHTS. IF YOUR LOAN IS MADE, SAVE THIS STATEMENT WITH YOUR LOAN DOCUMENTS. SIGN THE ACKNOWLEDGMENT AT THE END OF THIS STATEMENT ONLY IF YOU UNDERSTAND ITS CONTENTS AND RETURN IT TO YOUR LENDER.

Because you are applying for a mortgage loan covered by the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. section 2601 et seq.) you have certain rights under that Federal law.

This statement tells you about those rights. It also tells you what the chances are that the servicing for this loan may be transferred to a different loan servicer. "Servicing" refers to collecting your principal, interest and escrow account payments, if any. If your loan servicer changes, there are certain procedures that must be followed. This statement generally explains those procedures.

Transfer Practices and Requirements

If the servicing of your loan is assigned, sold, or transferred to a new servicer, you must be given written notice of that transfer. The present loan servicer must send you notice in writing of the assignment, sale or transfer of the servicing not less than 15 days before the effective date of the transfer. The new loan servicer must also send you notice within 15 days after the effective date of the transfer. The present servicer and the new servicer may combine this information in one notice, so long as the notice is sent to you 15 days before the effective date of transfer. The 15 day period is not applicable if a notice of prospective transfer is provided to you at settlement. This law allows a delay in the time (not more than 30 days after a transfer) for servicers to notify you, upon the occurrence of certain business emergencies.

Notice must contain certain information. They must contain the effective date of the transfer of the servicing of your loan to the new servicer, the name, address, and toll-free or collect call telephone number of the new servicer, and toll-free or collect call telephone number of a person or department for both your present servicer and your new servicer to answer your questions. During the 60-day period following the effective date of the transfer of the loan servicing, a loan payment received by your old servicer before its due date may not be treated by the new loan servicer as late, and a late fee may not be imposed on you.

Complaint Resolution

Section 6 of RESPA (12 U.S.C. section 2606) gives you certain consumer rights, whether or not your loan servicing is transferred. If you send a "qualified written request" to your servicer, your servicer must provide you with a written acknowledgment within 20 Business Days of receipt of your request. A "qualified written request" is a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, which includes your name and account number, and the information regarding your request. Not later than 60 Business Days after receiving your request, your servicer must make any appropriate corrections to your account, or must provide you with a written clarification regarding any dispute. During the 60-Business Day period, your servicer may not provide information to a consumer reporting agency concerning any overdue payment related to such period or qualified written request.

A Business Day is any day in which the office of the business entity is open to the public for carrying on substantially all of its business functions.

Damages and Costs

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that Section.

Servicing Transfer Estimates by Original Lender

1. The following is the best estimate of what will happen to the servicing of your mortgage loan:

- A. ☒ We may assign, sell or transfer the servicing of your loan while the loan is outstanding.
☒ We are able to service your loan and we ☐ will ☐ will not ☒ haven't decided whether to service your loan.

OR

- B. ☐ We do not service mortgage loans, ☒ but we have not serviced mortgage loans in the past three years. We presently intend to assign, sell or transfer the servicing of your mortgage loan. You will be informed about your servicer.
☐ We assign, sell or transfer the servicing of some of our loans while the loan is outstanding depending on the type of loan and other factors. For the program you have applied for, we expect to:
☐ sell all of the mortgage servicing ☐ retain all of the mortgage servicing
☐ assign, sell or transfer _____ % of the mortgage servicing

2. For all the first lien mortgage loans that we make in the 12-month period after your mortgage loan is funded, we estimate that the percentage of mortgage loans for which we will transfer servicing is between:

☒ 0 to 25% ☐ 25 to 50% ☐ 51 to 75% ☐ 76 to 100% ☐ (ALL)

This estimate ☐ does ☒ does not include assignments, sales or transfers to affiliates or subsidiaries. (This is only our best estimate and it is not binding. Business conditions or other circumstances may affect our future transferring decisions.)

3A. ☒ We have previously assigned, sold or transferred the servicing of first lien mortgage loans.

OR

3B. ☐ This is our record of transferring the servicing of the first lien mortgage loans we have made in the past:

Year	Percentage of Loans Transferred (Rounded to nearest quarter - 0%, 25%, 50%, 75%, or 100%)
_____	_____ %
_____	_____ %
_____	_____ %

This information ☐ does ☐ does not include assignments, sales or transfers to affiliates or subsidiaries.

OCTOBER 19, 1999

SOUTHERN TRUST MORTGAGE CORPORATION

Date

Printed Servicer's Name (Required)

ACKNOWLEDGMENT OF MORTGAGE LOAN APPLICANT

I/We have read this disclosure form and understand its contents as explained by my/our signature(s) below. I/We understand that this acknowledgment is a required part of the mortgage loan application.

Mary L. Samuel 11-29-99
 MARY L. SAMUEL Date

Date

Date

Date

Date

Date

1

美空社廣告部 招租
GARDEN

FORN (S) DATE (R)

ACCELT NUMBER

THE FUTURE OF TRANSPORT

NOTICE OF RIGHT TO CANCEL

Your Right to Chisel

1. I : You are entering into a transaction that will result in a percentage/identity interest on/in your home.

1. You are entering into a new transaction to increase the amount of credit previously provided to you. This new is security for this new transaction.

You have a legal right under Federal Law to cancel this transmission without cost, within three business days from whichever of the following events occur last:

- (1) the date of the transaction, which is December 21, 1999 7 or
- (2) the date you received your notice in Lending disclosures; or
- (3) the date you received this notice of your right to cancel.

2. () If you cancel the transaction, the non-physical security interest is also cancelled.

I) If you denied this pay transaction, it will not affect the amount that you presently owe. Your home is the security for that amount.

Within 20 calendar days after we receive your notice, we ~~must~~ take the steps necessary to reflect the fact that the mortgage/lien/security interest on/in your home has been cancelled, and we ~~must~~ return to you any money or property you have given to us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have found the things mentioned above, but you must then offer to return the money or property. If it is important or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property.

Nanny will be returned to the address below. If we do not take possession of the Nanny or property within 20 calendar days of your offer, you may keep it without further obligation.

HOW TO CANCEL

If you decide to cancel this reservation, you may do so by notifying us in writing at:

SOUTHERN TRUST MORTGAGE CORPORATION
210 WILLOW PARKWAY
BIRMINGHAM, ALABAMA 35206

WATERGATE'S NAME AND JUSTICE APPROVED

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of

站控

(or receipt of the third business day following the latest of the three events listed above). If you wish to deliver your written notice in physical form either way, it must be delivered to the above address no later than the 5th day.

I WISH TO CANCEL

2007-01-15

BLPZ

“我在这条路上走了二十多年，从来没有见过这么美的地方，”他感叹道。

~~With Acknowledgment of TWO (2) Copies of this NOTICE OF RIGHT TO CANCEL.~~

Wanda L. Souch
COUNSELER - MARY LEASONE

12/25/99
PAGE

200156497

12/23/99
DGE

CONCLUSION

19 FEB 1959
DATE

NOTES

12/23/99

GFS Form - GGD 17 (7015)

AN EQUAL OPPORTUNITY LENDER

GES-12.7 197800

CONFIRMATION THAT TRANSACTION
HAS NOT BEEN CANCELLED

Borrower(s): MARY L SAMUEL

Lender: SOUTHTRUST MORTGAGE CORPORATION

Date of Transaction: DECEMBER 23, 1999

Address of Mortgaged Property: 3307 1/2 PERCIVAL RD
COLUMBIA, SOUTH CAROLINA 29223-

Each of the undersigned Borrowers confirm that more than 3 business days have elapsed since each of the following:

- (1) The date of the transaction described above;
- (2) The date I/We received the Truth-In-Lending disclosure pertaining to the transaction described above; AND
- (3) The date I/We received the Notice of Right to Cancel the transaction described above.

Each of the undersigned Borrowers also certifies to Lender that he or she has NOT exercised the right to cancel or rescind the transaction described above.

IMPORTANT NOTICE: DO NOT SIGN THIS DOCUMENT PRIOR TO DECEMBER 29, 1999

Mary L Samuel
MARY L SAMUEL

12-29-99
Date when signed

Date when signed

Rev. 7/94

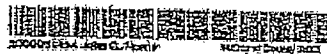
EXHIBIT 7

Print Job: 132726

Page 8 of 26

FILE: 19911122
 PAGE: 507683
 UNIT: CMA 5182102
 STATE: 5185102

Book 05885-0445
 Page 0001 of 0001
 Page 0001 of 0001



ASSIGNMENT OF MORTGAGE

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the undersigned, SOUTHEAST MORTGAGE CORPORATION, a Delaware Corporation, whose address is P.O. Box 512050, Birmingham, AL 35283, (assignor), by these presents does convey, grant, sell, resign, transfer and set over the described mortgage together with the certain note(s) described therein together with all interest secured thereby, all liens, and any rights due or to become due thereon to MORTGAGE INVESTMENT REGISTRATION SYSTEMS, INC., a Delaware Corporation, its successors or assigns, as mortgagee for HOMESIDE LENDING, INC., a Florida Corporation, c/o P.O. Box 2026, Flint, MI 48901-2026, (assignee). Said mortgage made by KIM E. BARNES & KIMBERLY BARNES to SOUTHEAST MORTGAGE CORPORATION and recorded 01/05/04 in the Recorder of Deeds of RICHLAND County, South Carolina in Book 174 Page 1242 and as Document # dated 12/01/03 SOUTHEAST MORTGAGE CORPORATION

KEVIN HOLY
 VICE PRESIDENT

K. HOLY

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES

Before me, the undersigned Notary Public, personally appeared the undersigned witness who, being duly sworn, deposed and said that (s) he saw KEVIN HOLY the VICE PRESIDENT who, seal and deliver the foregoing Assignment of Mortgage and that (s) he, together with the other witness witnessed the execution thereof. SWORN to and subscribed before me this 1st day of December, 2003

M. CARLSON

Notary Public

My commission expires: 06/30/2004

Prepared by:

D. Golden/STO, 101 N. Brand #1800, Glendale, CA 91203 (800) 346-9112

when recorded return to:

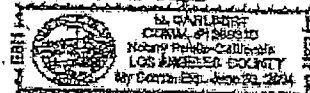
Nationwide Title Center

101 N. Brand #1800

Glendale, CA 91203

MIN 100610980004570262

NEWS PHONE 1-888-679-NEWS



1413/1356

Instrument: 2008022227

Book/Page: E 1413 - 1356

Date/Time: 03/21/2008 16:35:31-510

Document: 01

Prepared by C. Yarnall
and after recording return to:
MidFirst Bank
2730 N. Portland
OKC, OK 73107
MFB# 46833099

Book: 1413-1356
20080227 OKLAHOMA 1413-1356
Feet: 57.00 County: TALLADEGA State: ALA
Assignment of Mortgage
Basis: TALLADEGA

20080227 OKLAHOMA 1413-1356
Feet: 57.00 County: TALLADEGA State: ALA

ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, Mortgage Electronic Registration Systems, Inc. as nominee for Homestead Lending, Inc., PO Box 2028, Flint, MI 48501-2028, a Delaware Corporation, (hereinafter called the "Assignor"), does hereby grant, convey, assign, transfer, and set over to MidFirst Bank, a Federally Chartered Savings Association, 889 NW Grand Blvd., Suite 100, Oklahoma City, OK 73118, (hereinafter called the "Assignee"), its successors and assigns, all of the Assignor's rights, title and interest in and to:

1. The Promissory Note (herein called the "Note"), evidencing the indebtedness secured by the Mortgage
2. The Deed of Trust, dated 12/23/88, executed by Mary L. Samuel, Unmarried and Raymond Samuel, to Southtrust Mortgage Corporation, recorded in Book 00374 Page 1242 on 01/05/00, in the Public Records of Richland County, State of South Carolina, and covers the real property more fully described in the above referenced Deed of Trust.

SEE ATTACHED FOR LEGAL DESCRIPTION

Property Address: 3307 N. Perdido Rd., Columbia, SC 29223

In Witness whereof, the undersigned corporation has caused this instrument to be executed this 3rd day of March, 2008.

Mortgage Electronic Registration Systems, Inc. as
nominee for Homestead Lending, Inc.

Jeri Bussell
Vice President

Bill Miller
Witness Bill Miller

Nancy Smith
Witness Nancy Smith

STATE OF OKLAHOMA
COUNTY OF OKLAHOMA

On this 3rd day of March, 2008, before me, the undersigned, a Notary Public for said County and State, personally appeared Jeri Bussell to me personally known, who, being by me duly sworn did say that she is the Vice President of Mortgage Electronic Registration Systems, Inc. as nominee for Homestead Lending, Inc. and that the instrument was signed on behalf of the corporation by authority of its board of directors and that they acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, executed for the uses and purposes set forth.
(Seal)



Notary Public: Crystal Kichin
My Commission Expires: 06/11/2010

Inchman: 2000022227

DocuPage: R 1412: 1357

DateTime: 2000/02/28 16:33:33.510

Document: 81

Richland County Register of Deeds

All that certain piece, parcel or tract of land containing 5.67 acres, more or less, with any improvements thereon, being located near Columbia, County of Richland, State of South Carolina, and being a portion of the property shown on that certain plat prepared for Jo Anne S. Turner by Douglas E. Platt, Sr., RLS, No. 4841, dated 3/9/87, and recorded in the RMC Office for Richland County 3/31/87 in Plat Book 51 at page 5639 and on a plat prepared for Ellis Martin by G. T. Duncan, recorded in the RMC Office for Richland County in Plat Book I page 485. Reference is craved to said plats for a more complete description of boundaries and measurements; be all measurements a little more or less.

Richard W. Rodden

EXHIBIT 8

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
CASE NO.: 2010-CP-40-5886

MidFirst Bank,

AFFIDAVIT OF INDEBTEDNESS

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative for
the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Tauheedah Mateen;
Kilgore Marketing Solutions dba RSVP Columbia;
South Carolina Department of Motor Vehicles,

Defendant(s)

BEFORE ME, personally appeared, the Affiant, who, being duly sworn, deposes and says, upon
personal knowledge that:

1. In my capacity as Vice President, I have access to MidFirst Bank's
business records, including the business records for and relating to the loan that is subject of this
foreclosure. I make this affidavit based upon my review of those records relating to the subject
loan and from my own personal knowledge of how they are kept and maintained. The loan
records for the subject loan are maintained by MidFirst Bank in the course of its regularly
conducted business activities and are made at or near the time of the event, by or from
information transmitted by a person with knowledge. It is the regular practice to keep such
records in the ordinary course of a regularly conducted business activity.
2. Plaintiff is the holder of the Note and Mortgage described in the Plaintiff's Complaint,
and that the information hereinafter given is contained in the original books and records
maintained in the office of the Plaintiff. Affiant is competent to testify to all matters stated
herein and this Affidavit is made on personal knowledge of Affiant based on a review of

08-01399

Plaintiff's business records.

3. Defendants failed to pay the installments due on this Mortgage for February 1, 2010 and all subsequent payments. Plaintiff has accelerated the principal balance of said Note and Mortgage in the amount set forth below, plus interest. Plaintiff has agreed to pay its attorney a reasonable Attorney's fee. The nature and amount of all sums due Plaintiff are listed below.

4. That by the reason of the aforesaid default in the payment of the note and mortgage, Plaintiff has elected to and has accelerated the payment of the entire principal sum now due under the terms of the note and mortgage, together, with accrued interest, all of which is declared to be due and payable to Plaintiff or its agents.

5. AMOUNTS DUE: The following sums are now due and payable under the terms of the note and mortgage:

I.	PRINCIPAL BALANCE DUE		\$62,787.47
II.	INTEREST DUE: From January 1, 2010 to March 13, 2015		\$ 26,105.84
	Current Interest Rate 8 %		
III.	LATE CHARGES		
A.	<u>Late Charges</u>		\$ 324.10
B.	<u>Other</u>	\$ 0.00	
IV.	ADVANCES BY MORTGAGEE:		
A.	<u>Escrow Advances:</u>		
	- Real Estate Taxes	\$ 5,122.44	
	- Hazard/Property Insurance	\$ 3,637.78	
	- P.M.I.	\$ 0.00	
	- misc.	\$ 0.00	
B.	<u>Corporate Advances (itemize in detail):</u>		
	- Property inspections	\$ 345.00	
	- Property maintenance expense	\$ 0.00	
	- Appraisals / BPO	\$ 0.00	
	- Condo maintenance fees paid	\$ 0.00	
	- Payment to superior mortgages	\$ 0.00	
	- NSF Fee	\$ 160.00	

C. Miscellaneous:
TOTAL ADVANCES

\$ 60.00

\$ 9,325.22

V. LESS: CREDITS DUE TO DEFENDANTS

A. Positive escrow balance

(\$ 0.00)

B. Partial Suspense balance

(\$ 137.90)

TOTAL CREDITS:

(\$ 137.90)

VI. TOTAL DEBT

\$ 98,404.73

FURTHER THE AFFLIANT SAYETH NOT.

Affiant Signature:

Cindy Countryman

Affiant Printed Name: Cindy Countryman

Affiant Title: Vice President

MidFirst Bank

Sworn to or affirmed, and subscribed before me
this 27th day of March, 2015

Valerie Wilkerson

Notary Public for the State of Oklahoma

Commission Expires: 02-04-18

Valerie Wilkerson

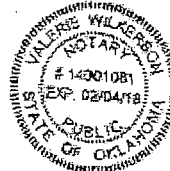


EXHIBIT 9

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Tauheedah Mateen; Kilgore Marketing Solutions dba RSVP Columbia; South Carolina Department of Motor Vehicles,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO: 2010-CP-40-5886

AFFIDAVIT OF ATTORNEYS' FEES

PERSONALLY APPEARED BEFORE ME, the undersigned, attorney for the Plaintiff, who first being duly sworn, deposes and says as follows:

1. I am an attorney for the Plaintiff in the above-captioned foreclosure matter.
2. This case is an action to foreclose a mortgage on real property located in the County of Richland, South Carolina.
3. The subject mortgage specifically provided that the Plaintiff is entitled to the recovery of attorneys' fees and costs associated with the collection of sums due under the promissory Note.
4. I was retained by the Plaintiff to conduct this foreclosure action pursuant to a contractual rate of compensation providing for a flat attorneys' fee and hourly fee for contested foreclosure for a total amount of \$11,956.00.
5. Under Dedes v. Strickland, 414 S.E.2d. 134 (S.C. 1992), the Supreme Court of South Carolina has set forth the factors to be considered in an award of attorneys' fees in real property actions. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charges in the locality for similar services and

the beneficial result obtained. These factors, as applied in this case, are as follows:

- a. Nature, Extent and Difficulty of the Legal Services Rendered. As stated earlier, this is an action to foreclose a mortgage on real property. The case involved complex issues of real property law. A hearing was held by the Master, who requires an order to be prepared by Plaintiff's counsel. Accordingly, the factual and legal issues presented were complex and detailed in nature, the extent of the work performed was necessary to adequately prepare and try these matters, and the matters decided were of legal and factual difficulty.
- b. Time and Labor Necessarily Devoted to the Case. As stated above, this case involved difficult issues of both legal and factual natures. Approximately 12-15 hours were devoted to the case by my firm. Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case.
- c. Professional Standing of Counsel. The attorneys representing the Plaintiff in this case are licensed members of the Bar of the State of South Carolina. Collectively, they have several years of experience in practice in South Carolina and in other states. The practice of Plaintiff's attorneys consists of foreclosure cases, collection cases, real property closing transactions, real property litigation, land title questions and other land related litigation. More specifically, Plaintiff's attorneys have collectively been involved in thousands of mortgage foreclosure cases. Accordingly, I submit that Plaintiff's attorneys have high professional standing in general and in this area of practices.
- d. Contingency of Compensation. As recited above, compensation in this case is based on a combination of a flat-fee rate and hourly litigation rate which totals \$11,956.00.
- e. Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Foreclosure Bar in the Midlands region of South Carolina, and from my general familiarity with the legal profession, that the fees incurred for services in this action are in line with attorneys' fees incurred in similar cases. As stated earlier, my flat-fee rate is within this range in this case. Accordingly, this rate is the fee customarily charged in this locality for similar services.
- f. Beneficial Results Obtained. This attorney obtained beneficial results for the Plaintiff in this action by securing a Judgment enforcing Plaintiff's mortgage rights with regard to the subject real property. Accordingly, it is submitted that beneficial results were obtained by this firm on the Plaintiff's behalf.

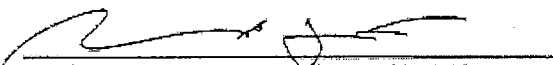
6. After due consideration of the nature, extent and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services,

and the beneficial result obtained, I respectfully submit that an award of attorney's fees to the full extent set forth in this Affidavit is appropriate; therefore, Plaintiffs are entitled to recover \$11,956.00 in attorneys' fees.

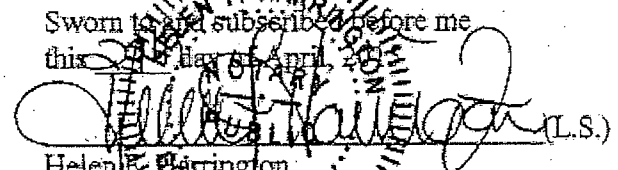
7. The costs in this matter are set forth in the proposed judgment order prepared by Plaintiff's attorney. These costs include filing fees, reference fees, service costs, and other miscellaneous costs. The costs are reasonable and necessary to pursue this action and are not, I believe, excessive given the nature, extent and difficulty of the legal services in this case, the time and labor devoted to this case, and the beneficial result obtained.

FURTHER THE AFFIANT SAYETH NOT.

BROCK & SCOTT, PLLC


William P. Stork, SC Bar No: 100242
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Phone 888-726-9953 Fax 866-676-7658
ATTORNEYS FOR PLAINTIFF

Sworn to and subscribed before me
this 28th day of April, 2019

 (L.S.)
Helen F. Harrington

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 09/21/2019

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Tauheedah Mateen; Kilgore Marketing Solutions dba RSVP Columbia; South Carolina Department of Motor Vehicles, Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO: 2010-CP-40-5886

AFFIDAVIT OF ATTORNEYS' FEES

RICHLAND COUNTY
FILED
2015 JUL 28 PM 2:56
ANNETTE W. MCBRIDE
C.C.P. & G.S.

PERSONALLY APPEARED BEFORE ME, the undersigned, attorney for the Plaintiff, who first being duly sworn, deposes and says as follows:

1. I am an attorney for the Plaintiff in the above-captioned foreclosure matter.
2. This case is an action to foreclose a mortgage on real property located in the County of Richland, South Carolina.

3. The subject mortgage specifically provided that the Plaintiff is entitled to the recovery of attorneys' fees and costs associated with the collection of sums due under the promissory Note.

4. I was retained by the Plaintiff to conduct this foreclosure action pursuant to a contractual rate of compensation providing for a flat attorneys' fee and hourly fee for contested foreclosure for a total amount of \$13,602.00.

5. Under Dedes v. Strickland, 414 S.E.2d. 134 (S.C. 1992), the Supreme Court of South Carolina has set forth the factors to be considered in an award of attorneys' fees in real property actions. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charges in the locality for similar services and the beneficial result obtained. These factors, as applied in this case, are as follows:

- a. Nature, Extent and Difficulty of the Legal Services Rendered. As stated earlier, this is an action to foreclose a mortgage on real property. The case involved complex issues of real property law. A hearing was held by the Master, who requires an order to be prepared by Plaintiff's counsel. Accordingly, the factual

and legal issues presented were complex and detailed in nature, the extent of the work performed was necessary to adequately prepare and try these matters, and the matters decided were of legal and factual difficulty.

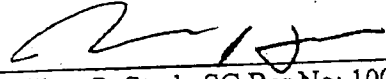
- b. Time and Labor Necessarily Devoted to the Case. As stated above, this case involved difficult issues of both legal and factual natures. Over 77 hours were devoted to the case by my firm. Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case.
- c. Professional Standing of Counsel. The attorneys representing the Plaintiff in this case are licensed members of the Bar of the State of South Carolina. Collectively, they have several years of experience in practice in South Carolina and in other states. The practice of Plaintiff's attorneys consists of foreclosure cases, collection cases, real property closing transactions, real property litigation, land title questions and other land related litigation. More specifically, Plaintiff's attorneys have collectively been involved in thousands of mortgage foreclosure cases. Accordingly, I submit that Plaintiff's attorneys have high professional standing in general and in this area of practices.
- d. Contingency of Compensation. As recited above, compensation in this case is based on a combination of a flat-fee rate and hourly litigation rate which totals **\$13,602.00**.
- e. Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Foreclosure Bar in the Midlands region of South Carolina, and from my general familiarity with the legal profession, that the fees incurred for services in this action are in line with attorneys' fees incurred in similar cases. As stated earlier, my flat-fee rate is within this range in this case. Accordingly, this rate is the fee customarily charged in this locality for similar services.
- f. Beneficial Results Obtained. This attorney obtained beneficial results for the Plaintiff in this action by securing a Judgment enforcing Plaintiff's mortgage rights with regard to the subject real property. Accordingly, it is submitted that beneficial results were obtained by this firm on the Plaintiff's behalf.

6. After due consideration of the nature, extent and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees to the full extent set forth in this Affidavit is appropriate; therefore, Plaintiffs are entitled to recover **\$13,602.00** in attorneys' fees.

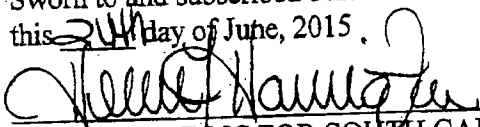
7. The costs in this matter are set forth in the proposed judgment order prepared by Plaintiff's attorney. These costs include filing fees, reference fees, service costs, and other miscellaneous costs. The costs are reasonable and necessary to pursue this action and are not, I believe, excessive given the nature, extent and difficulty of the legal services in this case, the time and labor devoted to this case, and the beneficial result obtained.

FURTHER THE AFFIANT SAYETH NOT.

BROCK & SCOTT, PLLC


William P. Stork, SC Bar No: 100242
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Phone 888-726-9953 Fax 866-676-7658
ATTORNEYS FOR PLAINTIFF

Sworn to and subscribed before me
this 24th day of June, 2015.

 (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 09/21/2019

STATE OF SOUTH CAROLINA)

COUNTY)
RICHLAND)

MidFirst Bank Brock & Scott)
PLLC)

PLAINTIFF(S))

VS.)

Mahasin K. Bowen, as Personal Representative for the)
Estate of Mary Lee Samuel; Mahasin K. Bowen;)
Raymond Samuel a/k/a Shamsud-din Raymond)
Samuel; Cecil Samuel; Charles Samuel, Jr.; Earl)
Samuel; Kenneth Kareem Samuel; Tauheedah Mateen;)

DEFENDANT(S))

IN THE COURT OF COMMON PLEAS

MOTION TO ALTER OR AMEND JUDGMENT

RICHLAND COUNTY
FILED
2015 AUG 10 AM 9:29
JEANETTE W. MCBRIDE
C.L.P. & G.S.

Please take notice that, pursuant to Rule 59(E) of the South Carolina Rules of Civil Procedure, the undersigned respectfully moves this Honorable Court to amend the Judgment entered by the Court on June 23, 2015. This motion is based upon the following grounds:

1. Defendants did not violate any duty to or right of plaintiff.
2. Damages to plaintiff, if any, were caused by plaintiff's own conduct.
3. After failure to appropriately work out any problems with Defendant, Plaintiff has attempted to collect inappropriate late charges and attorney fees.
4. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
5. Plaintiff has failed to mitigate damages.
6. If Plaintiff suffered any damages or losses, such damages or losses were caused in whole or in part by plaintiff's own acts, omissions, and/or conduct of parties other than answering Defendant, about which answering Defendant had no prior knowledge and for which answering Defendant is not legally responsible.
7. Plaintiff intentionally misrepresented facts of eligibility for Home Re- modification.
8. The Complaint is barred in whole or in part by the doctrine of estoppel.

9. The Complaint is barred in whole or in part by the doctrine of waiver.
10. The Complaint is barred in whole or in part by the doctrine of fraud.
11. The Complaint is barred in whole or in part by the doctrine of illegality.
12. The Complaint is barred in whole or part by the doctrine of consent.
13. The Complaint is barred in whole or part by the doctrine of justification.
14. The Complaint is barred in whole or part by the parol evidence rule.
15. The Complaint is barred in whole or part by the doctrine of release.
16. The Complaint is barred in whole or part by the doctrine of payment.
17. Answering Defendant is not personally liable.
18. Plaintiff has failed to mitigate its damages.
19. The Complaint is barred in whole or part due to Plaintiff's failure to support its alleged damages with documentation.
20. Plaintiff's suit is frivolous.
21. Defendant is entitled to attorneys' fees and court costs in having to respond to this frivolous action.
22. Plaintiff's complaint is barred in whole or in part by South Carolina Rules of Civil Procedure.
23. Plaintiff's conduct herein is in bad faith and entitles Defendant to damages.
24. Plaintiff's conduct herein violates consumer protection laws and entitles Defendant to treble damages.
25. Defendant incorporates all affirmative defenses allowed in the South Carolina Rules of Civil Procedure, as if set forth fully at length herein.

26. Defendant reserves the right to supplement/amend/raise additional affirmative defenses,
as may be revealed during discovery.

WHEREFORE, Defendant respectfully requests that this Honorable Court Amend judgment in
favor of Defendant, and grant such further relief to defendant as deemed just and proper.

Dated: 08/10/15

Respectfully submitted,

By: Mahasin K. Bowen

Name: Estate of Mary L. Samuel, Mahasin Bowen
Address: 3307 1/2 Percival Road Columbia, SC 2922
Telephone No.: (803) 479-0523

RICHLAND COUNTY
FILED
2015 AUG 10 AM 9:29
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

2010-CP-40-5886
CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA)

COUNTY)

RICHLAND)

MidFirst)

Bank,)

Brock &)

Scott,)

PLLC)

PLAINTIFF(S))

VS.)

Mahasin K. Bowen, as Personal Representative for the
Estate of Mary Lee Samuel; Mahasin K. Bowen;
Raymond Samuel a/k/a Shamsud-din Raymond
Samuel; Cecil Samuel; Charles Samuel, Jr.; Earl

IN THE COURT OF COMMON PLEAS

AFFIDAVIT IN SUPPORT OF MOTION FOR
RELIEF FROM JUDGMENT

Samuel; Kenneth Kareem Samuel; Tauheedah Mateen;

DEFENDANT(S).

THE UNDERSIGNED, under the penalty of perjury, states the following facts to support the attached Motion for Relief From Judgment:

1. Plaintiff erroneously stated none of the Heirs of Mary L Samuel responded to this Summary Motion
2. The aforementioned property has been the residence of one of the heirs, Kenneth Kareem Samuel since October 2010. Kenneth K. Samuel is a Disable Veteran Eligible for Veteran Home Certification Loan.
3. Midfirst Bank suggests the mortgage was assigned March 21, 2008 from Mortgage Electronic Registry System Inc. as a nominee for Homeside Lending, Inc. in Book 1413 at page 1356. The Estate of Mary L. Samuel has no documentation.
4. The record reflects the fact that Mary L. Samuel, deceased February 8, 2008 and therefore possessed no duty to Midfirst Bank.
5. Midfirst Bank requests additional collateral 1994 /Omni Destiny Mobile/Manufacture home clearly not included in the original Note/Mortgage which present genuine material facts.
6. The Majority of Mary L. Samuel heirs reside outside of the State of South Carolina, yet have interest could not attend hearing.
7. Midfirst Bank motion for Summary Judgement is a direct violation of the rights of Mary L. Samuel heirs.
8. Midfirst Bank action threatens the resting place of several family members, whose burials occupy.

Michael K. K...
Signature

Dated: AUG 10, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Sworn before me this the 10th day of AUG-ust, 2015.

Notary Public for South Carolina

(Seal)

My commission expires: OCTober 7th, 2024

RICHLAND COUNTY
FILED
2015 AUG 10 AM 9:29
JANETTE W. MCBRIDE
C.C.P. & G.S.

MAHASIN K. BOWEN, in her own right
and as Adm. of Estate of Mary L. Samuel
3307 Percival Road
COLUMBIA, SC
803-467-1761

PRO SE

MIDFIRST BANK

Respondent

v.

Mahasin K. Bowen, as Administratrix of
the Estate of Mary Lee Samuel;
Mahasin K. Bowen; in her own right, and
Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a
Cecil A. Samuel; Charles Samuel, Jr.;
Earl Hassan Samuel; Kenneth Samuel;
aka Kenneth Kareem Samuel, and
Tauheedah Mateen;

Petitioners

: RICHLAND COUNTY SOUTH CAROLINA
: COURT OF COMMON PLEAS

CASE NO.:

C/A NO.: 2010-CP-40-5886

PETITION TO SET ASIDE JUDICIAL SALE

Petitioner, MAHASIN K. BOWEN, as Administratrix of the Estate of Mary Lee Samuel, deceased, on behalf of all heirs, acting Pro se, hereby respectfully requests that this Honorable Court set aside the judicial sale of real property pursuant to SC Rule of Appellate Procedure 203(b)(1), and in support hereof, respectfully represents:

1. The Petitioner, MAHASIN K. BOWEN, is the Administratrix of the Estate of Mary Lee Samuel, deceased, owner and real party in interest of the real property located at 3307 Percival Road, Columbia SC (hereinafter the "Property"), and makes this Petition on behalf of herself and all above-captioned heirs of the above captioned decedent.

2. The Respondent, MIDFIRST BANK, is a body corporate or politic, believed and therefore averred to be lawfully doing business within the State of South Carolina.

3. On or about July 29, 2015, this Honorable Court entered judgment in foreclosure against the Petitioners, according to Notice received by Petitioners on or about August 7, 2015.

4. On August 10, 2015, Petitioner filed a Motion to Alter or Amend that same foreclosure judgment.

5. Pursuant to SC Rule of Appellate Procedure 203(b)(1) ("Rule 203"), "when a timely ... motion to alter or amend the judgment ... has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion."

6. A true and correct copy of the Court docket report, illustrating that the Petitioner's Motion to Alter or Amend the judgment of July 29, 2015 was filed on August 10, 2015 and had not been ruled upon by September 8, 2015, is attached hereto, incorporated herein, and marked as "Exhibit A."

7. Neither Petitioner, nor any named heir, ever received service of or any notice that the Motion to Alter or Amend was ruled upon.

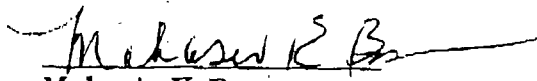
8. On October 2, 2015, Petitioner received a letter from counsel for Respondent, dated September 24, 2015 and entitled "Notice of Demand for Possession", which alleged that The Property had been purchased by Respondent at a judicial sale on September 8, 2015. A true and correct copy of Respondent's 9/24/15 letter is attached hereto, incorporated herein, and marked as "Exhibit B."

9. Thereafter, notwithstanding the fact that the docket report (see Exhibit A) shows no indication that any such judicial sale occurred, Petitioner immediately initiated this Petition to Set Aside Judicial Sale, on the basis that judgment being executed upon is subject to a pending Motion to Alter or Amend, and may thereafter be subject to a Notice of Appeal, and must not be allowed to proceed to execution unless and until all pending motions and appeals are exhausted.

10. Petitioner respectfully submits that, pursuant to Rule 203, as aforesaid, the purported judicial sale of September 8, 2015, should be set aside.

WHEREFORE, Petitioner seeks an Order setting aside judicial sale.

Respectfully submitted.


Mahasin K. Bowen
Pro Se Petitioner

Dated: October 5, 2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2010-CP-40-5886

MidFirst Bank,

Plaintiff,

-vs-

Mahasin K. Bowen, as Personal Representative for
the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Tauheedah Mateen;
Kilgore Marketing Solutions dba RSVP Columbia;
South Carolina Department of Motor Vehicles,

Defendants.

POINTS AND AUTHORITIES

RICHLAND COUNTY
CLERK
2015 NOV -4 PM 2:43
JEANETTE W. HENDERSON
Clerk & Co.

In support of their Petition to Set Aside Judicial Sale and Motion to Alter or Amend Judgment, the Defendant, Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel, and individually (acting, to the extent she can, for the other named heirs of Mary Lee Samuel), would show the following:

CHRONOLOGY

August 27, 2010	Summons and Complaint filed
January 2, 2013	Amended Summons and Amended Complaint filed
March 15, 2013	Answer and Counterclaim of Defendants filed
April 19, 2013	Reply to Counterclaims filed
May 1, 2015	Motion for Summary Judgment filed
June 25, 2015	Motion Hearing
July 29, 2015	Order and Judgment of Foreclosure and Sale filed
August 10, 2015	Motion to Alter or Amend Judgment filed
September 8, 2015	Sale of Foreclosure held
October 14, 2015	Petition to Set Aside Judicial Sale filed

MOTION TO ALTER OR AMEND JUDGMENT

The Motion to Alter or Amend Judgment was served and filed by the pro se Defendants on

August 10, 2015. Said Motion has never been acknowledged or addressed by the Plaintiff's attorney or the Court. The Plaintiff's attorney effectively ignored this Motion altogether and requested the sale of the mortgaged property on September 8, 2015.

MERITORIOUS GROUNDS STATED IN MOTION

Among many other grounds, the pro se Defendants clearly stated the following meritorious grounds:

1. Inappropriate attorney's fees.
2. Barred by the parol evidence rule.
3. Mobile Home (1994 Omni Destiny) not included in Mortgage, "which present (sic) genuine material facts."

UNSUPPORTED REQUEST FOR ATTORNEY'S FEES

The Plaintiff's initial Affidavit of Attorneys' Fees requests an attorneys' fee of \$11,956.00. The Plaintiff's supplemental Affidavit of Attorneys' Fees requests an attorneys' fee of \$13,602.00. Neither affidavit cites any specific support for the request. Without any support, one can only hazard a guess at the hourly rate of the Plaintiff's attorneys. Assuming an hourly rate of \$175.00, the gross hours would have to amount to 77 hours. Assuming an hourly rate of \$200.00, the gross hours would have to amount to 68 hours. There is little chance that the Plaintiff's attorneys could support a claim that their services in this case involved even one-third of these numbers of hours.

AUTHORITIES: PAROL EVIDENCE RULE

As the Plaintiff sought to reform the subject Mortgage to include a mobile home, it would be required to demonstrate that the mortgage was ambiguous in order to get around the Parol Evidence Rule. The Plaintiff has made no attempt to do so. From all appearances, the Mortgage is completely clear and unambiguous.

As stated in Harbour Town Yacht Club Boat Slip Owner's Ass'n. v. Safe Berth Mgmt., 42 F.Supp.2d 908, 911 (D.S.C. 2006), "[u]nder South Carolina law, the parol evidence rule generally excludes evidence which would give a perfectly clear agreement a different meaning or effect than that indicated by the plain language of the agreement. Taylor by Taylor v. Taylor, 291 S.C. 261, 353 S.E.2d 156 (S.C.Ct.App. 1987). Also, if the writing on its face appears to express the whole agreement, parol evidence cannot be admitted to add another term thereto. Blackwell v. Faucett, 117 S.C. 60, 108 S.E. 295 (S.C. 1921)."

AUTHORITIES: INTENTION OF THE PARTIES TO A CONTRACT

It is the settled rule in South Carolina that "the intention of the parties to an ambiguous contract is a question of fact for the jury to determine and is not a question that a court should decide on summary judgment. South Carolina Electric & Gas Co. v. Combustion Engineering, Inc., 283 S.C. 182, 188, 322 S.E.2d 453 (Ct.App. 1984). See Wheeler v. Globe & Rutgers Fire Insurance Co., 125 S.C. 320, 325, 118 S.E. 609 (1923) ("where a contract is not clear, or is ambiguous and capable of one or more constructions, what the parties really intended, as a matter of fact, should be submitted to a jury").

As stated in Bishop v. Benson, 297 S.C. 14, 17, 374 S.E.2d 517 (Ct.App. 1988), "[s]ummary judgment is also improper where the motion presents a question as to the construction of a written contract, and the language employed in the contract is ambiguous so that intention of the parties as to the legal effect of the contract may not be gathered from the four corners of the instrument. First Citizens Bank & Trust Co. v. Conway National Bank, 282 S.C. 303, 317 S.E. (2d) 776 (Ct.App. 1984).

While the Appellant believes the Mortgage to be complete and unambiguous, should the Court conclude that it is ambiguous, the construction of the Mortgage becomes a question of fact.

“Where there is ambiguity, uncertainty or doubt as to proper construction of [a] contract, intention of the parties becomes a question of fact for the jury to determine.” Waters v. S. Farm Bureau Life Ins. Co., 365 S.C. 519, 524, 617 S.E.2d 385 (Ct.App. 2005); Garrett v. Pilot Life Ins. Co., 241 S.C. 299, 305, 128 S.E.2d 171, 174 (1962). “[I]f a contract is ambiguous, or capable of more than one construction, the question of what the parties intended becomes one of fact, and should therefore be decided by the jury.” Harbour Town Yacht Club, *supra*, at 910-11; Café Assoc. Ltd. V. Gerngross, 305 S.C. 6, 406 S.E.2d 162 (S.C. 1991).

As stated in Penza v. Pendleton Station, LLC, 404 S.C. 198, 204, 743 S.E.2d 850 (Ct.App. 2013), “One of the first canons of construction of a deed is that the intention of the grantor must be ascertained and effectuated if no settled rule of law is contravened.” Bennett v. Investors Title Ins. Co., 370 S.C. 578, 590, 635 S.E.2d 649, 655 (Ct.App. 2006). “[O]nce a contract or agreement is before the court for interpretation, the main concern of the court is to give effect to the intention of the parties.” Williams v. Teran, Inc., 266 S.C. 55, 59, 221 S.E.2d 526, 528 (1976). “Moreover, in ascertaining [the grantor’s] intention, the deed must be construed as a whole and effect given to every part thereof, if such can be done consistently with law.” Bennett, *supra*.

REFORMATION OF MORTGAGE TO INCLUDE MOBILE HOME

1. The Mortgage is, in all respects, unambiguous.
2. There is no mention whatsoever (or even an implication) in the Mortgage that a mobile home (personal property) was intended to be included with the land as part of the mortgaged property.
3. There is no mention whatsoever of the mobile home in the Affidavits filed by the Plaintiff in support of its Motion for Summary Judgment or, for that matter, in the Plaintiff’s Memorandum (other than the attached Amended Complaint, Record of Hearing or Judgment of

Foreclosure and Sale, which are not evidence).

4. No evidence from the original mortgagee, South Trust Mortgage Corporation, was offered to support the allegation that the parties to the mortgage (i.e. South Trust Mortgage Corporation and Mary L. and Raymond Samuel) intended that the description of the mortgaged property include a mobile home.

5. No evidence from any holder of the mortgage was offered to support the finding in the Judgment that the parties to the mortgage intended that the mobile home would be converted into a permanent fixture on the property.

6. No evidence was offered by the Plaintiff to support the Plaintiff's assertion that there was a mutual mistake by all parties in failing to include the mobile home as a part of the mortgaged property.

7. Any such evidence of the parties' intention would be barred, in any event, by the parol evidence rule.

SUMMARY JUDGMENT IS A DRASTIC REMEDY

"In determining whether a genuine issue of fact exists, the evidence and all reasonable inferences drawn from it must be viewed in the light most favorable to the nonmoving party." Penza, supra. Summary judgment is a drastic remedy that should be cautiously invoked in order not to improperly deprive a litigant of a trial of the disputed factual issues. HK New Plan Exch. Prop. Owner I, LLC v. Coker, 375 S.C. 18, 22, 649 S.E.2d 181 (Ct.App. 2007); Murray v. Holnam, Inc., 344 S.C. 129, 138, 542 S.E.2d 743, 747 (Ct.App. 2001).

PETITION TO SET ASIDE JUDICIAL SALE

The sale of the Defendant's property was conducted while the Defendant's timely Motion to Alter or Amend Judgment remained pending and unresolved. The Judgment of Foreclosure and

Sale, which was the only possible authority for the sale of the subject property, was not a final court order. As the said Motion, which was a sufficient, timely-filed motion under Rule 59(e), neither the Plaintiff nor the Court had authority to move forward with the sale. The unauthorized foreclosure sale was therefore a nullity and should be declared to be void and of no effect.

Respectfully submitted,



Leonard R. Jordan, Jr.
JORDAN LAW FIRM
4500 Fort Jackson Boulevard
Columbia, South Carolina 29209
(803) 726-1950 Tel
(803) 726-1951 Fax
ljordan@ljordanlaw.com
Attorney for Defendant, Mahasin K. Bowen, as
Personal Representative for the Estate of Mary Lee
Samuel, and individually

Columbia, South Carolina
November 4, 2015

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen as Personal Representative
for the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Cecil Samuel a/k/a Cecil A. Samuel;
Charles Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Kilgore Marketing
Solutions dba RSVP Columbia; Tauheedah
Mateen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; South Carolina Attorney
General; South Carolina Department of Motor
Vehicles,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A NO: 2010-CP-40-05886

**PLAINTIFF'S MEMORANDUM
IN OPPOSITION
TO DEFENDANT'S MOTION TO ALTER
OR AMEND JUDGMENT, PETITION TO
SET ASIDE JUDICIAL SALE, AND
POINTS AND AUTHORITIES**

RICHLAND COUNTY
FILED
NOV 18 PM 2:01
CLERK W. MCBRIDE
C.P. & G.S.

TO: **LEONARD R. JORDAN, JR., ESQUIRE, ATTORNEY FOR DEFENDANT MAHASIN
K. BOWEN:**

I. INTRODUCTION AND FACTS

On or about December 23, 1999, Mary L. Samuel gave a Note (See Exhibit "1") whereby she promised to pay to SouthTrust Mortgage Corporation (hereinafter "Lender"), the principal sum of \$71,575.00, together with interest at the rate of 8% per annum on the unpaid balance. In order to secure the payment of said Note, Mary L. Samuel and Raymond Samuel did, on or about the same date make, execute, and deliver to Lender, its successors and assigns, a certain mortgage dated December 23, 1999 securing the property described as:

All that certain piece, parcel or tract of land, containing 5.67 acres, more or less, being a portion of a tract of land comprising 10.4 acres, more or less, situate on the northwestern side of Percival Road, about 10 miles from the City of Columbia, in the County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Effie Martin by D.T. Duncan recorded in the Office of the Register of Deeds for Richland County in Plat Book X at Page 485; less and excepting a tract containing 2.38 acres, more or less as shown on that

certain plat prepared for Fred S. Breeland, Jr. by Douglas E. Plat, Sr., RLS, dated December 13, 1973 and recorded in the RMC Office for Richland County in Plat Book 44 at Page 895 and also shown on that certain plat prepared for Jo Anne B. Turner by Douglas E. Plat, Sr., RLS, No. 4041, dated 3/9/1998, and recorded in the RMC Office for Richland County in Plat Book 51 at Page 5630; and further less and excepting a tract containing 2.35 acres, more or less, situate, lying and being on the south side of Old Percival Road, about 10 miles from the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Fred S. Breeland and Mildred M. Breeland by Douglas E. Platt, Sr., dated August 24, 1976, and being bounded and measuring on said plat as follows: commencing at a pin on the southeast side of Old Percival Road and running S12°00'E along property now or formerly of Catherin Mimms and property now or formerly of Fred S. Breeland for a distance of 335.2 feet; thence turning and running S76°40'W along property now or formerly of Fred S. Breeland for a distance of 304.1 feet; thence turning and running N16°27'W for a distance of 310.7 feet along an old fence to Old Percival Road; thence turning and running N72°21'E along Old Percival Road for a distance of 330.9 feet to the point of beginning. This being the northwestern-most of property heretofore conveyed to Fred S. Breeland and Mildred M. Breeland by deed of Effie Chambers Martin Dated March 15, 1968, recorded in Deed Book D100 at Page 491.

(See Exhibit "2"). Thereafter the Mortgage was assigned to Mortgage Electronic Registration Systems, Inc. as nominee for Homeside Lending, Inc. by assignment recorded on December 27, 2000 in Book 469 at Page 2442. (See Exhibit "3a"). Thereafter the Mortgage was assigned to MidFirst Bank by Assignment recorded on March 21, 2008 in Book 1413 at Page 1356. (See Exhibit "3b").

On February 9, 2008, Mary Lee Samuel passed away on February 9, 2008. On August 27, 2010, Plaintiff filed a Complaint for Foreclosure. On or about, January 2, 2011, Plaintiff filed a Complaint for Foreclosure and filed an amended Complaint for Foreclosure on or about May 11, 2012. (See Exhibit "4").

On or about March 15, 2013, Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel and in her individual capacity (hereinafter "Defendant"), filed an answer. (See Exhibit "5"). Ms. Bowen generally denies all allegations of the complaint except that the mortgage was recorded and also alleges 27 defenses and 12 counterclaims.

On or about July 16, 2013, Attorney for MidFirst Bank (hereinafter "Plaintiff") and Mortgage Electronic Registration Systems (hereinafter "MERS") sent discovery, on behalf of MidFirst Bank, including Requests for Admissions to Ms. Bowen. (See Exhibit "6"). To date, Ms. Bowen has never responded to these admissions.

Plaintiff filed a Motion for Summary Judgment as to all causes of action in the complaint on May 1, 2015.

A hearing on Plaintiff's Motion for Summary Judgment was scheduled before this Honorable Court for June 21, 2015 and all Defendants were notified of the hearing. At the final hearing, Defendant Raymond Samuel appeared. At the hearing, the Honorable Joseph M. Strickland granted the Plaintiff's Motion for Summary Judgment, however the sale date was moved to September 8, 2015 to allow time for the heirs of the estate to attempt loss mitigation.

On August 10, 2015, Defendant Mahasin K. Bowen filed a Motion to Alter or Amend Judgment under SCRCP 59(e).

On September 3, 2015, the subject property sold at foreclosure auction with the Plaintiff being the successful bidder.

On October 14, 2015 Defendant Mahasin K. Bowen filed a Motion to Set Aside Judicial Sale.

On November 4, 2015 a Notice of Appearance was filed by Leonard R. Jordan, Jr. notifying the Court of his representation of Mahasin K. Bowen. The same day therewith counsel for Defendant Bowen filed a document entitled "Points and Authorities" which attempts to raise issues not previously raised by motion or in a hearing.

II. DISCUSSION

"Summary judgment is appropriate where it is clear there is no genuine issue of material

fact and the moving part is entitled to judgment as a matter of law” Brooks v. Northwood Little League, 327 S.C. 400, 489 S.E.2d 647, 648 (Ct. App. 1997). Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show that there is no genuine issue as to a judgment as a matter of law.” Branch Banking and Trust, Co. v. Carolina Crank and Core, Inc., 362 S.C. 647, 651, 608 S.E.2d 896, 899 (Ct. App. 2005). “In order to resist a motion for summary judgment, the nonmoving party must come forward with specific facts showing genuine issues necessitating trial.” Nationsbank v. Scott Farm, 320 S.C. 299, 303, 465 S.E.2d 98, 100 (Ct. App. 1995). “Once the moving party carries its initial burden, the ‘opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial.” Hedgepath v. AT&T, 348 S.C. 430, 559 S.E.2d 327 (Ct. App. 2001).

- I. By failing to respond to discovery, the answering Defendants rendered the requests for admission conclusive admitted thereby leaving no genuine issue of material fact.

At no time have the answering Defendants shown that there is any genuine issue of material fact which would necessitate a full trial. Discovery was served upon Defendant Bowen on July 16, 2013. After several attempts to obtain discovery responses, and several attempts to set up a deposition, the discovery process was rendered moot. By failing to respond to discovery, including requests for admission, the answering Defendants have conclusive admitted that there is no genuine issue of material fact present in this action. In South Carolina, a party’s

failure to respond to Requests for Admissions render the matters listed in the requests conclusively admitted. Rule 36(a), SCRPC. Admissions obtained from a failure to respond to a request for admission are just as binding on a party as answers in pleadings or stipulations. Commerce Center of Greenville, Inc. v. W. Powers McElveen and Assocs., Inc., 347 S.C. 545, 554, 556 S.E.2d 718, 723 (Ct. App. 2001). "[O]ur courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party's pleadings." Scott v. Greenville Housing Authority, 353 S.C. 639, 646, 579 S.E.2d 151, 154-55 (Ct. App. 2003).

By failing to respond to the admissions, Ms. Bowen has admitted the following:

- Mary L. Samuel entered into the note under its terms;
- Mary L. Samuel & Raymond Samuel agreed to be bound by the terms of the note;
- The note was secured by the mortgage that they executed;
- The mortgage intended to include the mobile home;
- Installments of principal and interest falling due from and after February 1, 2010, have not been paid although demand for the payment thereof has been made, thereby placing Mary L. Samuel in default under the terms of the note and mortgage;
- There is now due and owing the principal sum of \$62,787.47;
- Any notice required by the terms of the mortgage or by state or federal law has been given to all applicable defendants prior to the commencement of this action;
- The answering Defendants have no legal defenses to this action;
- Mortgage Electronic Registration Systems, Inc. and MidFirst Bank are not liable for any of the counterclaims alleged;

- Mary L. Samuel and Raymond Samuel received and signed the Federal Truth in Lending Document;
- Mary L. Samuel received and signed the RESPA Servicing Disclosure on November 29, 1999; and
- Mary L. Samuel received and signed the Notice of Right to Cancel on December 23, 1999.

Given that each of these facts has been admitted as a matter of law, there is no genuine issue of material fact and summary judgment and reformation of the mortgage were properly entered in this matter.

II. The Plaintiff established all of the facts necessary to recover on its' causes of action for foreclosure and reformation of mortgate. No specific facts were raised by the Defendants to show the necessity of a full trial.

The Note and Mortgage are direct evidence of the terms and existence of the agreement entered into by Ms. Samuel. (See Exhibits "1" & "2"). The note endorsement and assignments demonstrate that the Note and Mortgage were properly transferred to the Plaintiff. (See Exhibits "1," "3a," & "3b"). Further bolstering its motion, the Plaintiff submitted an Affidavit of Indebtedness (See Exhibit "7"). The Plaintiff's Affidavit clearly establishes the breach of the note and mortgage and the amount and measures of damages sustained by the Plaintiff as a result of the Ms. Samuel's breach.

Additionally, looking at the exhibits to the discovery and in particular the appraisal of the

property utilized for the loan, it is clear that the mortgage intended to encumber the manufactured home on the property and thus the mortgage should be reformed to include the manufactured home. (See Exhibit "8"). Specifically, in the appraisal is the language "The subject is a manufactured house." This is an extremely clear and unambiguous showing that the manufactured house located on the subject property was intended, by both parties, to be collateral for the loan. Additionally, and further evidencing the intent of the parties to include the mobile home as collateral, are pictures taken by the appraiser which were included with the appraisal as a photograph addendum. The language, combined with the photograph addendum, completely and unequivocally evidences the intent of the parties to include the mobile home as collateral for the loan.

With the copies of the note, mortgage, and the Plaintiff's Affidavit, the essential elements and facts of the Plaintiff's cause of action for foreclosure have been established. By including a copy of the appraisal, the Plaintiff has clearly shown that reformation was appropriate. As such there are no material issues of fact and summary judgment is appropriate. Summary judgment is appropriate when "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), South Carolina Rules of Civil Procedure.

III. The award of attorney's fees was proper under the terms of the note and mortgage, and given the amount of work expended in this action.

"When the contract provides for 'reasonable' attorneys' fees without specifying a rate or amount, the issue of attorneys' fees is left to the discretion of the trial judge." Dedes v. Strickland, 307 S.C. 155, 160, 414 S.E.2d 134, 137 (1992).

The Plaintiff is entitled to recover from the Defendants reasonable attorney's fees and court

costs incurred in bringing this action, (See Exhibit "2") and, as evidence of the these costs expended by the Plaintiff in this action, the Plaintiff submitted an Affidavit of Attorney's Fees and Court Costs to the Court. (See Exhibit "9").

At no time did the answering Defendant raise any issue of material fact as to the amount of attorney's fees awarded to the Plaintiff. This case has been ongoing for five years, involved a title issue, discovery, deposition, a reply to the Defendant's sixteen page answer with counterclaims, researching and drafting a twenty-eight page memo with over eighty pages of exhibits to counter each of the Defendant's assertions, and multiple hearings. The amount of attorney's fees awarded to the Plaintiff lies totally on the shoulders of the answering Defendants who have drug out this process for over five years.

IV. Defendant's citing of the "Parol Evidence Rule" and assertion that the mobile home was not intended as collateral is moot and improper and raises no genuine issue of material fact.

"A claim for reformation based upon mutual mistake requires the following elements: (1) the mistake is mutual; (2) the mistake consists of the omission or insertion of some material element affecting the subject matter or the terms of and stipulation of the contract; and (3) the mistake is inconsistent with the oral agreement which preceded it." George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 590, 545 S.E.2d 500, 504 (2001). "The essential question becomes the parties' intent and parol evidence is admissible to show mistake." Progressive Max Ins. Co., v. Floating Caps, Inc., 405 S.C. 35, 50, 747 S.E.2d 178, 186 (2013). "It would be virtually impossible to prove mutual mistake as a ground for reformation without parol

evidence.” Southern Realty & Const. Co. v. Bryan, 290 S.C. 302, 309, 350 S.E.2d 194, 198 (1986).

In the complaint, the Plaintiff alleges that a reformation of mortgage is needed to correct a mutual mistake. This mutual mistake is the inadvertent omission of a mobile home from the legal description contained in the Mortgage. Included in the requests for admission was a request to admit that the legal description contained in the mortgage intended to include the mobile home. By failing to respond to this request for admission, the request is deemed admitted as an operation of law and fact under SCRCF 36(a).

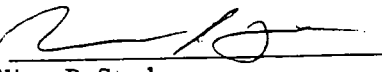
Further evidencing the mutual mistake of the parties is the appraisal included with the discovery requests and submitted as an exhibit to the Memorandum in Support of Plaintiff's Motion for Summary Judgment. This appraisal clearly and unambiguously shows that the mobile home was intended to be collateral. The appraisal states that “The subject is a manufactured house.” Moreover, the inclusion of pictures of the mobile home as a photograph addendum silences any assertion that the mobile home was not intended collateral.

CONCLUSION

The Plaintiff clearly established the essential elements for foreclosure and reformation of mortgage. The answering Defendants have not come forward with any evidence or specific facts that show that a trial is appropriate. Nothing has been produced or argued that would necessitate the sale to be vacated, the Order Granting Summary Judgment be overturned, and for the Court, Plaintiff, and answering Defendants to undergo the additional time and expense required for a trial. Accordingly, the Plaintiff prays that this Honorable Court deny the Defendant's Motion to Alter or Amend, Petition to Set Aside Judicial Sale, and Points and Authorities and uphold the

granting of Summary Judgment on the Plaintiff's foreclosure and reformation causes of action as well as affirming the September 3, 2015 sale to Plaintiff.

Brock and Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
Telephone: (803) 454-3540

By: 
William P. Stork
Attorney for the Plaintiff

Dated: November 18, 2015
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2010-CP-40-5886

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative for
the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Tauheedah Mateen;
Kilgore Marketing Solutions dba RSVP Columbia;
South Carolina Department of Motor Vehicles,

Defendants.

REPLY TO PLAINTIFF'S
MEMORANDUM

RICHLAND COUNTY
FILED
2015 NOV 24 AM 11:00
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO: WILLIAM P. STORK, ESQUIRE, ATTORNEY FOR PLAINTIFF

The Defendant, Mahasin K. Bowen, replies to Plaintiff's Memorandum in Opposition to Defendant's Motion to Alter or Amend Judgment, Petition to Set Aside Judicial Sale, and Points and Authorities as follows:

REPLY TO I. INTRODUCTION AND FACTS

For purposes of the issues related to the Petition to Set Aside Judicial Sale, and the Motion to Alter or Amend Judgment, the Defendant, Mahasin K. Bowen, limits her comments to the allegations of the Plaintiff contained this Section to the following:

A. Obvious Errors.

1. The legal description is not the legal description contained in the mortgage.
2. The Plaintiff's Amended Complaint for Foreclosure was filed on January 2,

2013.

3. Kenneth Samuel (not Raymond Samuel) attended the motion hearing on

June 21, 2015.

B. Authority of Mahasin K. Bowen.

Ms. Bowen is a necessary party, as an undivided owner of the mobile home located on the mortgaged land and as the Personal Representative of the Estate of Mary Lee Samuel, but she is not an attorney, and she is legally incapable of making an appearance in a circuit court proceeding other than in her own personal capacity. She cannot represent another Defendant.

The Answer and Counterclaim, which Ms. Bowen issued, was expressly made in her capacity as a *pro se* Defendant. She had no legal authority to respond on behalf of the other Defendants (although she attempted to do so).

REPLY TO II. DISCUSSION

The failure of Mahasin K. Bowen to answer the discovery requests served upon her, at most, results in the admission by her and only by her of the various requests for admission. Such admissions are, in no way, binding upon the other Defendants.

The alleged admissions by Ms. Bowen are inconsequential at this point in the proceedings, with the exception of Requests Nos. 5 and 9.

Request No. 5 is contrary to the written mortgage signed by Mary L. Samuel and Raymond Samuel. The mortgage says what it says, and Ms. Bowen's failure to answer the requests does not change that. Ms. Bowen submits that Request No. 5 is intentionally deceptive, as the legal description recited therein is presented as a quoted provision when it, in fact, is not even close to the actual legal description contained in the mortgage.

Request No. 9 seeks to render a nullity the Answer served by Ms. Bowen, which effectively stands on its own as an expression of Ms. Bowen's defenses to this action.

Ms. Bowen agrees that, as quoted on page 6 of the Memorandum, "The Note and Mortgage are direct evidence of the terms and existence of the agreement entered into by Ms. Samuel."

Where Ms. Bowen differs with the Plaintiff is, "it is clear that the mortgage intended to encumber the manufactured home on the property and thus the mortgage should be reformed to include manufactured home." The mortgage speaks for itself. The mortgage is unambiguous; and as such, it, standing alone, must be construed to determine the intention of the parties to said instrument. The Plaintiff is required to demonstrate that the mortgage was ambiguous in order to get around the Parol Evidence Rule. It has made no attempt to do so.

The appraisal (to which no showing has been made that the mortgagors were privy), which is attached to the Plaintiff's Memorandum, does have pictures (from which there is no way to determine that the house is a mobile home rather than a stick-built house, a modular home or a manufactured house - which is different than a mobile home); and it does refer to the house as "manufactured house" (rather than "mobile home"), as well as "Mnfct.Ranch" and "1sty/Mnfct.Rnch" (can you imagine anyone referring to a mobile house as a ranch-style house?); but this is not evidence, as it was not offered via affidavit by anyone who could testify of his personal knowledge of the circumstances thereof. Under the Uniform Business Records as Evidence Act (S.C. Code Annot. §19-5-510), "A record of an act . . . shall . . . be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act . . ."

Frankly, it appears quite likely that the original lender, SouthTrust Mortgage Corporation, intended to conceal the fact that the loan involved, or may have involved, a mobile home and that the omission of any specific reference to a mobile home (via VIN and other definitive description) was intentional. This remains a material question of fact.

"Mutual mistake" is raised for the first time by the Plaintiff in its Memorandum, and there has been no effort by the Plaintiff to show that the respective parties to the loan (as originated) (of

which the Plaintiff was not one) mutually made a mistake in omitting reference to the mobile home.

Before a court will reform an instrument, the complaining party must show, by clear and convincing evidence, "a mutual mistake; that both parties intended a certain thing; and that by mistake in drafting of the paper did not get what both parties intended." Hann v. Carolina Casualty Ins. Co., 252 S.C. 518, 527-28, 167 S.E.2d 420, 424 (1969) (quoting Sullivan v. Moore, 92 S.C. 305, 305, 75 S.E. 497, 497 (1912)). "The bedrock of the right to reformation [is] a meeting of the minds of the contracting parties which results in an agreement antecedent to the formal contract, which later failed through mutual mistake to conform to the agreement." Kaiser v. Carolina Life Ins. Co., 219 S.C. 456, 467, 65 S.E.2d 865, 869 (1951). The contract may be reformed on the ground of mutual mistake when the mistake consists of the omission or insertion of some material element affecting the subject matter or when the terms and stipulations of the contract are inconsistent with those of the parol agreement that preceded it. Crosby v. Protective Life Ins. Co., 293 S.C. 203, 359 S.E.2d 298 (Ct. App. 1987). No effort has been made by the Plaintiff to demonstrate how the mortgage is inconsistent with a prior agreement.

As quoted on page 8 of the Memorandum, "The essential question becomes the parties' intent...." That is correct. What was the parties' intention with regard to inclusion or exclusion of the mobile home? This intention must be determined from the four corners of the mortgage - if the mortgage is unambiguous (as it is). If the mortgage is deemed to be ambiguous, the parties' intention is a question of fact, which should not be decided on summary judgment. See the authorities set forth on pages 3 and 4 of the Points and Authorities previously submitted by Ms. Bowen.

How can the Mortgage be reformed on a motion for summary judgment without any evidence (via Affidavit) with regard to the alleged error? There was no mention of the mobile

home in the Plaintiff's Affidavits, and there is no evidence:

- a. from the original mortgagee, SouthTrust Mortgage Corporation, to support the allegation that the parties to the mortgage (i.e. SouthTrust Mortgage Corporation and Mary L. and Raymond Samuel) intended that the description of the mortgaged property include a mobile home;
- b. from any holder of the mortgage to support the finding in the Judgment that the parties to the mortgage (i.e. SouthTrust Mortgage Corporation and Mary L. and Raymond Samuel) intended that the mobile home would be converted into a permanent fixture on the property;
- or
- c. to support the Plaintiff's assertion that there was a mutual mistake by all parties in failing to include the mobile home as a part of the mortgaged property.

The Plaintiff's request for attorney's fees - a matter of fact - has still not been supported. The Plaintiff's counsel should be required to support their attorney's fee request more than to simply claim that this "case has been ongoing for five years." This point is especially important as the Plaintiff changed counsel after the suit was initiated, which raises a concern about the potential duplicity of services. Just because an attorney's fee award is permitted by the loan documents, that doesn't mean that any amount requested (without support) is appropriate. The costs, too, are unusually high, and no effort has been made by the Plaintiff to justify the amount requested. In this case, the awarded attorney's fee amounts to 13.63% of the loan indebtedness, and the awarded costs and attorney's fee amounts to 17.49% of the loan indebtedness, either of which is exorbitant, especially without any support whatsoever.

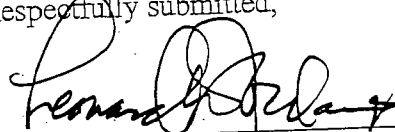
Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Sumner v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997). Summary judgment should not be granted when inquiry into the facts is

desirable to clarify the application of the law. Hook v. Rothstein, 275 S.C. 187, 268 S.E.2d 288 (1980). In ruling on motions for summary judgment, the court must construe all ambiguities, conclusions, and inferences arising from the evidence against the moving party. City of Columbia v. American Civil Liberties Union, 323 S.C. 384, 475 S.E.2d 747 (1996).

MOTION TO ALTER OR AMEND JUDGMENT

The Plaintiff's Memorandum does not address the failure of the Court to resolve the Defendant's Motion to Alter or Amend Judgment. The said Motion was simply ignored, and the mortgaged property was auctioned-off while this Motion remained unresolved and pending. The Judgment of Foreclosure and Sale, which was undoubtedly the only possible authority for the foreclosure sale of the subject property, was not a final court order. In light of this Motion, which was a sufficient, timely-filed motion under Rule 59(e) and which remains unresolved, neither the Plaintiff nor the Court had authority to move forward with the sale. The unauthorized foreclosure sale was therefore a nullity and should be declared to be void and of no effect.

Respectfully submitted,



Leonard R. Jordan, Jr.
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(803) 726-1950 Tel
(803) 726-1951 Fax
ljordan@ljordanlaw.com
Attorney for Defendant, Mahasin K. Bowen, as
Personal Representative for the Estate of Mary Lee
Samuel, and individually

Columbia, South Carolina
November 23, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

MidFirst Bank,)

Plaintiff,)

v.)

Mahasin K. Bowen, as Personal Representative for)
the Estate of Mary Lee Samuel; Mahasin K.)
Bowen; Raymond Samuel a/k/a Shamsud-din)
Raymond Samuel; Cecil Samuel a/k/a Cecil A.)
Samuel; Charles Samuel, Jr.; Earl Hassan Samuel;)
Kenneth Kareem Samuel; Tauheedah Mateen;)
Kilgore Marketing Solutions dba RSVP Columbia;)
South Carolina Department of Motor Vehicles,)

Defendants.)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2010-CP-40-5886

2016 MAY -6 AM 11:11
JEANETTE M. FORD
C.C.P. & G.S.
RICHLAND COUNTY

**MOTION TO RECONSIDER AND
TO ALTER OR AMEND ORDER
DENYING MOTION TO ALTER OR
AMEND JUDGMENT AND PETITION
TO SET ASIDE JUDICIAL SALE**

TO: Honorable Joseph M. Strickland, Master in Equity for Richland County
William P. Stork, Esquire, Attorney for Plaintiff

PLEASE TAKE NOTICE that the Defendant, Mahasin K. Bowen, by and through her undersigned attorney, hereby moves, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, for a reconsideration of the Master in Equity's Order filed April 25, 2016 (received by undersigned on May 2, 2016), which Order summarily denied, without making any findings, said Defendant's Motion to Alter or Amend Judgment, filed on August 10, 2015, and said Defendant's Petition to Set Aside Judicial Sale, filed on October 14, 2015, and for an Order which alters or amends the Master in Equity's Order to address the grounds and exceptions enumerated below.

The said Defendant requests that the court address the following grounds and exceptions to the subject Order and alter or amend said Order accordingly.

1. The Master in Equity erred in auctioning-off the Defendants' property on September 8, 2015, without addressing and considering the Defendant's Motion to Alter or Amend

Judgment, which had been pending (ignored) since August 10, 2015 (through the motion hearing held on November 4, 2015).

2. The Master in Equity erred in concluding that the Verified Statement of Account, in support of the Plaintiff's Motion, was made on the personal knowledge of an affiant who was competent to testify with regard to the loan indebtedness.

3. The Master in Equity erred in concluding that the Verified Statement of Account satisfied the Business Records as Evidence Act exception to the Hearsay Rule.

4. The Master in Equity erred in approving attorney's fees in the amount requested by the Plaintiff without receiving any, much less any adequate, support therefor. Interestingly, the Plaintiff's Affidavit of Attorney's Fees requested (without support) an attorney's fee of \$11,956.00, and the Judgment (without comment) awarded the Plaintiff an attorney's fee of \$13,602.00.

5. The Master in Equity erred in issuing the Judgment as presented by the Plaintiff's counsel, when numerous material findings of fact were made without proper presentation and support (and even without comment) and/or over the objection of the said Defendant, as follows:

- a. Was the Mortgage inconsistent with a prior agreement of the parties to the Mortgage?
- b. Did the parties to the Mortgage intend that the legal description of the mortgaged property contained in the Mortgage include reference to a Manufactured Home?
- c. Did the parties to the Mortgage intend that the legal description of the mortgaged property contained in the Mortgage include reference to a specific Manufactured Home, to wit: 1994 Destiny Omni

Manufactured/Mobile Home bearing VIN Number 036366A&B?

- d. Did the parties to the Mortgage agree to the amendment of the legal description of the mortgaged property, as cited in the Judgment, which is remarkably different from the legal description contained in the Mortgage?
- e. Did the parties to the loan intend that the Manufactured Home was already converted to a permanent fixture or would be converted as a part of the loan transaction?
- f. Was the failure to include the Manufactured Home in the description of the mortgaged property due to mutual mistake?

6. The Master in Equity erred in issuing the Judgment, containing the following findings of fact, each of which were made without any support whatsoever, to wit:

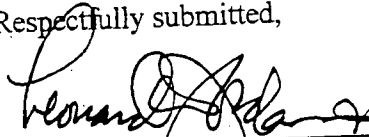
- a. The Manufactured Home is both: "titled in the records and database of the South Carolina Department of Motor Vehicles" and never filed in said Department (the said Department "has never issued a certificate of title pertaining to the subject Manufactured Home");
- b. "This information [regarding the Manufactured Home] is evidenced by documentation gathered by Glenn Bradley, Private Investigator";
- c. "No party related to Mary Lee Samuel has appeared, answered or come forward in this action claiming and interest in the subject property or the foreclosure as is evidenced by the Affidavit of Kelley Woody, Esquire, Guardian Ad Litem in this case."

7. The Master in Equity erred in summarily dismissing with prejudice the Counterclaims of the said Defendant without comment or finding, it appearing that no effort was

made by the Court to evaluate the same.

8. The Master in Equity erred in dismissing the said Counterclaims with prejudice when such relief was not requested by the Plaintiff's Motion for Summary Judgment.

Respectfully submitted,



Leonard R. Jordan, Jr., ID #2248

JORDAN LAW FIRM

4500 Fort Jackson Boulevard

Columbia, South Carolina 29209

(803) 726-1950 Tel

(803) 726-1951 Fax

Email: ljordan@ljordanlaw.com

Attorney for Defendant, Mahasin K. Bowen

Columbia, South Carolina
May 6, 2016

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2010-CP-40-5886

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative for
the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan Samuel;
Kenneth Kareem Samuel; Tauheedah Mateen;
Kilgore Marketing Solutions dba RSVP Columbia;
South Carolina Department of Motor Vehicles,

Defendants.

**MOTION TO WITHDRAW
ADMISSIONS BY
MAHASIN K. BOWEN**

2016 MAY -6 AM 11:23
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

TO: Honorable Joseph M. Strickland, Master in Equity for Richland County
William P. Stork, Esquire, Attorney for Plaintiff

PLEASE TAKE NOTICE that the Defendant, Mahasin K. Bowen, by and through her undersigned attorney, hereby moves, pursuant to Rule 36(b) of the South Carolina Rules of Civil Procedure, for an Order allowing her to withdraw and revoke the technical admissions by her of the matters set forth in the "Plaintiff's First Request for Admissions to Defendant(s) Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel and Mahasin K. Bowen in Her Individual Capacity" (the "Request"), dated July 16, 2013, due to her failure to timely deny the same, when she had appeared herein *pro se*.

Specifically, this Motion is directed at the substance and implication of Request Nos. 5 and 9 of the Request, as the remaining requests for admission therein are considered to be moot at this stage, which two requests are objectionable on the following grounds:

Request No. 5 This request is intentionally misleading and attempts to alter the actual legal description contained in the Mortgage, which legal description (as stated in Request No. 5) is unambiguous. Primarily, the objectionable portion of the revised legal description is the addition of a manufactured/mobile home (clearly identified as personal property) after the request asserts that the mortgage in question is "... a real estate mortgage ... covering real property located in Richland County. ..."

Request No. 9 This request attempts to nullify the Answer and Counterclaim filed by the Defendant, which clearly raised legal defenses to the Plaintiff's Complaint.

As the Master in Equity's Order and Judgment of Foreclosure and Sale (Granting Plaintiff's Motion for Summary Judgment), which the Plaintiff has not appealed but, instead, has enforced, actually fails to make any mention whatsoever of, much less base any finding or conclusion upon; the failure of the Defendant to respond timely to the Request, this Motion is only important should the Plaintiff hereafter make any claim that the admissions by the Defendant (due to her failure to respond timely to the Request) somehow was important to the grant of its Motion for Summary Judgment or otherwise in this case.

Respectfully submitted,



Leonard R. Jordan, Jr., ID #2248
JORDAN LAW FIRM
4500 Fort Jackson Boulevard
Columbia, South Carolina 29209
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(803) 726-1951 Fax
Email: ljordan@ljordanlaw.com
Attorney for Defendant, Mahasin K. Bowen

Columbia, South Carolina
May 6, 2016

MFB-416853099

Loan No. [REDACTED]
Instrument prepared by:

Book 00374-1240

Mortgage

Fee \$13.00 County Tax \$0.00 State Tax \$0.00

Record & Return to

20C0001086 John G. Norris

74ANK
546

Recorded - January 5 2000

[Space Above This Line For Recording Data]

State of South Carolina

MORTGAGE

FHA Case No. [REDACTED]

THIS MORTGAGE ("Security Instrument") is given on DECEMBER 23, 1999
The mortgagor is MARY L SAMUEL, UNMARRIED and RAYMOND SAMUEL

whose address is 3307 1/2 PERCIVAL RD COLUMBIA, SC 29223-

("Borrower"). This Security Instrument is given to SOUTHRUST MORTGAGE CORPORATION
which is organized and existing under the laws of THE STATE OF DELAWARE

and whose address is 210 WILDWOOD PARKWAY BIRMINGHAM, ALABAMA 35209-

("Lender"). Borrower owes Lender the principal sum of Seventy One Thousand Five Hundred Seventy Five and 00/100
Dollars (U.S. \$ 71,575.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument

("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on JANUARY 1, 2030

This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions
and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this
Security Instrument; and (c) 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 RICHLAND

County, South Carolina:

See attached SCHEDULE for legal description

DERIVATION: Book D1240 Page 751 and Estate # 99ES4001018

TMS#: 22606-01-01A

which has the address of 3307 1/2 PERCIVAL RD
[Street]

COLUMBIA
[City]

South Carolina 29223-

[Zip Code]

("Property Address");

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 seized of the estate hereby conveyed and has the right to mortgage, 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.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. Payment of Principal, Interest and Late Charge. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. Monthly Payments of Taxes, Insurance and Other Charges. Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under Paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to the Lender are called "Escrow Funds."

Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b), and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to the foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows:

First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note;

Fifth, to late charges due under the Note.

4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether new in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in Paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in Paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in Paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in Paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in Paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by Paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in Paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

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; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; 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 may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

B. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) Default. Lender may, except as limited by regulations issued by the Secretary in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

(i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or

(ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) Sale Without Credit Approval. Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

(i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and

(ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property, but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) No Waiver. If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) Regulations of HUD Secretary. In many circumstances regulations issued by the Secretary will limit Lender's rights in the case of payment defaults to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) Mortgage Not Insured. Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, the option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver.

Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or 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 Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers.

The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of Paragraph 9.b. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note:

(a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower'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

13. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. Governing Law; Severability. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. 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. To this end the provisions of this Security Instrument and the Note are declared to be severable.

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

16. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. 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 the maintenance of the Property.

Borrower shall promptly give Lender written notice of 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. If Borrower learns, or is notified by any governmental or regulatory authority, 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.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, material containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

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

17. Assignment of Rents. Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this Paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may foreclose this Security Instrument by judicial proceeding and pursue any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, 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.

19. 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 without charge to Borrower. Borrower shall pay any recordation costs.

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

Check applicable box(es)

- ☐ Rider for Section 248 Mortgage
☐ Growing Equity Rider

Witnesses:

Mary E. Samuel (Seal)
-Borrower
MARY E SAMUEL

MARY E SAMUEL

RAYMOND SAMUEL

(Seal)
-Borrower

(Seal)

Borrower

SS:

and made an oath that he saw the within-named

sign, seal, and as his / her / their act and deed deliver the within deed, and that deponent, with the said witnesses, witnessed the execution thereof.

Notary Public for South Carolina

Notary Public for South Carolina
My Comm Expires - 2-29-94

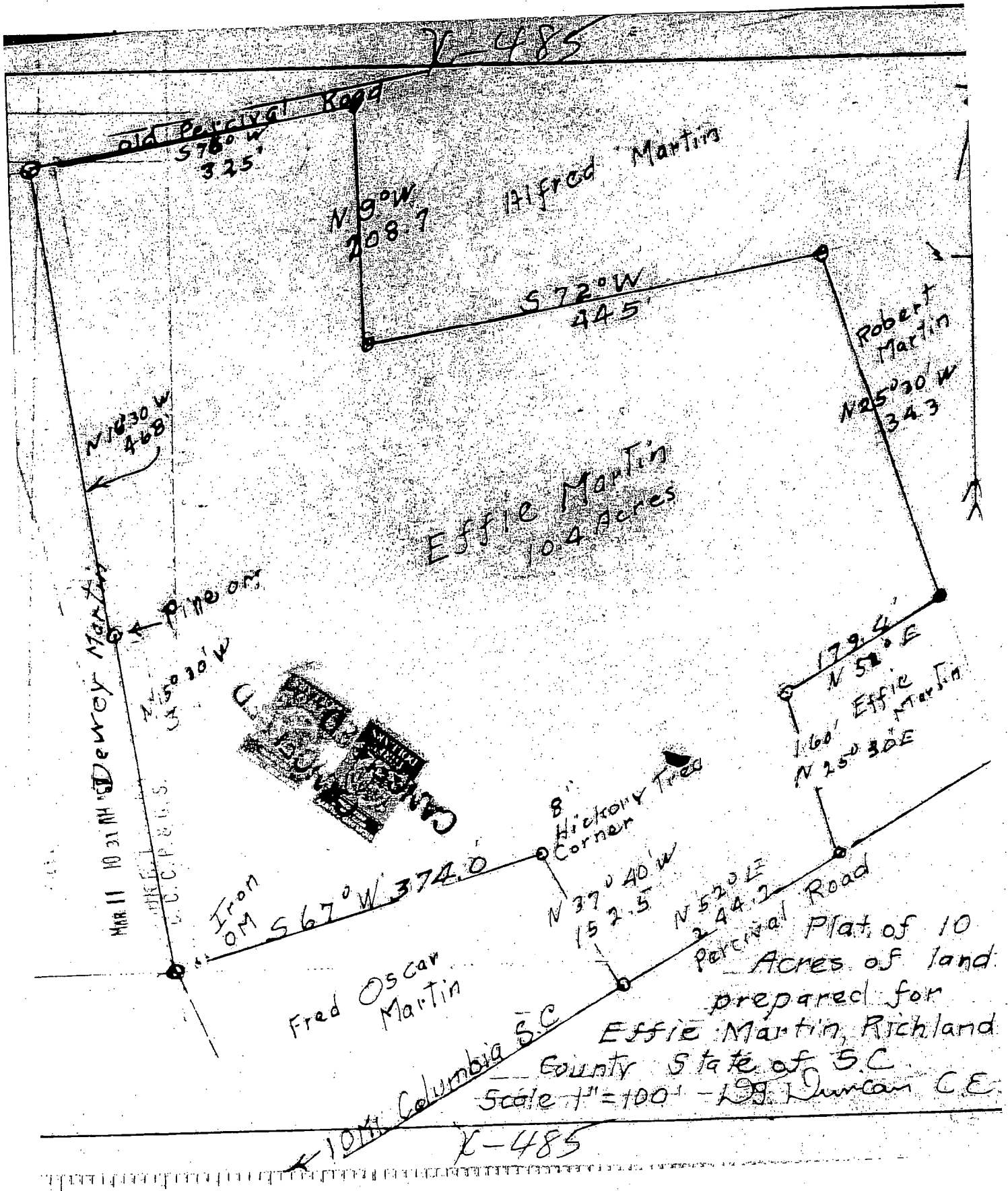
SCHEDULE

All that certain piece, parcel or tract of land containing 5.67 acres, more or less, with any improvements thereon, being located near Columbia, County of Richland, State of South Carolina, and being a portion of the property shown on that certain plat prepared for Jo Anne B. Turner by Douglas E. Platt, Sr., RLS, No. 4041, dated 3/9/87, and recorded in the RMC Office for Richland County 3/31/87 in Plat Book 51 at page 5630 and on a plat prepared for Ellie Martin by D. T. Duncan, recorded in the RMC Office for Richland County in Plat Book X page 485. Reference is craved to said plats for a more complete description of boundaries and measurements; be all measurements a little more or less.

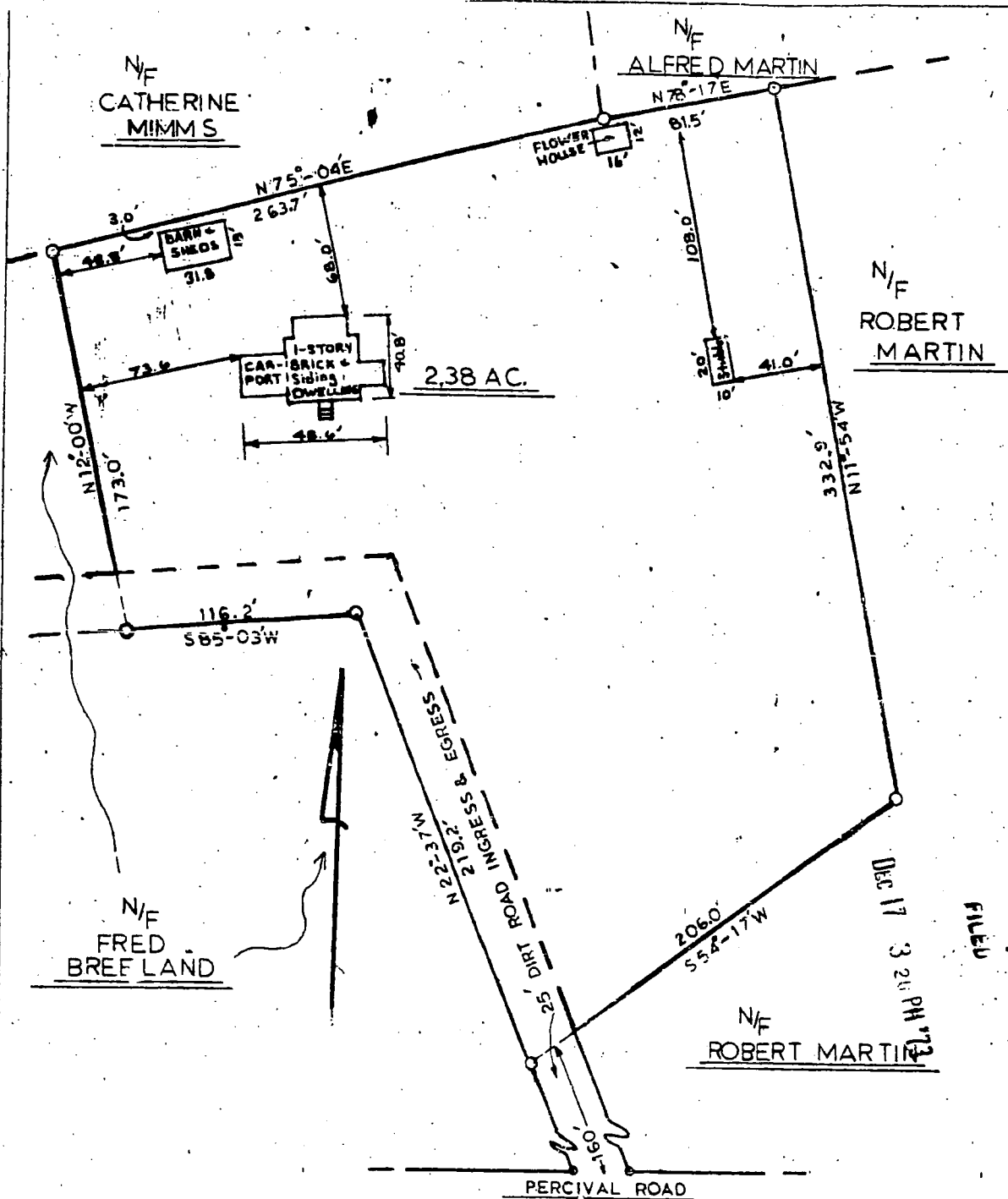
TMS#: 22606-01-01 (Portion).

RLS

M.L.S.



THE TITLE INSURANCE CORPORATION OF PENNSYLVANIA
 10 S. BRYN MAWR AVE., BRYN MAWR, P.A. 19010 (215) LAS-9600



FRED S. BREE LAND JR.

RICHLAND COUNTY, NEAR COLUMBIA, S.C.

REF: PLAT PREPARED FOR EFFIE MARTIN BY D.I. DUNCAN

44-895

SCALE: 1"=60'

DEC. 13, 1973

IRON PIPE CORNERS

CANCELLED

Duncan E. Plar Jr.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

vs.

Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Tauheedah Mateen; Kilgore Marketing Solutions dba RSVP Columbia; Security Pacific Housing Services, Inc.; South Carolina Department of Motor Vehicles,

Defendant(s).

IN THE COURT OF COMMON PLEAS

C/A NO.: 2010-CP-40-5886

AMENDED COMPLAINT

(Non-Jury)

FORECLOSURE
OF REAL ESTATE
MORTGAGE
AND
REFORMATION OF MORTGAGE
(Deficiency Judgment Waiver)

JEANETTE W. BOWEN
CLERK OF COURT

2013 JAN -2 AM 10:12

RICHLAND COUNTY
FILED

The Plaintiff above named, complaining of the Defendant(s) herein alleges that:

1. Plaintiff, MidFirst Bank, is a business entity duly authorized to conduct business in the State of South Carolina.
2. Upon information and belief, the Defendants, Mahasin K. Bowen, Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Cecil Samuel a/k/a Cecil A. Samuel, Charles Samuel, Jr., Earl Hassan Samuel, Kenneth Kareem Samuel and Tauheedah Mateen are residents and citizens of the County of Richland, State of South Carolina; and, Defendants Kilgore Marketing Solutions dba RSVP Columbia and Security Pacific Housing Services, Inc. are business entities and are duly authorized to conduct business in the State of South Carolina.
3. Upon information and belief, South Carolina Department of Motor Vehicles is a governmental agency of the State of South Carolina and is responsible for issuing Certificates of Title for mobile/manufactured homes in the State.
4. The real property hereinafter described, that is the subject of this action, is situated and located in the County of Richland, State of South Carolina, and this Court has proper jurisdiction over the subject matter and the parties of this action.

5. Heretofore Mary L. Samuel (a/k/a Mary Lee Samuel) (hereinafter "Borrower(s)") made, executed, and delivered to South Trust Mortgage Corporation (hereinafter "Lender") a certain Fixed Rate Note dated December 23, 1999, in writing (hereinafter "Note"), wherein and whereby Mary L. Samuel (a/k/a Mary Lee Samuel) promised to pay to South Trust Mortgage Corporation, the principal sum of \$71,575.00, together with interest at the rate of 8% per annum on the unpaid balance; said principal and interest being payable in monthly installments thereafter until the said Note is fully paid.
6. In order to secure the payment of said Note, the said Mary L. Samuel (a/k/a Mary Lee Samuel) and Raymond Samuel (a/k/a Shamsud-din Raymond Samuel) (hereinafter "Mortgagor(s)"), did make, execute, and deliver to South Trust Mortgage Corporation, its successors and assigns, a certain mortgage dated December 23, 1999 (hereinafter "Mortgage") securing the below described real property, including any and all improvements to the property, located in the County and State aforesaid (hereinafter "Property"):

All that certain piece, parcel or tract of land, containing 5.67 acres, more or less, being a portion of a tract of land comprising 10.4 acres, more or less, situate on the northwestern side of Percival Road, about 10 miles from the City of Columbia, in the County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Effie Martin by D.T. Duncan recorded in the Office of the Register of Deeds for Richland County in Plat Book X at Page 485; less and excepting a tract containing 2.38 acres, more or less, as shown on that certain plat prepared for Fred S. Breeland, Jr. by Douglas E. Platt, Sr., RLS, dated December 13, 1973 and recorded in the RMC Office for Richland County in Plat Book 44 at Page 895 and also shown on that certain plat prepared for Jo Anne B. Turner by Douglas E. Platt, Sr., RLS, No. 4041, dated 3/9/1998, and recorded in the RMC Office for Richland County 3/31/87 in Plat Book 51 at Page 5630; and further less and excepting a tract containing 2.35 acres, more or less, situate, lying and being on the south side of Old Percival Road, about 10 miles from the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated upon a plat prepared for Fred S. Breeland, Jr. and Mildred M. Breeland by Douglas E. Platt, Sr., dated August 24, 1976, and being bounded and measuring on said plat as follows: commencing at a pin on the southeast side of Old Percival Road and running S12°00'E along property now or formerly of Catherin Mimms and property now or formerly of Fred S. Breeland for a distance of 335.2 feet; thence turning and running S76°40'W along property now or formerly of Fred S. Breeland for a distance of 304.1 feet; thence turning and running N16°27'W for a distance of 310.7 feet along an old fence to Old Percival Road; thence turning and running N72°21'E along Old Percival Road for a distance of 330.9 feet to the point of beginning. This being the northwestern-most portion of property heretofore conveyed to Fred S. Breeland and Mildred M. Breeland by deed of Effie Chambers Martin dated March 15,

1968, recorded in Deed Book D100 at Page 491.

****See Consent Order in Richland County Case Number 2007-CP-40-6491 which reformed the mortgage legal description****

Derivation: This being the same property conveyed to Jo Anne D. Turner by deed of Fred S. Breeland, Jr. and Elizabeth B. Breeland recorded June 3, 1982 in Book 611 at Page 8. This property was subsequently conveyed to Raymond Samuel by deed of Jo Anne B. Turner dated May 6, 1993 and recorded May 11, 1993 in Book 1141 at Page 11. Raymond Samuel subsequently conveyed an undivided 1/3 interest to Charles Samuel, Sr. and an undivided one-third interest to Mary L. Samuel by deed dated January 23, 1995 and recorded January 31, 1995 in Book 1240 at Page 751. Charles Samuel, Sr.'s undivided 1/3 interest was conveyed to Mary Lee Samuel by Deed of Distribution dated October 2, 1998 and recorded December 20, 1999 in Book 369 at Page 2227. Mary Lee Samuel conveyed her undivided 2/3 interest to Raymond Samuel by Quit Claim Deed dated September 20, 2000 and recorded September 27, 2000 in Book 445 at Page 2684.

Parcel Number: R22606-01-01

Property Address: 3307 Percival Road, Columbia, SC 29223

7. Said Mortgage was dated December 23, 1999 and recorded on January 5, 2000 in Book 374 at Page 1242, in the Richland County Registry.
8. Thereafter the Mortgage was assigned to Mortgage Electronic Registration Systems, Inc., as nominee for Homeside Lending, Inc. by assignment recorded on December 27, 2000 in Book 469 at Page 2442. Thereafter the Mortgage was assigned to MidFirst Bank by assignment recorded on March 21, 2008 in Book 1413 at Page 1356.
9. The Mortgage legal description recited above was taken from a separate action known as Richland County Case Number 2007-CP-40-6491 in which the Mortgage was reformed by Consent Order to correct the legal description.
10. The Mortgage evidences and secures the repayment of money advanced by the Lender to, or on behalf of, the Mortgagor(s) and constitutes a valid first lien on the Property.
11. Subsequent to the execution of the subject Mortgage, Mary Lee Samuel conveyed her interest in the subject Property to Raymond Samuel (a/k/a Shamsud-din Raymond Samuel) by deed recorded September 27, 2000 in Book 445 at Page 2684. Mary Lee Samuel passed away on February 9, 2008 as evidenced by Richland County Probate Case Number 2010-ES-40-01229.
12. As required by an Administrative Order issued by the South Carolina Supreme Court dated

May 22, 2009, the Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLMC, or the Servicer has signed an agreement to participate in the Home Affordable Modification Program ("HMP"); however, Plaintiff alleges upon information and belief, that this loan is not eligible for modification under the HMP because the loan is owned or guaranteed by the Federal Housing Administration (HUD) or the Veterans' Administration (VA) and said entities are not participants in the HMP Program and are not eligible as contemplated under the Administrative Order issued by the Supreme Court of South Carolina on May 22, 2009.

13. Any notice required by the terms of the Mortgage or by State or Federal law has been given to the applicable defendant(s) prior to the commencement of this action.
14. In and by the terms of said Note and the Mortgage securing the same, it is provided, among other things, that on failure to pay any installment of either principal or interest or any portion thereof when due, or if any of the conditions and requirements in the Mortgage securing the same not be complied with, then the whole principal sum and accrued interest shall at the option of the legal holder thereof become at once due and payable without notice, and collectible by foreclosure.
15. In and by the terms of the said Note it is further provided that the maker thereof shall pay all collection costs including reasonable attorneys fees if the said Note be placed in the hands of an attorney for collection after default.
16. Plaintiff waives its right to a deficiency judgment as to any defendant for amounts due on the herein described note and mortgage.
17. Also included as additional collateral for the subject loan transaction was a 1994/OMNI Destiny mobile/manufactured home containing serial number "036366A&B" (hereinafter "Manufactured Home"). According to the records and database of the South Carolina Department of Motor Vehicles (Hereafter "DMV"), the owners of the mobile/manufactured home are Charles Samuel and Mary Lee Samuel and Defendant Security Pacific Housing Services, Inc. is the holder of a lien on said mobile/manufactured home.

18. It was the intent of all parties to the subject loan transaction that i) that the Manufactured Home was already converted to be considered an improvement and/or permanent fixture of the Property, or that it would be converted as a part of this transaction; and ii) the Manufactured Home would be part of the secured collateral for the Mortgage. However, due to inadvertent error and mistake, the Manufactured Home was not described in the Mortgage. The Mortgage should be reformed to include the following statement "Also included as collateral for the subject mortgage is that certain 1994 Destiny Omni manufactured/mobile home bearing VIN number 036366A&B" and said reformation should relate back to the date of its recording.
19. This information is evidenced by documentation gathered by Glenn Bradley, Private Investigator, from the physical location of said Manufactured Home, a report obtained from the Institute of Building Technology and Safety (IBTS), and information obtained by a search of the DMV records and database. IBTS is the Department of Housing and Urban Development's monitoring contractor under the Federal Manufactured Housing Program, and is required to maintain all reported certification label applications, and has been the sole source of this data since 1976.
20. The installments of principal and interest falling due from and after February 1, 2010, have not been paid although demand for the payment thereof has been made. The Plaintiff, as holder of the said Note and Mortgage, has and does hereby elect to declare the entire balance of said principal and interest due and payable at once; that there is now due and owing and unpaid upon the said Note and Mortgage the full and just principal sum of \$62,787.47, together with interest at the rate of 8% per annum, the current/modified rate of interest, from the date of the last payment, together with reasonable attorneys fees for the collection thereof and the costs of this action. Plaintiff may be forced to pay sums for taxes, insurance and costs for securing the property, which sums, according to the terms of the Mortgage, should be added to the amount of the debt.
21. Upon information and belief, said information having been obtained from the records of Richland County, South Carolina, the Defendant(s) below named has/have or may claim to

have some interest in or lien upon the Property by virtue of the matters and things herein below alleged, to-wit:

- a. The Defendant, Kilgore Marketing Solutions dba RSVP Columbia, has or may claim to have some interest in the Property by virtue of a judgment against Raymond Samuel, in the amount of \$2,690.00, which lien was filed in Richland County Case Number 2011-CP-40-05593 on 08/23/2011. Said lien is junior and subordinate to Plaintiff's mortgage and should be removed from the title to the Property upon the completion of a properly held foreclosure sale of the Property.
- b. Defendants Mahasin K. Bowen, Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel also have or may claim to have an interest in the Manufactured Home. The Plaintiff is informed and believes that Mary Lee Samuel took full title to the Manufactured Home upon the death of Charles Samuel, according to Richland County Probate Case Number 1999-ES-40-01018, but the records and database of the DMV were not properly updated. Then, upon the death of Mary Lee Samuel, was transferred to Mahasin K. Bowen, Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel. Any interest that said Defendants received in the subject Manufactured Home is "subject to" Plaintiff's Mortgage and this interest should be eliminated through a properly completed foreclosure sale.
- c. The Defendant, Security Pacific Housing Services, Inc., has or may claim to have some interest in the property by virtue of a lien on the Manufactured Home title. The Plaintiff is informed and believes that this lien has been paid in full but never satisfied of record and should be removed from the title of the Mobile Home.

22. Plaintiff intends to foreclose subject to:

- a. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$162.50, which lien was recorded/filed in the Richland County Records on 06/19/2002 in Book 675 at Page 2234.
- b. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$171.25, which lien was recorded/filed in the Richland County Records on 11/06/2002 in Book 722 at Page 378.
- c. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$130.00, which lien was recorded/filed in the Richland County Records on 07/14/2003 in Book 819 at Page 3761.
- d. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$144.00, which lien was recorded/filed in the

Richland County Records on 12/17/2007 in Book 1384 at Page 2976.

- e. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$193.50, which lien was recorded/filed in the Richland County Records on 01/31/2008 in Book 1396 at Page 3436.
- f. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$45.00, which lien was recorded/filed in the Richland County Records on 03/06/2008 in Book 1408 at Page 3088.
- g. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$261.60, which lien was recorded/filed in the Richland County Records on 07/29/2010 in Book 1621 at Page 2746.
- h. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$561.60, which lien was recorded/filed in the Richland County Records on 08/20/2010 in Book 1626 at Page 690.

WHEREFORE, Plaintiff prays judgment that

- A. The Mortgage be reformed as requested above and that said reformation relate back to the date of its recordation.
- B. The amount due upon the said Note and Mortgage held by the Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action.
- C. Appoint a Receiver to collect the rents, issue, profits or designated sums from the mortgagor(s), and/or the grantee(s) of the mortgagor(s), and/or tenant(s) occupying or exercising control over the mortgaged premises and hold the same subject to the further order of this Court.
- D. Plaintiff's Mortgage be declared a valid first lien and that Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due or which may be or have been paid by Plaintiff, together with attorney's fees and for the costs of this action.
- E. The Property be sold according to law and the practice of this Court, the equity of redemption be barred and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and said sale;

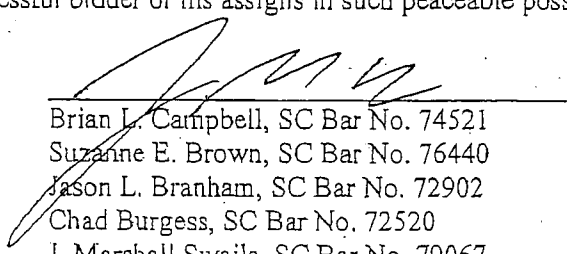
Second, to the payment and discharge of the amount due on Plaintiffs
Note and Mortgage, together with attorney's fees as aforesaid; and

Third, the surplus, if any, be distributed according to law;

F. That the South Carolina Department of Motor Vehicles be ordered to issue a new certificate
of title pertaining to the Manufactured Home to the successful bidder at the eventual
foreclosure sale, free and clear of all liens.

G. For such other and further relief as may be just and proper.

FURTHER, in the event the successful bidder (at the time of this foreclosure sale) is other than the
Defendant(s) in possession herein, the Sheriff of Richland County will be ordered and directed to eject
and remove from the premises the occupants of the property sold, together with all personal property
located therein, and put the successful bidder or his assigns in full, quiet and peaceable possession of said
Property without delay, and to keep the successful bidder or his assigns in such peaceable possession.



Brian L. Campbell, SC Bar No. 74521
Suzanne E. Brown, SC Bar No. 76440
Jason L. Branham, SC Bar No. 72902
Chad Burgess, SC Bar No. 72520
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Columbia, SC 29210
Phone 888-726-9953 Fax 866-676-7658
Attorneys for Plaintiff

Dated: 12/31/12
Wilmington, North Carolina

ANSWER

**MAHASIN K BOWEN, in her own right, and as
Adm. of Estate of Mary L. Samuel (Deceased)
3307 Percival Road
COLUMBIA, SC 29223
803-467-1761**

**PRO SE
DEFENDANT/COUNTERCLAIMANT**

MIDFIRST BANK

Plaintiff

: RICHLAND COUNTY SOUTH CAROLINA
:
: COURT OF COMMON PLEAS

v.

CASE NO.:

C/A NO.: 2010-CP-40-5886

Mahasin K. Bowen, as Administratrix of
the Estate of Mary Lee Samuel;

Mahasin K. Bowen; in her own right, and

Raymond Samuel a/k/a Shamsud-din

Raymond Samuel; Cecil Samuel a/k/a

Cecil A. Samuel; Charles Samuel, Jr.;

Earl Hassan Samuel; Kenneth Kareem Samuel;

Tauheedah Mateen; Kilgore Marketing Solutions

elba RSVP Columbia; Security Pacific Housing

Services, Inc.; South Carolina Department of Motor

Vehicles,

Defendants/Counterclaimants

v.

South Trust Mortgage Corporation

and

Mortgage Electronic Registration Systems, Inc.

(MERS)

and

Homeside Lending Inc.

and

JOHN DOES 1-10 (identities and addresses to be

RICHLAND COUNTY
FILED
2013 MAR 15 AM 11:34
JEANETTE W. BROWN, CLERK

Supplied upon discovery

Counterclaim Defendants.

**DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT,
WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

Defendants, the Estate of Mary Lee Samuel (deceased), by Adm. Mahasin K. Bowen, acting pro se, and the decedent's heirs, Mahasin K. Bowen, Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; and Tauheedah Mateen, by Estate Adm. Mahasin K. Bowen,; acting pro se, hereby respond to, assert affirmative defenses to, and counterclaim against the Amended Complaint in the above captioned matter, as follows:

1. Denied. Answering Defendants, after reasonable investigation, having insufficient information to form a belief as to the averments contained in paragraph 1 of the Amended Complaint, deny the averments pursuant to the applicable rules of civil procedure.
1. Denied as stated. It is admitted only that named Defendants Mahasin K. Bowen, Raymond Samuel, and Kenneth Kareem Samuel, reside in the State of South Carolina. The remainder of the averment is denied because many of the heirs of Mary Lee Samuel (deceased) do not reside in South Carolina and the averments concerning the corporate defendants are directed toward entities other than answering defendants, require no response herein, and are therefore denied pursuant to the applicable rules of civil procedure.
2. Denied. The averments of paragraph 3 of the Amended Complaint are directed toward entities other than answering defendants, require no response herein, and are therefore denied pursuant to the applicable rules of civil procedure.
3. Denied as stated. Many of the heirs of Mary Lee Samuel, while interested and indispensable parties to this litigation, are not residents of South Carolina, have not been served with process or any notice of these proceedings, and therefore have not been placed under the personal jurisdiction of this Honorable Court. The remainder of the averment is admitted.
4. Denied as stated. The said "Note" is a document which speaks for itself and any characterization of it contained in paragraph 5 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure.
5. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 6 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure.
6. Admitted.
7. Denied. Answering Defendants, after reasonable investigation, having insufficient information to form a belief as to the averments contained in paragraph 8 of the Amended Complaint, deny the averments pursuant to the applicable rules of civil procedure.
8. Denied. Answering Defendants, after reasonable investigation, having insufficient information to form a belief as to the averments contained in paragraph 9 of the Amended Complaint, deny the averments pursuant to the applicable rules of civil procedure.
9. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 10 of the Amended Complaint is therefore

denied pursuant to the applicable rules of civil procedure.

10. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 10 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure.
11. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 12 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure. Moreover, after reasonable investigation, answering defendants are without information sufficient to form a belief as to the averments contained in paragraph 12 of the Amended Complaint concerning the ownership of the subject loan, and those averments are therefore denied pursuant to the applicable rules of civil procedure. Furthermore, as further explained below, the Plaintiff's admitted inability of to identify the present owner of the loan renders invalid Plaintiff's attempts to foreclose thereon.
12. Denied. It is specifically denied that required notice was given and averred to the contrary, as further described in the affirmative defenses and counterclaims below, that Plaintiffs, and/or Counterclaim Defendants, and/or their predecessors, successors and/or assignees and/or assignors, violated notice requirements in numerous respects.
13. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 14 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure. Moreover, Plaintiff is incapable of identifying the present "holder" of the Note, as aforesaid.
14. Denied as stated. The said "Note" is a document which speaks for itself and any characterization of it contained in paragraph 15 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure. Moreover, Plaintiff is incapable of identifying the present "holder" of the Note, as aforesaid.
15. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 16 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure. Moreover, Plaintiff is incapable of identifying the present "holder" of the Note, as aforesaid. Furthermore, it is specifically denied that Plaintiff has any right to any deficiency judgment as to any defendant.
16. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 17 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure. Moreover, Plaintiff is incapable of identifying the present "holder" of the Note, as aforesaid. Furthermore, it is specifically denied that Plaintiff has any right to any deficiency judgment as to any defendant.
17. Denied as stated. The said "Mortgage" is a document which speaks for itself and any characterization of it contained in paragraph 18 of the Amended Complaint is therefore denied pursuant to the applicable rules of civil procedure. Moreover, Plaintiff's effort to simultaneously reform and foreclose upon the same mortgage is clearly improper.
18. Denied. Answering defendants, after reasonable investigation, having insufficient information to form a belief as to the averments contained in paragraph 19 of the Amended Complaint, hereby deny those averments pursuant to the applicable rules of civil procedure.
19. Denied. It is specifically denied that Plaintiff is the "holder" of the said "Note" and "Mortgage" and averred to the contrary, as indicated by paragraph 12 of Plaintiff's own Amended Complaint, that Plaintiff cannot identify the holder.

20. Denied. It is specifically denied that Plaintiff has any lien or mortgage on any property of any Defendant, and averred to the contrary, again, that Plaintiff is not even capable of identifying the holder of the Note or the Mortgage, thus, Plaintiff is without standing to assert superior lien to any other alleged lien holders.
21. Denied. Notwithstanding Plaintiff's stated "intent", the inference that Plaintiff has any right to foreclose on any property of answering Defendants under any theory of law is again specifically denied for the foregoing reasons.

WHEREFORE, Defendants respectfully request that this Honorable Court enter judgment in favor of Defendants, and grant such further relief as is deemed just and proper.

AFFIRMATIVE DEFENSES

22. Answering Defendants incorporate by reference responses in paragraphs 1-22 inclusive as if fully set forth at length herein.
23. Defendant did not violate any duty to or right of plaintiff.
24. Damages to plaintiff, if any, were caused by plaintiff's own conduct.
25. After failure to appropriately work out any problems with Defendant, Plaintiff has attempted to collect inappropriate late charges and attorney fees.
26. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
27. Plaintiff has failed to mitigate damages.
28. If Plaintiff suffered any damages or losses, such damages or losses were caused in whole or in part by plaintiff's own acts, omissions, and/or conduct of parties other than answering Defendant, about which answering Defendant had no prior knowledge and for which answering Defendant is not legally responsible.
29. Plaintiff lacks standing to bring this action.
30. The Complaint is barred in whole or in part by the doctrine of estoppel.
31. The Complaint is barred in whole or in part by the doctrine of waiver.
32. The Complaint is barred in whole or in part by the doctrine of fraud.
33. The Complaint is barred in whole or in part by the doctrine of illegality.
34. The Complaint is barred in whole or part by the doctrine of consent.
35. The Complaint is barred in whole or part by the doctrine of justification.
36. The Complaint is barred in whole or part by the parole evidence rule.
37. The Complaint is barred in whole or part by the doctrine of release.
38. The Complaint is barred in whole or part by the doctrine of payment.
39. Answering Defendant is not personally liable.
40. Plaintiff has failed to mitigate its damages.
41. The Complaint is barred in whole or part due to Plaintiff's failure to support its alleged damages with documentation.
42. Plaintiff's suit is frivolous.
43. Defendant is entitled to attorneys' fees and court costs in having to respond to this frivolous action.
44. Plaintiff's complaint is barred in whole or in part by South Carolina Rules of Civil Procedure.
45. Plaintiff's conduct herein is in bad faith and entitles Defendant to damages.
46. Plaintiff's conduct herein violates consumer protection laws and entitles Defendant to treble damages.
47. Defendant incorporates all affirmative defenses allowed in the South Carolina Rules of Civil Procedure, as if set forth fully at length herein.
48. Defendant reserves the right to supplement/amend/raise additional affirmative defenses, as may be revealed during discovery.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in favor of Defendant, and grant such further relief to defendant as deemed just and proper.

COUNTERCLAIM

Defendants hereby demands judgment against Plaintiff/counterclaim defendant and additional counterclaim defendants upon a counterclaim, whereof the following is a true statement:

49. Defendant/Counterclaimant incorporates herein by reference the averments set forth in foregoing paragraphs 149, as if fully set forth at length herein.

I. Preliminary Statement

50. This is an action for an award of attorney's fees and costs, compensatory, statutory, treble and punitive damages, also seeking equitable, injunctive and other relief, for Counterclaim Defendants' "Predatory Lending" bait and switch of mortgage terms, refusing to refund a deposit, and Unfair or Deceptive Acts and Practices ("UDAP").
51. "Predatory Lending" is a term describing lending practices in accordance with the following general description (which is paraphrased from a fact sheet available at: <http://www.cohhio.org/predatoryfactsheets.html>):

Predatory lenders target specific populations with high pressure marketing techniques, charge excessive fees, frequently refinance or "flip" the loan, and often times mislead the borrower. Predatory lenders are literally harvesting the equity that homeowners have built up over the years. By loading the loan with excessive fees, high interest rates, and pricey insurance premiums on the front end, predatory lenders are all but ensuring themselves a pay-off. In many ways, it's a win-win situation for the lender and a lose-lose situation for the borrower. If the borrower makes the monthly loan payments, which are often times inflated by excessive fees, high interest rates, and pricey insurance premiums, the lender is making a profit. If the borrower is unable to make the monthly payments, the lender forecloses and sells the house for a profit. Predatory lenders go beyond risk-based pricing, and instead set loan terms high above what they need to offset costs and earn a return that compensates for the increased risk. This is typically done through high interest rates, high points, high origination fees, unnecessary credit life insurance, and other unnecessary or unlawful additions to the loan. While many of the loan terms described below may not be predatory on their own, the failure of the lender to fully disclose to the borrower the risk or cost associated with each individual term can make the borrower unaware, especially if the borrower is also unaware that better terms may be available. By structuring the debt with excessive or concealed fees and interest rates (beyond those needed to cover costs and reasonable, risk-adjusted returns), by "packing" and financing these excessive fees, and by "flipping" or frequently refinancing with fees being rolled back into the loan, some lenders are able to exploit vulnerable homeowners. Predatory lending practices can and do include both specific types of loan terms as well as overly aggressive marketing and deceptive or fraudulent practices on the part of lenders. These practices raise serious community reinvestment, fair housing and fair lending concerns

52. This action seeks, *inter alia*:

i. Actual and Compensatory Damages;

- a. Return of all closing and related costs, including appraisal fee and pre-paid

finance charges;

- b. Return of all interest charged;
- c. Reimbursement of all diminished or lost real estate equity;
- d. Payment of all related profits, including yield spread premium and commission;
- e. Payment of the difference between the actual, and the promised or true amount financed (i.e., the difference between the actual, and the promised or true interest rate);
- f. Emotional distress, and pain and suffering;
- g. Wage loss and loss of earning capacity; and,
- h. Such other further direct or consequential damages as are known or may become known during discovery or at trial.

ii. Equitable/Injunctive Relief:

- a. Stay of or relief from any pending collection action or activity, including foreclosure, judgment or sheriff's sale/possession;
- b. Rescission and voiding of any mortgage or like interest;
- c. Waiver/forgiveness of any claimed debt/arrearage; and,
- d. Credit repair.

iii. Statutory Penalties;

- a. Exemplary relief, including treble and punitive damages;
- and
- b. Attorney fees and costs.

- 53. This action requests relief for, *inter alia*, the facts stated or inferred, which are averred upon information and belief or averred as believed will become known in discovery or at trial.
- 54. This action may rely on the "Discovery Rule" and the Doctrine(s) of Equitable Tolling/Fraudulent Concealment.
- 55. Each and every averment herein is incorporated throughout as if fully set forth at length.

II. Parties

- 56. Defendants/Counterclaimants, The Estate of Mary Lee Samuel, Mahasin K. Bowen, Raymond Samuel, and Kenneth Kareem Samuel, are adult citizens currently and at all relevant times residing in the State of South Carolina. Although interested and indispensable parties to this litigation, the remaining heirs of Mary Lee Samuel, including Tauheedah Mateen, Cecil Samuel a/k/a Cecil A. Samuel, Charles Samuel, Jr. and Earl Hassan Samuel, have not been served with process in their individual capacities, have not been brought into this case as individual defendants, and are therefore unable to participate in this matter as counterclaimants, as individuals.
- 57. Plaintiff/Counterclaim Defendant, MidFirstBank, is upon information and belief a citizen of

and a duly incorporated corporation under and by virtue of the laws of the State of South Carolina.

58. Plaintiff's/Counterclaim Defendant's admitted predecessors in interest, South Trust Mortgage Corp., MERS and Homeside Lending, additional counterclaim defendants herein, are upon information and belief participants in the pooling and selling and re-selling of the subject loans and/or mortgages that neither the current Plaintiff, nor any other entity, is even remotely capable of identifying the present owner or holder of the subject mortgage, as further explained below. John Does 1-10 represent entities or persons Counterclaimant anticipates joining into his litigation upon discovery.

IV. Operative Facts

59. Counterclaim Additional Defendant, South Trust Mortgage, underwrote, placed, made and originated the Loan.
60. At all times material, Counterclaimants were the borrowers and mortgagor subject and party to a mortgage and note (collectively "Loan") for the subject premises ("Subject Premises").
61. Upon information and belief, all documents referenced throughout this Counterclaim are in the possession of Counterclaim Defendants and are herein demanded to be supplied to Counterclaimants.
62. Counterclaimants contacted Counterclaim Defendants to secure a refinance loan.
63. Entrusting sophisticated Counterclaim Defendants, the unsophisticated and vulnerable Counterclaimants executed the loan and closing documents at Closing enabling the Mortgage to be recorded as a lien against Counterclaimants' home.
64. The Promissory Note associated with the mortgage transaction was a contract of adhesion issued to the Counterclaimants by Counterclaim Defendants.
65. As a result of all of the foregoing, Counterclaimants were required to liquidate other assets to attempt to keep up with all payments related to the subject premises.
66. Eventually, Counterclaimants fell behind in the mortgage payments, leading to the underlying foreclosure action. (discussed more fully below).
67. The subject mortgage loan transaction was procured by Counterclaim Defendant through fraud and predatory lending tactics.
68. Upon information and belief, as discovery will reveal, Counterclaim Defendants acted in concert with others to perpetuate fraud and predatory lending upon the Counterclaimants.
69. Counterclaim Defendants knew or should have known that the loan was unaffordable to Counterclaimants.
70. Prior to Closing, Counterclaim Defendant intentionally falsified Counterclaimants' socio-economic situation to induce assent to entering into the lending agreement, among other representations.
71. Upon information and belief, payments made from the proceeds of Counterclaimants' loan were neither *bona fide* (actually paid or incurred) nor *reasonable* (customary), and were not properly disclosed as pre-paid finance charges or as otherwise legally required. (See *Settlement Statement, in possession of Counterclaim Defendants*).
72. Upon information and belief, had the above payments had been properly attributed, calculated and disclosed, the Settlement Statement been accurate and timely submitted, had there been an accurate and true appraisal, had the debt-to-income ratio and loan-to-value ratio been likewise true and accurately represented, the RESPA Good Faith Estimates and TILA disclosures been timely presented and properly explained, and foregoing representations allegedly benefitting Counterclaimants been true, accurate, and honored, the loan would not have closed, or, if it did, it would have closed upon more beneficial terms.
73. Notwithstanding, as a result of the combined acts of Counterclaim Defendants as aforesaid, Counterclaimants' loan closed on the date above-indicated, to their ultimate detriment.
74. Upon information and belief, Counterclaim Defendant, allegedly pursuant to its underwriting guidelines (which should have been designed to insure loan affordability to

- Counterclaimants), issued a set of "conditions" which Counterclaimants would be required to meet in order for the Loan to ultimately issue.
75. Upon information and belief, payments, discussed above and below, made from the proceeds of Counterclaimants' loan were neither *bona fide* (actually paid or incurred) nor *reasonable* (customary) and were not properly disclosed as a "pre-paid finance charge" or as otherwise legally required, which improper payments or disclosures may include but are not limited to those above and below mentioned, at which point same, if they were disclosed, are intentionally concealed by Counterclaim Defendants within the morass of loan documents which Counterclaimants were directed to execute without further explanation.
 76. Notwithstanding, as a result of the aforesaid, Counterclaimants' loan closed on the date above-indicated, to their ultimate detriment, damage and loss.
 77. After Counterclaimant entered the loan agreement with the originating Lender, the defaulted loan was upon information and belief conveyed from originating Lender to an entity to be discovered.
 78. Counterclaim Defendant was responsible for maintaining and physically holding the Loan, which obligation was either not performed, or negligently, carelessly, and recklessly performed, misrepresented, and otherwise in violation of their fiduciary, contractual, and legal duties, including but not limited to, failure to properly and timely record assignments; attribute loan payments towards principal and interest (and taxes and insurance, if applicable); calculate monthly and pay-off payment pursuant to the terms of the Loan; assess *bona fide* and *reasonable* charges (such as, forced placed insurance, escrow delinquencies, private mortgage insurance, and otherwise); and submit notices thereof to Counterclaimant.
 79. The foregoing additionally inured to Counterclaimant's ultimate detriment.
 80. Counterclaim Defendant offered a loan modification agreement to Counterclaimant settling the foreclosure matter, which offer Counterclaimant accepted.
 81. Thereafter, Counterclaim Defendant ignored the modification agreement and continued to pursue foreclosure.
 82. After Counterclaimants' loan went into default, originating Lender, upon information and belief sold its interest in the loan.
 83. This loan's sale was expressly to be governed by a Pooling and Servicing Agreement ("PSA") filed with the Securities and Exchange Commission ("SEC"), dated November 1, 2003 (<http://idea.sec.gov/Archives/edgar/data/1271457/000088237703002036/d189698.txt>).
 84. The PSA, *inter alia*, outlines the procedures necessary to convey a mortgage loan an originating Lender to another entity, including a Foreclosing Entity.
 85. Counterclaimants aver upon information and belief that discovery will yield additional PSA and related legal violations surrounding this loan which should have precluded loan conveyance.
 86. Upon information and belief, Counterclaim Defendant lacked standing and jurisdiction, and the Foreclosure contained improper delinquency calculations that were either, as was known or should have been known to Foreclosing Entity, prohibited or were required to be reduced, as a matter of law, pursuant to the Loan itself, the above discussed inter-related agreements and contracts, and arising from the misconduct above-discussed, additionally including but not limited to, respectively, want of proper and compliant Act 6 and/or Act 91 notices, record assignment and/or conveyance, and charges that were neither *bona fide* nor *reasonable*.
 87. The Foreclosure was or should have been submitted to the Court upon a Verification and Certification (regarding truthfulness of pleadings).

D. Injuries

88. As a result of the foregoing, Counterclaimants have suffered injuries including, but not limited to: (1) pain and suffering, including emotional distress and embarrassment; (2) damage to credit rating; (3) financial loss(es), including lost opportunity(ies) or equity; (4)

loss or possible loss of the premises; (5) attorneys fees and court costs; and (6) such other and further injuries as will be determined in discovery or at trial, including aggravation of a pre-existing condition(s).

V. Causes of Action

89. All foregoing Paragraphs above are incorporated by reference as if fully set forth at length herein and below.
90. Counterclaimants are natural persons provided with the right to defer payment of debts or to incur payment of debt and defer payment, and the credit offered or extended was primarily for personal, family or household purposes.
91. As a matter of law, Counterclaimants and Counterclaim Defendants are "persons."
92. Upon information and belief, Counterclaim Defendant regularly extends consumer credit, six (6) or more loans per year, two (2) or more high cost mortgages per year, and one (1) or more of such high cost mortgages.
93. This loan was a federally related mortgage loan, made by a federally-insured depository lender, is HUD-related, and was intended to be sold on the secondary market or to creditors who make or invest more than one million dollars a year in residentially secured loans.
94. At all relevant times material, Counterclaim Defendants misrepresented and omitted material facts to Counterclaimants, including the aforesaid (incorporated herein by reference) and as further described as following but not limited to: (a) that the loans were beneficial to Counterclaimants, when they were not; (b) that their fees and costs were usual and customary, when they were not; (c) that their fees and costs were not part of the finance charge and amount financed, when they were; (d) that the loan contained characteristics which it did not; and (e) that certain amounts were due and owing, when they were not.

COUNT I

Consumer Protection Act (Unfair Trade Practices) ("The Act")

95. The Act, proscribes, *inter alia*, engaging in any "unfair or deceptive acts and practices" either at, prior to, or subsequent to a consumer transaction.
96. The actions of Counterclaim Defendant constitute unfair or deceptive acts and practices under The Act, additionally including, but not limited to the following, *inter alia*:
 - a. Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of services;
 - b. Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;
 - c. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;

- d. Failing to comply with the terms of any written guarantee or warranty given to the buyer at, prior to or after a contract for the purchase of goods or services is made;
- e. Counterclaim Defendants misrepresented to Counterclaimant the character, extent, or amount of the debt or its status in a legal proceeding;
- f. Counterclaim Defendants engaged in fraudulent or deceptive conduct which created a likelihood of confusion or of misunderstanding ;
- g. Counterclaim Defendants imposed credit costs expressly prohibited by Federal and South Carolina law, and failed to comply with TILA, HOEPA, RESPA, FDCPA the FCEUA, which are per se violations of The Act;
- h. Counterclaim Defendant misrepresented to Counterclaimants that the loan would be beneficial when in fact it was not; and Counterclaim Defendants knew it was not; and/or,
- i. Counterclaim Defendants misrepresented the characteristics or benefits of the loan.
- j. Failing to provide a contract in the form required specifically including a lawful and accurate notice of right to cancel;
- k. Additional violations of The Act, to be discovered:

WHEREFORE, Counterclaimants, respectfully, request a declaratory judgment in their favor and against the Defendants, for all damages deemed fair and equitable by this Honorable Court, including fees, costs, rescission of the mortgage, voiding of the mortgage, satisfaction of the note, and any and all other remedies available under the law.

COUNT II

Truth-in-Lending Act ("TILA")/Home Ownership and Equity Protection Act ("HOEPA")

- 97. At all times material, Counterclaim Defendants, in the ordinary course of business, extended and arranged for the extension of consumer credit or offered to extend or arrange for the extension of such credit.
- 98. The Loan was a residential mortgage loan subject to 15 U.S.C. § 1635 and 12 C.F.R. § 226.23, which violations inure to Counterclaim Defendants' liability under the Consumer Protection Act ("The Act")..
- 99. In said loan transaction, Counterclaimants did not receive the disclosures required by the Truth-In-Lending Act ("TILA"), 15 U.S.C. § 1601, et. seq., and Regulation Z of the Federal Reserve Board ("Regulation Z"), 12 C.F.R § 226.1 et seq.
- 100. Counterclaim Defendants failed to deliver all "material" disclosures required by TILA and Regulation Z, including but not limited to:
 - (i) Failing to properly and accurately disclose the "amount financed," described in and in violation of Regulation Z § 226.18(b) and 15 U.S.C. § 1638(a)(2)(A);
 - (ii) Failing to clearly and accurately disclose the "finance charge," described in and in violation of Regulation Z § 226.4 and 15 U.S.C. § 1638(a)(3);
 - (iii) Failing to clearly and accurately disclose the "annual percentage rate," described in and in violation of Regular Z § 226.18(e) and 15 U.S.C. § 1638(a)(4);
 - (iv) Failing to comply with the special disclosure requirements of Regulation Z § 226.32; and/or,
 - (v) Failing to timely provide each Counterclaimant with two (2) copies of a Notice of his/her Rights to Rescind the Transaction and one (1) copy each of the form Disclosure pursuant to

TILA and HOEPA.

101. Counterclaim Defendant's (original lender's) assignees, if any and when discovered, are liable for their pre-assignment actual knowledge of these violations, as well as these violations as arising from facially defective disclosures.

WHEREFORE, Counterclaimants respectfully request a declaratory judgment in her favor and against the Defendants, for all damages deemed fair and equitable by this Honorable Court, including fees, costs, rescission of the mortgage, voiding of the mortgage, satisfaction of the note, and any and all other remedies available under the law.

COUNT III

Real Estate Settlement Procedures Act ("RESPA")

102. Counterclaimants' loan was a federally related consumer mortgage loan as defined by RESPA, 12 U.S.C. § 2602, et seq.
103. At all times material, including, *inter alia*, the above described pre-paid finance charges paid by Counterclaimant were neither properly disclosed nor *bona fide* and *reasonable* under TILA.
104. Those concealed and TILA violative pre-paid finance charges were believed "fee split" between Counterclaim Defendants and co-conspirators to be discovered, in violation of RESPA, which violations inure to their liability under the CPAUTP.

COUNT IV

Fair Debt Collection Practices Act ("FDCPA")

105. At all times material, Counterclaim Defendants were in violation FDCPA, 15 U.S.C. § 1692e(8), et seq., by threatening or communicating false credit information including the failure to communicate that a debt is disputed.
106. At all times material, Counterclaim Defendants and co-conspirators to be discovered were additionally in violation of the FDCPA, § 1692e(2)(A), by giving a false impression of the character or legal status of the debt.
107. At all times material, Counterclaim Defendants and co-conspirators to be discovered were additionally in violation of the FDCPA, § 1692e(5), by using false or deceptive collection methods.
108. At all times material, Counterclaim Defendants and co-conspirators to be discovered were in violation FDCPA, 15 U.S.C. § 1692e(8), et seq., by threatening or communicating false credit information.

WHEREFORE, Counterclaimants, respectfully request a declaratory judgment against the Plaintiff/Counterclaim Defendants, for all damages deemed fair and equitable by this Honorable Court, including fees, costs, rescission of the mortgage, voiding of the mortgage, satisfaction of the note, and any and all other remedies available under the law.

COUNT V

Violations Of Credit Extension Uniformity Act ("FCEUA")

109. Counterclaim Defendants sent communications or communicated with Counterclaimant in an attempt to collect a debt as defined by the Fair Credit Extension Uniformity Act ("FCEUA"), and the Consumer Protection Act (Unfair Trade Practices).
110. Counterclaim Defendants are "debt collectors" or "creditors" pursuant to the FCEUA and the Consumer Protection Act.
111. Violations of the FCEUA are a per se violation of the Consumer Protection Act.
112. Violations of the FDCPA are a per se violation of the FCEUA.
113. The aforesaid actions of Counterclaim Defendants constitute unfair methods of competition and unfair or deceptive acts and practices within the meaning of the

FCEUA and the Consumer Protection Act, and by and through the following actions,
inter alia:

- a. Using unfair and unconscionable collection methods;
- b. Giving a false impression of the character, amount or legal status of the alleged debt;
- c. Using false and deceptive collection methods;
- d. Making threats and taking illegal action; and
- e. Otherwise using false, deceptive, misleading, and unfair and unconscionable means to collect or attempt to collect a debt.

WHEREFORE, Counterclaimants, respectfully request a declaratory judgment against the Plaintiff/Counterclaim Defendants, for all damages deemed fair and equitable by this Honorable Court, including fees, costs, rescission of the mortgage, voiding of the mortgage, satisfaction of the note, and any and all other remedies available under the law.

COUNT VI Declaratory Relief

Counterclaimant v. (whomever is found to Hold the Note)

- 114. Counterclaimant incorporates by reference all preceding paragraphs as if set forth at length herein.
- 115. As a result of the conduct of Counterclaim Defendants as set forth above, Counterclaimant has sufficient legal standing to maintain an action for Declaratory Relief.
- 116. As a result of the fraud, and violations of the Consumer Protections Act, Counterclaimant requests this Honorable Court mark the within mortgage and note as void, satisfied and dismissed, and to declare title to the within real property free and clear of encumbrance by Counterclaim Defendants, if they are found to have any.
- 117. Counterclaim Defendants, and any co-conspirators to be discovered, knew of the fraud and violations of the Consumer Protections Act committed by each other.
- 118. Alternatively, Counterclaim Defendants and any co-conspirators to be discovered had reason to know of the fraud and violations of the Consumer Protection Act committed by each other.
- 119. Counterclaimant requests that this Honorable Court forever bar the Counterclaim Defendants from bringing an action in foreclosure as a result of their misconduct, and that any amount allegedly owed to Counterclaim Defendants resulting from rescission of the loan be reduced to \$0.00.

WHEREFORE, Counterclaimants respectfully request a declaratory judgment in their favor and against the Counterclaim Defendants, for all damages deemed fair and equitable by this Honorable Court, including fees, costs, rescission of the mortgage, voiding of the mortgage, satisfaction of the note, and any and all other remedies available under the law.

COUNT VII Fraud

- 120. Counterclaimants incorporate by reference all preceding paragraphs as if set forth at length herein.
- 121. At all times material, Counterclaim Defendants upon information and belief worked in concert with co-conspirators to be discovered and each were aware of and liable for the acts of the other(s).

Counterclaim Defendants knew of the aforesaid misrepresentations and omissions made to

122. the Counterclaimant regarding the mortgage and/or refinance transactions.

123. Counterclaim Defendants misrepresented and concealed relevant and material terms with regard to the transaction.

124. Counterclaim Defendants knew their misrepresentations and omissions were false.

125. The aforesaid misrepresentations and omissions were made to advance the scheme and conspiracy to ensure that the Counterclaimants signed and executed the within mortgage transaction.

126. Counterclaim Defendants intended that the Counterclaimant rely on the aforesaid misrepresentations and omissions.

127. Counterclaimant justifiably relied on the misrepresentations made by Counterclaim Defendants' agents and/or co-conspirators when entering into the mortgage loan and/or refinance transactions.

128. The fraudulent misrepresentations and omissions were a factual cause of the harm suffered by the Counterclaimants.

WHEREFORE, Counterclaimants respectfully request judgment in their favor and against Counterclaim Defendants for all damages deemed fair and equitable by this Honorable Court, including fees, costs, punitive damages, treble damages, rescission of the mortgage, voiding of the mortgage, and any and all other remedies available.

COUNT VIII

Promissory Estoppel

129. Counterclaimants incorporate by reference all preceding paragraphs as if set forth at length herein.

130. At all times material, Counterclaim Defendants upon information and belief worked in concert with co-conspirators to be discovered and each were aware of and liable for the acts of the other(s).

131. At all times material hereto, Defendants made the aforesaid statements, both orally and in writing.

132. When the originating lenders made these statements to the Counterclaimants, they knew or should have known that the Counterclaimants would rely upon such representations to their detriment.

133. Counterclaimants, to their detriment, reasonably relied upon the aforesaid statements of Counterclaim Defendants.

134. Counterclaim Defendants' failure to offer the mortgage they promised has caused harm to the Counterclaimants who detrimentally relied on such statements.

WHEREFORE, Counterclaimants respectfully request judgment in their favor and against the Counterclaim Defendants for all damages deemed fair and equitable by this Honorable Court, including fees, costs, punitive damages, treble damages, rescission of the mortgage, voiding of the mortgage, and any and all other remedies available.

COUNT IX

Slander of Credit

135 herein.

136. At all times material, Counterclaim Defendants upon information and belief worked in concert with co-conspirators to be discovered and each were aware of and liable for the acts of the other(s).

137. At all times material hereto, Defendants made the aforesaid statements, both orally and in writing.

138. The actions of the Counterclaim Defendants have impaired Counterclaimants' credit causing them to suffer the financial consequences of lower credit ratings, entitling Counterclaimants to damages, including statutory punitive damages pursuant to state and federal law, all to be proved at the time of trial.

WHEREFORE, Counterclaimants respectfully request judgment in their favor and against the Counterclaim Defendant for all damages deemed fair and equitable by this Honorable Court, including fees, costs, punitive damages, treble damages, rescission of the mortgage, voiding of the mortgage, and any and all other remedies available.

COUNT X

Violation of the Equal Credit Opportunity Act ECOA (15 U.S.C. § 1691, et. seq.)

139. Counterclaimants incorporate by reference all preceding paragraphs as if set forth at length herein.

140. At all times material, Counterclaim Defendants upon information and belief worked in concert with co-conspirators to be discovered and each were aware of and liable for the acts of the other(s).

141. Counterclaimants were "applicants" for credit, as defined by ECOA 15 U.S.C. § 1691a(b).

142. Counterclaim Defendant and co-conspirators to be discovered are "creditors" as governed and defined by ECOA, 15 U.S.C. § 1691(a)(e).

143. Counterclaim Defendants named herein and co-conspirators to be discovered are each liable for the acts of the other, and all such acts were on behalf of and in furtherance of the interests of themselves and other Counterclaim Defendants.

144. 15 U.S.C. § 1691(d)(1) provides that "within thirty days...after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application."

145. The accompanying Regulation B, issued by the Board of Governors of the Federal Reserve System pursuant to ECOA, further provides, "A creditor shall notify an applicant of action taken within: (i) 30 days after receiving a completed application concerned the creditor's approval of, counteroffer to, or adverse action on the application." 12 C.F.R. 202.9(a)(1)(i).

146. Additionally, 15 U.S.C. § 1691(d)(2) requires "that each applicant against whom 'adverse action' is taken shall be entitled to a statement of reason for such action taken from the creditor." 15 U.S.C. § 1691(d)(2).

147. 15 U.S.C. § 1691(d)(6) defines "adverse action" as a denial or revocation of "credit" a change in terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or substantially the terms requested.

148. The term "credit" means the right granted by a debtor to defer payment of a debt or to incur debts and defer its payment... and defer payment thereof. 15 U.S.C. § 1691(a)(d); 12 C.F.R. 202.2(i).

149. The Counterclaimant's application for a loan modification was an application for credit as defined by 15 U.S.C. 1691(a)(d) and 12 C.F.R. § 202.2(i).

150. Counterclaim Defendants failed to evaluate the Counterclaimant's loan application in good faith and refused to give meaningful review to the Counterclaimant's submissions, in a clear violation of the ECOA.

151. The Counterclaimant has not received written notice from Counterclaim Defendant or any agent acting on their behalf that the loan modification request was denied.

152. As a result of Counterclaim Defendant's violations of ECOA, the Counterclaimants have

suffered substantial damages including the loss of their rights to explain or rectify and address any errors or problems in their application for credit and the loss of credit itself.

153. As a result of the aforesaid violations of the ECOA, Counterclaim Defendants are liable to the Counterclaimant for actual damages, punitive damages, attorneys' fees and costs pursuant to 15 U.S.C. §1691(e)(a), §(e)(b), and §(e)(d); and C.F.R. 202.16(b).

WHEREFORE, Counterclaimants respectfully request judgment in their favor and against the Counterclaim Defendant for all damages deemed fair and equitable by this Honorable Court, including fees, costs, punitive damages, treble damages, rescission of the mortgage, voiding of the mortgage, and any and all other remedies available.

COUNT XI

Negligence and Gross Negligence

154. Counterclaimants incorporate by reference all preceding paragraphs as if set forth at length herein.

155. Counterclaim Defendant had a duty to exercise due diligence to determine that its actions in servicing the Counterclaimants' loan was not in violation of ECOA or other laws or below the standard of care a reasonably prudent mortgage servicing.

156. Counterclaim Defendant breached its duties when it failed to conduct due diligence inquiries into its mortgage transaction with the Counterclaimant, or to act promptly on the Counterclaimant's request for credit (i.e. loan modification, refinancing or other loss mitigation), and whether Counterclaimant complied with federal and state laws in the origination of the subject loan.

157. As a direct result of the aforesaid, Counterclaimants have suffered damages including the potential equitable loss of title to the subject property.

158. Counterclaim Defendant acted in wanton or reckless disregard of the rights of Counterclaimants.

WHEREFORE, Counterclaimants respectfully request judgment in their favor and against the Counterclaim Defendant for all damages deemed fair and equitable by this Honorable Court, including fees, costs, punitive damages, treble damages, rescission of the mortgage, voiding of the mortgage, and any and all other remedies available.

COUNT XII

Intentional Infliction of Emotional Distress

159. Counterclaimants incorporate by reference all preceding paragraphs as if set forth at length herein.

160. Counterclaim Defendants have intentionally or negligently taken action which has caused the Counterclaimants to suffer severe emotional distress.

161. Counterclaim Defendants knew or should have known that their conduct would result in severe emotional distress to the Counterclaimants.

WHEREFORE, Counterclaimants respectfully request judgment in their favor and against the Counterclaim Defendant for all damages deemed fair and equitable by this Honorable Court, including fees, costs, punitive damages, treble damages, rescission of the mortgage, voiding of the mortgage, and any and all other remedies available, and to Order the following relief:

a. Return of any money given by Counterclaimants or their predecessors, to anyone, including Counterclaim Defendants, in connection with the transaction;

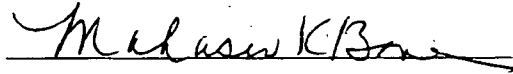
b. Statutory damages;

c. Forfeiture and return of loan proceeds;

d. Damages, including

- i. Actual and Compensatory damages;**
- ii. Treble damages;**
- iii. Attorneys fees and expenses, and costs of suit; and**
- iv. Punitive Damages.**

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mahasin K. Bowen", written over a horizontal line.

Mahasin K. Bowen, pro se

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen as Personal
Representative for the Estate of Mary Lee
Samuel; Mahasin K. Bowen; Raymond
Samuel a/k/a Shamsud-din Raymond
Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel;
Tauheedah Mateen; Kilgore Marketing
Solutions dba RSVP Columbia; Security
Pacific Housing Services, Inc.; South
Carolina Department of Motor Vehicles,

Defendants.

v.

South Trust Mortgage Corporation

and

Mortgage Electronic Registration
Systems, Inc. (MERS)

and

Homeside Lending Inc.

and

JOHN DOES 1-10 (identities and
addresses to be Supplied upon discovery)

FIFTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS
C/A No.: 2010-CP-40-5886

**PLAINTIFF'S REPLY TO DEFENDANT'S
ANSWER AND COUNTERCLAIMS**

2010 APR 19 AM 11:20
CLERK OF COURT
C.C.P. & C.S.

TO: MAHASIN K. BOWEN, PRO SE DEFENDANT AS REPRESENTATIVE OF THE ESTATE OF MARY LEE SAMUEL AND AS AN HEIR OF THE ESTATE OF MARY LEE SAMUEL:

The Plaintiff MidFirst Bank and Counterclaim Defendant Mortgage Electronic Registrations Systems, Inc. (hereinafter "MERS") responding to the Answer and Counterclaims of the Defendant Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel and as an heir of the Estate of Mary Lee Samuel (hereinafter the "Defendant") , respectfully alleges as follows:

1. That each allegation of the Answer and Counterclaims not specifically admitted is denied and strict proof of the same is demanded.
2. That the allegations contained in Paragraph One (1) through Paragraph Forty-Eight (48) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

AS A FIRST DEFENSE TO THE DEFENDANT'S COUNTERCLAIMS

3. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) and Two (2) are incorporated herein as if fully repeated verbatim.
4. The allegations contained in Paragraph Forty-Nine (49) through Paragraph Fifty-Eight (58) and any subparts of each of these Paragraphs of the Defendant's Answer and Counterclaims do not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.
5. Plaintiff and MERS admit the allegations contained in Paragraph Fifty-Nine (59) to the extent that that Defendant intended to state that South Trust Mortgage Corporation and not South Trust Mortgage "underwrote, placed, made and originated the loan." To the extent that Defendant actually meant South Trust Mortgage, Plaintiff and MERS deny the allegations contained in Paragraph Fifty-Nine (59) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

6. At this current time, Plaintiff and MERS lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraph Sixty (60) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

7. Plaintiff and MERS admit the allegations contained in Paragraph Sixty-One (61) of the Defendant's Answer and Counterclaims upon information and belief.

8. At this current time, Plaintiff and MERS lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraph Sixty-Two (62) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

9. Plaintiff and MERS admit the allegations contained in Paragraph Sixty-Three (63) of the Defendant's Answer and Counterclaims that Mary L Samuel and Raymond Samuel executed the loan and closing documents at closing but deny the allegations to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS and the further characterizations and reasons for actions of the parties and demand strict and absolute proof thereof.

10. Plaintiff and MERS deny the allegations contained in Paragraph Sixty-Four (64) through Paragraph Sixty-Five (65) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

11. Plaintiff and MERS admit only that the loan payments became delinquent, and that with regards to the remaining allegations including (discussed more fully below) contained in Paragraph Sixty-Six (66), Plaintiff and MERS lack sufficient information or knowledge to form a belief as to the remaining allegations contained in Paragraph Sixty-Six (66) and therefore deny and demand strict and absolute proof thereof.

12. Plaintiff and MERS deny the allegations contained in Paragraph Sixty-Seven (67) through Paragraph Seventy-Three (73) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

13. Plaintiff and MERS state that the underwriting guidelines and "conditions" referenced in Paragraph Seventy-Four (74) are a writing which speaks for itself. Otherwise, Plaintiff and MERS deny the allegations contained in Paragraph Seventy-Four (74) of the

Defendant's Answer and Counterclaims to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS in full and demand strict and absolute proof thereof.

14. Plaintiff and MERS deny the allegations contained in Paragraph Seventy-Five (75) through Paragraph Seventy-Nine (79) of the Defendant's Answer and Counterclaim in full and demand strict and absolute proof thereof.

15. At this current time, Plaintiff and MERS lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraph Eighty (80) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

16. At this current time, Plaintiff and MERS lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraphs Eighty-One (81) and Paragraphs Eighty-Two (82) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

17. Plaintiff and MERS state that a Pooling and Servicing Agreement referenced in Paragraphs Eighty-Three (83) through Paragraphs Eighty-Four (84) is a writing which speaks for itself. Plaintiff and MERS further state that the allegations contained in Paragraphs Eighty-Three (83) through Paragraphs Eighty-Four (84) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required and the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the allegations contained in Paragraphs Eighty-Three (83) through Paragraphs Eighty-Four (84) of the Defendant's Answer and Counterclaims in full as MidFirst Bank is the current owner of the note and there is not a Pooling and Servicing Agreement governing the same at this time and thus the Plaintiff and MERS demand strict and absolute proof thereof.

18. Plaintiff and MERS deny the allegations contained in Paragraph Eighty-Five (85) through Paragraphs Eighty-Six (86) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

19. Plaintiff and MERS state that the allegations contained in Paragraphs Eighty-Seven (87) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required and the extent said allegations infer any

wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the allegations contained in Paragraph Eighty-Seven (87) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

20. Plaintiff and MERS deny the allegations contained in Paragraph Eighty-Eight (88) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

21. The allegations contained in Paragraph Eighty-Nine (89) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

22. Plaintiff and MERS deny the allegations contained in Paragraph Ninety (90) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

23. Plaintiff and MERS state that the allegations contained in Paragraph Ninety-One (91) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required and the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the allegations contained in Paragraphs Ninety-One (91) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

24. Plaintiff and MERS state that they are without knowledge as to the definition of a high cost mortgage and thus deny the allegations contained in Paragraph Ninety-Two (92) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

25. Plaintiff and MERS admit that this is a federally insured FHA Loan but deny the remaining allegations contained in Paragraph Ninety-Three (93) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

26. Plaintiff and MERS deny the allegations contained in Paragraph Ninety-Four (94) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

27. Plaintiff and MERS state that the Consumer Protection Act referenced in Paragraph Ninety-Five (95) is a writing which speaks for itself. Plaintiff and MERS further state that the allegations contained in Paragraph Ninety-Five (95) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required and

the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the allegations contained in Paragraph Ninety-Five (95) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

28. Plaintiff and MERS deny the allegations contained in Paragraph Ninety-Six (96) and all subparts (a) through (k) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under subpart (k) of Paragraph Ninety-Six (96).

29. At this current time, Plaintiff and MERS, as they did not originate the loan, lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraph Ninety-Seven (97) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

30. Plaintiff and MERS state that the allegations contained in Paragraph Ninety-Eight (98) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required, they are denied.

31. At this current time, Plaintiff and MERS, as they did not originate the loan, lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraph Ninety-Nine (99) through Paragraph One-Hundred (100), including all subparts, of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

32. Plaintiff and MERS deny the allegations contained in Paragraph One-Hundred and One (101) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred One (101).

33. Plaintiff and MERS state that the allegations contained in Paragraph One Hundred Two (102) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required, they are denied.

34. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Three (103) through Paragraph One Hundred Eight (108) of the Defendant's Answer and

Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Eight (108).

35. Plaintiff and MERS state that the allegations contained in Paragraph One Hundred Nine (109) through Paragraph One Hundred Twelve (112) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required, they are denied.

36. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Thirteen (113) and subparts (a) through (e) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Thirteen (113).

37. The allegations contained in Paragraph One Hundred Fourteen (114) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

38. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Fifteen (115) through Paragraph One Hundred Nineteen (119) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Nineteen (119).

39. The allegations contained in Paragraph One Hundred Twenty (120) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny same in full and demand strict and absolute proof thereof.

40. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Twenty-One (121) through Paragraph One Hundred Twenty-Eight (128) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Twenty-Eight (128).

41. The allegations contained in Paragraph One Hundred Twenty-Nine (129) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the

Plaintiff or MERS, the Plaintiff and MERS deny same in full and demand strict and absolute proof thereof.

42. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Thirty (130) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

43. At this current time, Plaintiff and MERS, as they did not originate the loan, lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraphs One-Hundred Thirty-One (131) through One-Hundred Thirty-Four (134) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Thirty-Four (134).

44. The allegations contained in Paragraph One Hundred Thirty-Five (135) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

45. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Thirty-Six (136) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

46. At this current time, Plaintiff and MERS lack sufficient information or knowledge to form a belief as to the allegations contained in Paragraphs One-Hundred Thirty-Seven (137) through One-Hundred Thirty-Eight (138) of the Defendant's Answer and Counterclaims, and as a result, to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Thirty-Eight (138).

47. The allegations contained in Paragraph One Hundred Thirty-Nine (139) of the Defendant's Answer and Counterclaims does not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

48. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred-Forty (140) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

49. Plaintiff and MERS states that the allegations contained in Paragraph One Hundred Forty-One (141) through Paragraph One Hundred Forty-Two (142) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required, they are denied.

50. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Forty-Three (143) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof.

51. Plaintiff and MERS state that the allegations contained in Paragraph One Hundred Forty-Four (144) through Paragraph One Hundred Forty-Nine (149) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required, they are denied.

52. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Fifty (150) through Paragraph One Hundred Fifty-Three (153) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Fifty-Three (153).

53. The allegations contained in Paragraph One Hundred Fifty-Four (154) of the Defendant's Answer and Counterclaims do not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

54. Plaintiff and MERS state that the allegations contained in Paragraph One Hundred Fifty-Five (155) of the Defendant's Answer and Counterclaims do not constitute factual allegations, but instead constitute legal conclusions to which no response is required. To the extent a response to such legal conclusions is required, they are denied.

55. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Fifty-Six (156) through Paragraph One Hundred Fifty-Eight (158) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS

further ask that the court deny such relief requested under Paragraph One Hundred Fifty-Eight (158).

56. The allegations contained in Paragraph One Hundred Fifty-Nine (159) of the Defendant's Answer and Counterclaims do not require a response. To the extent that a response is required and to the extent said allegations infer any wrongdoing on behalf of the Plaintiff or MERS, the Plaintiff and MERS deny the same in full and demand strict and absolute proof thereof.

57. Plaintiff and MERS deny the allegations contained in Paragraph One Hundred Sixty (160) through Paragraph One Hundred Sixty-One (161) of the Defendant's Answer and Counterclaims in full and demand strict and absolute proof thereof. Plaintiff and MERS further ask that the court deny such relief requested under Paragraph One Hundred Sixty-One (161).

AS A SECOND DEFENSE TO THE DEFENDANT'S COUNTERCLAIMS

(Dismissal pursuant to SCRPC 12(b)(6))

58. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) through Fifty-Seven (57) are incorporated herein as if fully repeated verbatim.

59. The Defendant has failed to state a cause of action upon which relief may be granted and, as such, the Defendant's Answer and Counterclaims should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

60. Further, by pleading this 12(b)(6) dismissal in their Reply herein, the Plaintiff and MERS do not intend to waive any right to have the Court hear a motion for dismissal. The dismissal herein is included for notice purposes and to preserve the Plaintiff and MERS' right to move for a dismissal at anytime hereafter and up until trial.

AS A THIRD DEFENSE TO THE DEFENDANT'S COUNTERCLAIMS

(Unclean Hands)

61. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) through Sixty (60) are incorporated herein as if fully repeated verbatim.

62. Upon information and belief, the Defendant's claims are barred by their own actions and/or representations.

63. The Plaintiff and MERS have been injured by the Defendant's actions and/or

representations.

64. The Defendant has failed to adhere to the terms and conditions set forth in the subject Note and Mortgage.

65. As a result of the Defendant's inequitable actions, the Defendant's claims are barred by the equitable doctrine of unclean hands.

AS A FOURTH DEFENSE TO THE DEFENDANT'S COUNTERCLAIMS

(Offset)

66. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) through Sixty-Five (65) are incorporated herein as if fully repeated verbatim.

67. To the extent that the Defendant is entitled to any recovery from the Plaintiff or MERS such amounts should be reduced and offset by the damages suffered by the Plaintiff and MERS arising from the claims set forth in the Plaintiff's Complaint.

AS A FIFTH DEFENSE TO THE DEFENDANT'S COUNTERCLAIMS

(Waiver/Laches/Estoppel)

68. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) through Sixty-Seven (67) are incorporated herein as if fully repeated verbatim.

69. The Defendant's claims are barred by the doctrines of waiver, laches, and estoppel.

AS A SIXTH DEFENSE TO THE DEFENDANTS' COUNTERCLAIMS

(Dismissal for Failure to Bring Action Within Applicable Statute of Limitations)

70. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) through Sixty-Nine (69) are incorporated herein as if fully repeated verbatim.

71. The Defendants have failed to bring their cause of action within the applicable statute(s) of limitation and as such their claims should be dismissed.

72. Further, by pleading this dismissal in their Reply herein, the Plaintiff and MERS do not intend to waive any right to have the Court hear a motion for dismissal. The dismissal herein is included for notice purposes and to preserve the Plaintiff and MERS' right to move for a dismissal at anytime hereafter and up until trial.

AS A SEVENTH DEFENSE TO THE DEFENDANT'S COUNTERCLAIMS

(Reservation and Non-Waiver)

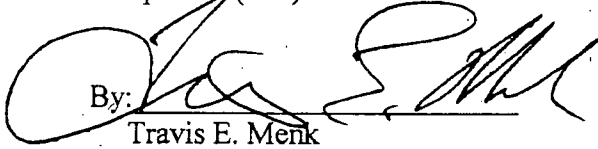
73. To the extent that they are not inconsistent with the pleadings herein, the above Paragraphs One (1) through Seventy-Two (72) are hereby incorporated herein as if fully repeated verbatim.

74. The Plaintiff and MERS reserve and do not waive any additional and further defenses to the Defendant's Answer and Counterclaims as may be revealed throughout the duration of this litigation.

WHEREFORE, having fully responded to the allegations contained in the Defendant's Answer and Counterclaims, the Plaintiff and MERS pray for the following:

- (a) That the Defendant's Answer and Counterclaims be dismissed with costs;
- (b) That the Plaintiff be granted the relief requested in the Complaint;
- (c) For such other and further relief as the Court may determine to be just and proper.

Brock and Scott, PLLC
Attorneys for the Plaintiff
5121 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
Telephone: (704) 643-0290

By: 

Travis E. Menk

Dated: April 15, 2013

Charlotte, North Carolina

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF RICHLAND) C/A #: 2010-CP-40-5886

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen as Personal
Representative for the Estate of
Mary Lee Samuel; Mahasin K. Bowen;
Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a
Cecil A. Samuel; Charles Samuel,
Jr.; Earl Hassan Samuel; Kenneth
Kareem Samuel; Tauheedah Mateen;
Kilgore Marketing Solutions dba RSVP
Columbia; Security Pacific Housing
Services, Inc.; South Carolina
Department of Motor Vehicles,

Defendants.

COPY

DEPOSITION OF
MAHASIN K. BOWEN

Wednesday, August 21, 2013
11:20 a.m. - 12:12 p.m.

The deposition of MAHASIN K. BOWEN, taken on behalf of the Plaintiff at the law offices of Brock & Scott, PLLC, 3800 Fernandina Road, Suite 110, Columbia, South Carolina, on the 21st day of August, 2013 before Nadine A. Garrett, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 MAHASIN K. BOWEN, having been duly sworn, deposes
2 and testifies as follows:

3 MS. BOWEN - EXAMINATION BY MR. MENK:

4 Q: Ms. Bowen, if you could just identify yourself
5 for the record here. Give me your full name.

6 A: My name is Mahasin K. Bowen, B-O-W-E-N.

7 Q: Okay. And we've spoken for a couple minutes
8 beforehand going over a couple things with
9 regards to this deposition today; you desire to
10 have it another day, et cetera. I'm going to
11 go over a couple basic things, first of all,
12 with you here. The court reporter has placed
13 you under oath. And that oath carries with it
14 the same penalties of perjury as if we were
15 testifying in a courtroom. So, although this
16 is an informal hearing, an office setting, this
17 is the same as courtroom testimony. Do you
18 understand that?

19 A: Yes.

20 Q: Okay. Everything that's said on the record
21 today is being taken down by the court
22 reporter. She can't, however, take down the
23 nonverbal responses we all use in
24 conversations, such as a nod of the head or a
25 shaking of the head. So, if I ask you if that



1 was a yes or is that no, it's so we can get a
2 verbal response for the record. Also, the
3 court reporter can't take down two people
4 talking at one time. So, if you would allow me
5 to finish my question before your answer, I,
6 likewise, will let you answer before I ask
7 another question.

8 A: Okay.

9 Q: I'm going to be asking you about things that
10 happened a while ago. I ask that you don't
11 guess or speculate anything. If you can't
12 answer without it being a guess, it's perfectly
13 okay to say I don't know or I don't recall.
14 And let's see here. Is there any reason,
15 either mentally or physically today, why you
16 can't give your best testimony?

17 A: Yes, there is.

18 Q: Okay. And what is that reason?

19 A: Yes. That reason that I ask that this
20 deposition be postponed basically is due to
21 some information that I have received and some
22 mail that I've gotten, received, pertaining to
23 the default on a hearing that I was not there.
24 I've had several deaths in my family. Mentally
25 and emotionally I am not up to par to be most



1 accurate and most helpful and informative. And
2 I, at this time, am requesting that we continue
3 or postpone and set this deposition for another
4 day when I can have adequate counsel with me so
5 that they can more effectively advise me
6 because of emotional stress that I'm under at
7 this time.

8 Q: Okay. All right.

9 A: I'd like to be one in hundred percent
10 compliance with this deposition and I'm, at
11 best, unable to respond accurately fairly and
12 truthfully to this deposition.

13 Q: All right. As I am not your attorney, I cannot
14 advise you whether or not to leave today. If
15 you choose to do so, that is on your own
16 accord. And I would advise that whether you
17 had an attorney -- I would tell you that
18 whether you had an attorney here today or you
19 didn't. I cannot force you to stay here to
20 answer these questions here. It is your
21 choice. I would -- as I mentioned, I would
22 like to go through some just very basic, very
23 brief things here that I don't believe should
24 be too significant here. I would like to just
25 present to you the notices that you were given.



1 Q: Okay. So --

2 A: I live here, 3307. Yeah.

3 Q: Just -- I want to get that verified so there
4 would be no issues going forward with --

5 A: That's where I'm at now, 3307.

6 Q: Okay. And -- all right. So, given that, you
7 were aware of the deposition today --

8 A: Yes.

9 Q: -- at this office?

10 A: Yeah.

11 Q: And you were -- if you take a look at each of
12 these documents here, you'll see that you were
13 asked to bring forth the documents related to
14 the claims and counterclaims in this matter; is
15 that correct?

16 A: Yes.

17 Q: Okay. All right. And so, you do realize that
18 we asked you to be here today and to be
19 prepared and you stated that -- if I'm not
20 mistaken here, that you are -- do not feel like
21 you are mentally or physically ready or
22 prepared to do this today here, you do not have
23 your documents with you even though you were
24 requested and you would like counsel and so you
25 are asking that this be continued.



1 A: Yes.

2 Q: As I have told you, under South Carolina law,
3 we are -- you're allowed to only depose each
4 person once. And you -- but we can ask the
5 Court under extenuating circumstance for a
6 second chance. I've also advised you that I
7 cannot advise you whether to come or go, but it
8 sounds like you're telling me that you would
9 like to cut short this deposition because you
10 feel you are not physically or mentally able to
11 testify today and you would like an attorney
12 and you do not have the documents that were
13 instructed. Is that correct?

14 A: That's correct.

15 Q: Okay. I also would like just to verify that
16 the time on that notice said that our hearing
17 was at 10:00 today?

18 A: Yes.

19 Q: And you were told to be at what address?

20 A: It says here -- I was kind of confused by that
21 because I was downtown. As a matter of fact,
22 I asked your secretary, I called this morning

23 --

24 Q: Yes.

25 A: Because we were downtown at the court because



1 A: -- I don't understand the format, how it goes.

2 Q: Okay. Yeah. No. In this case I ask you
3 questions and you answer my questions here.
4 But you can't ask me questions here.

5 A: Okay.

6 Q: And if we'd gone further here in this
7 deposition, I was going to explain to you that.
8 But I want to get the basic things about the
9 deposition being scheduled today, that you have
10 been given notice, that you have been asked to
11 bring these documents and such. And the only
12 other -- or the other question I was going to
13 ask you is are you currently taking medications
14 right now? It goes along with whether you are
15 physically or mentally able to do this
16 deposition today.

17 A: Okay. I was at my doctor's, treated yesterday.

18 Q: Okay. And so -- and do you feel any of those
19 medications you're currently taking are going
20 to interfere with your ability to give
21 testimony today?

22 A: Today they probably would.

23 Q: Okay.

24 A: I had some chest problems and problems
25 yesterday.

1 Q: All right. Well, based on what you told me,
2 like I said, it sounds like you're going to ask
3 that this deposition be cut short here and we
4 do this another time. A couple of things I do
5 need to go over with you here are, like I said,
6 I cannot advise you whether to continue this
7 deposition or not. It is your choice. I'd
8 give that to you whether it was you or somebody
9 represented by an attorney. I'm also going to
10 let you know that we have given you notices
11 today. You were given notices to bring forth
12 proper paperwork.

13 A: I have some paperwork with me.

14 Q: Correct.

15 A: I don't know that I have everything you want me
16 to have. But I do have some paperwork.

17 Q: Okay. We did ask you to bring everything you
18 had regarding claims and counterclaims here.
19 I will also let you know that there are things
20 within the South Carolina code that if you fail
21 to appear for a deposition or if you fail to
22 come to a deposition prepared, I can ask the
23 Court on a motion for sanctions, I can ask the
24 Court to pay for the expense -- you know, for
25 any fees or costs, few things I can do,



1 including the cost of the court reporter, who's
2 had to be here today. She was here from about
3 9:30 on. I can ask the judge for other things
4 including my preparation for today, my time for
5 today spent here with you. There are things in
6 the code that include also things that I've
7 asked for, the dismissal of your pleadings and
8 such in this matter here. I will be talking
9 with my client and seeing what they would like
10 me to do in this matter about that. I just
11 want to make you aware of that, that I can do
12 these things.

13 A: I understand, Mr. Menk.

14 Q: Okay. I just want to make sure you're aware of
15 that. But at this time I believe you've
16 indicated to me that you would like to cut
17 short this deposition and have it --

18 A: I'm not really well. I just want to be fair.
19 I do have some documents. I don't have
20 everything, but I brought some of the things
21 that you've asked me.

22 Q: Okay.

23 A: And being that I had been treated yesterday in
24 the hospital, my doctor really didn't want me
25 out today. But I came anyway because I did not



1 in any way to be in contempt. I was having
2 severe chest pains and he didn't want me -- and
3 behind the deaths in the family and emotional
4 stuff that I've been through, he really asked
5 me not to be out.

6 Q: I understand that.

7 A: I would prefer not to not come.

8 Q: I understand.

9 A: I wanted to come.

10 Q: Did your doctor give you a note or anything?
11 Just out of curiosity.

12 A: I can get a note. My doctor is Dr. Johnny.
13 And if you would like me to provide that for
14 you, I could do that. I was there yesterday,
15 all day.

16 Q: Okay. And the other thing -- oh, the other
17 thing I wanted to make sure was on the record
18 is we had -- we can have this case -- it was
19 originally supposed to come in front of the
20 court of common pleas and we asked this to be
21 continued and the judge asked that we have all
22 discovery done by tomorrow. Obviously by
23 leaving today, we're not going to -- unless we
24 were to do the deposition tomorrow, we're not
25 going to have that done. You understand that?



1 A: Uh-huh (affirmative response).

2 Q: Let's see. What else did I want to say? So,
3 given that, at the very least I would hope --
4 I'm going to put on the record that I would ask
5 -- I am going to ask the judge for an
6 opportunity to do a second deposition of you.

7 A: Thank you, Mr. Menk.

8 Q: And I'm going to also -- or the other thing is
9 if the judge will allow, I will allow us to
10 continue this deposition at which point I will
11 go through all the instructions again if we go
12 through that at another time. We will be I
13 guess, since you are deciding to end this right
14 now, we'll be -- my office will be in
15 coordination with you regarding setting up a
16 new deposition. Just for I guess the record,
17 can you -- do you want to identify what
18 documents you had here today with you in
19 preparation of for today's hearing? How many
20 documents do you have? Do you have a fair
21 amount?

22 A: Well, I just -- I have everything that you've
23 sent me.

24 Q: Okay. So, it's all the documents that I have
25 sent you previously?

1 A: That you've sent me and the -- yes.

2 Q: Okay. All right. You don't have any
3 additional documents, it's just documents I had
4 sent to you?

5 A: Documents you sent to me and I also -- that why
6 I asked you if I can ask you any questions.

7 Q: Correct.

8 A: Is exactly what else do you want me to bring?

9 Q: Basically much as I said in the notice, what we
10 need you to bring is any paperwork that has any
11 bearing or basis on any -- dealing with any of
12 our claims or any of your counterclaims. In
13 your answer you have asserted --

14 A: I have this --

15 Q: You asserted I believe 12 counterclaims. So,
16 if you have any information regarding anything
17 in that, we're going to be asking you -- the
18 plan was to ask you about all that today.

19 A: Okay.

20 Q: Other than that, I think you -- the one other
21 thing I wanted to ask you about is I believe
22 you mentioned -- and this was one thing I was
23 going to go over in the full deposition, but I
24 believe you said you had maybe an updated
25 address for Cecil Samuel; is that correct?



1 not your relatives, but --

2 A: Earl Samuel, that's correct. Charles Samuel,
3 that's correct. Cecil, Afghanistan address.

4 Q: Okay.

5 A: He's different places over there. Tauheedah,
6 Brighton. The South Carolina Department --

7 Q: So, all of your other brothers and sisters we
8 have the correct address for?

9 A: Yes.

10 Q: Okay. That was going to be one of the things
11 I was just going to verify with you --

12 A: Yes. That's correct.

13 Q: -- early in this deposition. But --

14 A: Yes.

15 Q: -- obviously I have not gotten to the bulk of
16 what I would have like to have gone over with
17 you, which is a discussion of everything that
18 you have in your counterclaims and your
19 defenses and stuff. I want to go through with
20 you with that. And regarding the claims that
21 my client's -- my client, MidFirst Bank,
22 alleged in the complaint.

23 A: Okay.

24 Q: So, I have not had a chance to do that today
25 because you are choosing to leave. And we will

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A: To be -- so I could be most forthcoming and, you know, to the point with you, it wouldn't be good --

Q: Okay. So, we'll either -- I'll be asking either -- either asking the judge to allow us to continue this deposition at a later time or asking him to grant us the ability to do a second deposition since you don't feel able to give this deposition today and we will go from there. But I believe that will conclude the deposition here.

(There being no further questions, the deposition concluded at 12:12 p.m.)



STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MidFirst Bank,

Plaintiff,

v.

Mahasin K. Bowen, as Personal Representative
for the Estate of Mary Lee Samuel; Mahasin K.
Bowen; Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a Cecil A.
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel; Tauheedah
Mateen; Kilgore Marketing Solutions dba
RSVP Columbia; South Carolina Department
of Motor Vehicles,

Defendants

IN THE COURT OF COMMON PLEAS

CASE NO. 2010-CP-40-5886

RECORD OF HEARING

FOR

FORECLOSURE CASE

RICHLAND COUNTY
FILED
2015 JUL 28 PM 2:56
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

Pursuant to the Order of Reference granted in the above-captioned foreclosure action, a hearing was held herein on June 25, 2015 at 10:00 a.m., before the Honorable Joseph M. Strickland.

APPEARANCES: Brock & Scott, PLLC, Attorneys for the Plaintiff.

Attorney for Plaintiff calls attention to the filing of the Lis Pendens in the Office of the Clerk of Court for Richland County on August 27, 2010. Also calls attention to the filing of the original Summons and Notice and Complaint on August 27, 2010. Also calls attention to the Affidavits of Service showing service of Summons and Complaint on each defendant as indicated in the Affidavits(s) recorded in the Office of the Clerk of Court for Richland County.

Also calls attention to the filing of the affidavit showing the Defendants Charles Samuel, Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Earl Hassan Samuel, Kenneth Kareem Samuel, Cecil Samuel a/k/a Cecil A. Samuel, Tauheedah Mateen and Kilgore Marketing Solutions dba RSVP Columbia are in default and that no Defendants are in the Military Service of the United States of America,



as contemplated under The Servicemembers' Civil Relief Act (fka The Soldiers' and Sailors' Civil Relief Act of 1940) as amended.

Also calls attention to the Order of Reference of record herein issued in Richland County, wherein the above-entitled cause was referred to Joseph M. Strickland, as Master-In-Equity "to take the testimony arising under the pleadings and to make his findings of fact and conclusions of law and with authority to enter final judgment in the case. An appeal from the final judgment so entered shall be made directly to the Supreme Court of South Carolina."

The Defendants South Carolina Department of Motor Vehicles; Mahasin K. Bowen and Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel answered in this action and have been notified of the time and date of this hearing.

WHEREUPON, the undersigned attorney reported as follows: I am the attorney for the Plaintiff in this action.

From the original records in my possession, from the complaint herein and from examination of the records in the office of the Clerk of Court for Richland County, I find that on December 23, 1999, the Defendant Mary L. Samuel (a/k/a Mary Lee Samuel) gave a certain written promissory Note unto South Trust Mortgage Corporation, in the principal sum of \$71,575.00 together with interest at the rate of 8% per annum (said principal and interest being payable in monthly installments).

I offer a copy of the original Note in evidence.

Note identified, offered and received in evidence.

I call attention to the provisions of the Note with reference to default. I also call the Court's attention to the provisions in the Note with reference to payment of costs and attorney's fees. On the same date, Mary L. Samuel (a/k/a Mary Lee Samuel) and Raymond Samuel (a/k/a Shamsud-din Raymond Samuel) gave a certain written Mortgage unto South Trust Mortgage Corporation (hereinafter "Mortgage") which Mortgage contains the same terms and provisions as the Note just offered in evidence and conveyed by way of

Mortgage the identical property described in the complaint in this action, (hereinafter "Property") which Property is situate in Richland County, South Carolina.

Thereafter, on January 5, 2000, the Mortgage was recorded in the Richland County Registry in Mortgage Book 374 at Page 1242.

This Mortgage constitutes a valid first lien covering the property therein described.

I offer a copy of the original Mortgage as evidence. Mortgage identified, offered and received in evidence.

Thereafter, the Mortgage was assigned to Mortgage Electronic Registration Systems, Inc., as nominee for Homeside Lending, Inc. by assignment recorded on December 27, 2000 in Book 469 at Page 2442. Thereafter, the Mortgage was assigned to MidFirst Bank by assignment recorded on March 21, 2008 in Book 1413 at Page 1356. Thereafter the Mortgage was transferred to the Plaintiff herein by assignment and/or corporate merger.

I offer a copy of the Assignment of Mortgage as evidence.

Also included as additional collateral for the subject loan transaction was a 1994/OMNI Destiny mobile/manufactured home containing serial number "036366A&B" (hereinafter "Manufactured Home"). Said Manufactured Home is titled in the records and database of the South Carolina Department of Motor Vehicles (hereafter "DMV"). The Defendants Charles Samuel and Mary Lee Samuel are listed thereon as owners of the said Manufactured Home. The Defendant Security Pacific Housing Services, Inc. is listed thereon as the lienholder of the said Manufactured Home. The mortgage lien is properly affixed and noted on the certificate of title to said Manufactured Home in the records and database of Defendant South Carolina DMV. This information was obtained by a search of the DMV records and database.

It was the intent of all parties to the subject loan transaction that i) that the Manufactured Home was already converted to be considered an improvement and/or permanent fixture of the Property, or that it would be converted as a part of this transaction; and ii) the Manufactured Home would be part of the

secured collateral for the Mortgage. However, due to inadvertent error and mistake, the Manufactured Home was not fully described in the Mortgage. The Mortgage's legal description shall include the Manufactured Home's information to indicate the Manufactured Home's permanent fixture status to all future parties.

This information is evidenced by documentation gathered by Glenn Bradley, Private Investigator, from the physical location of said Manufactured Home, a report obtained from the Institute of Building Technology and Safety (IBTS), and information obtained by a search of the DMV records and database. IBTS is the Department of Housing and Urban Development's monitoring contractor under the Federal Manufactured Housing Program, and is required to maintain all reported certification label applications, and has been the sole source of this data since 1976. Upon information and belief, the South Carolina Department of Motor Vehicles has never issued a certificate of title pertaining to the subject Manufactured Home.

Subsequent to the execution of the Mortgage and Note, Mary Lee Samuel passed away on February 9, 2008 as evidenced by the estate information that can be found in Estate file 2010-ES-40-01229 in the records for Richland County, South Carolina indicating the heirs/devisees of the Property as Mahasin K. Bowen along with Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel.

As required by an Administrative Order issued by the South Carolina Supreme Court dated May 22, 2009, the Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLMC, or the Servicer has signed an agreement to participate in the Home Affordable Modification Program ("HMP"); however, Plaintiff alleges, upon information and belief, that this loan is not eligible for modification under the HMP because the loan is owned or guaranteed by the Federal Housing Administration (HUD) or the Veterans' Administration (VA) and said entities are not participants in the HMP Program and are not eligible as contemplated under the Administrative Order issued by the Supreme Court of South Carolina on May 22, 2009. Furthermore, Plaintiff complied with

Administrative Order 2011-05-02-1 issued by the South Carolina Supreme Court.

The following parties claim or may claim an interest in the Property by virtue matters listed below:

A. The Defendant, Kilgore Marketing Solutions dba RSVP Columbia, has or may claim to have some interest in the Property by virtue of a judgment lien against Raymond Samuel, in the original principal amount of \$2,690.00, which lien was filed in the Richland County Records on 08/23/2011 in CA, 2011-CP-40-05593. Said lien is junior and subordinate to Plaintiff's Mortgage and should be removed from the title to the Property upon the completion of a properly held foreclosure sale of the Property.

B. The Defendants, Mahasin K. Bowen, Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel, have or may claim to have some interest in the Manufactured Home. The Plaintiff is information and believes that Mary Lee Samuel took full title to the Manufactured Home upon the death of Charles Samuel, according to Richland County Probate Case No: 99-ES-40-01018, but the records and database of the DMV were not properly updated. Then, upon the death of Mary Lee Samuel, title was transferred to Mashin K. Bowen, Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and Cecil A. Samuel. Any interest that said Defendants received in the subject Manufactured Home is "subject to" Plaintiff's Mortgage and this interest should be eliminated through a properly completed foreclosure sale of the Property.

C. The Defendants, Mahasin K. Bowen along with Charles Samuel Jr., Raymond Samuel a/k/a Shamsud-din Raymond Samuel, Tauheedah Mateen, Earl Hassan Samuel, Kenneth Kareem Samuel and, has or may claim to have some interest in the Property by virtue of being an heir to or devisee of Mary Lee Samuel as shown in Estate file 2010-ES-40-01229 in the Richland County Records. Any interest that this Defendant would have received in the subject property would have been "subject to" Plaintiff's Mortgage and this interest would be eliminated through a properly completed foreclosure sale.

D. The Defendant, Security Pacific Housing Services, Inc., has or may claim to have some interest in the property by virtue of a lien on the Manufactured Home title. The Plaintiff is informed and believes that this lien has been paid in full, but never satisfied of record, and, should be removed from the title of the Manufactured Home.

Plaintiff is foreclosing subject to the following:

A. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$162.50, which lien was recorded/filed in the Richland County Records on 06/19/2002 in Book 675 at Page 2234. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

B. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$171.25, which lien was recorded/filed in the Richland County Records on 11/06/2002 in Book 722 at Page 378. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

C. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$130.00, which lien was recorded/filed in the Richland County Records on 07/14/2003 in Book 819 at Page 3761. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

D. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$144.00, which lien was recorded/filed in the Richland County Records on 12/17/2007 in Book 1384 at Page 2976. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

E. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$193.50, which lien was recorded/filed in the Richland County Records on 01/31/2008 in Book 1396 at Page 3436. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

F. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$45.00, which lien was recorded/filed in the Richland County Records on 03/06/2008 in Book 1408 at Page 3088. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

G. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$261.60, which lien was recorded/filed in the Richland County Records on 07/29/2010 in Book 1621 at Page 2746. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

H. The Defendant, East Richland County Public Services, has or may claim to have some interest in the Property by virtue of a lien against Raymond Samuel, in the original principal amount of \$561.60, which lien was recorded/filed in the Richland County Records on 08/20/2010 in Book 1626 at Page 690. Upon information and belief, said lien has been paid in full but never satisfied of record and should be removed from the title to the Property upon the entry of a judicial order.

The monthly installments as provided for in said Note and Mortgage were not paid in accordance with the terms and conditions thereof, and, therefore, the Note and Mortgage are in default; and, as a result thereof, the Plaintiff has elected to declare the entire unpaid amount immediately due and payable.

Demand was made upon the Defendants but payment has not been received. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal due as of today's date:	06/25/15		\$ 62,787.47
Accrued interest from:	01/01/10	to: 06/25/15	\$ 27,523.12
Accruing at:	8% per annum		
Advancements to Escrow			\$ 8,760.22
Corporate Advances			\$ 345.00
Late charges:			\$ 324.10
Other charges:			\$ 82.10
NSF	\$160.00		
Misc	60.00		
Credit	(137.90)		
Costs of collection prior to hearing:			\$ 3,858.71
Attorney's fees:			\$ <u>13,602.00</u>

Total Debt secured by Note and Mortgage, including interest to date: \$117,282.72. With respect to attorney fees, in view of the potential liabilities inherent in a real property matter, the attendant responsibilities, and the size of the mortgage debt, a reasonable attorney's fee would be \$13,602.00. The law firm was engaged by the Plaintiff to foreclose the mortgage as expeditiously as possible, given the detriment to Plaintiff's equity position as a direct result of increasing losses from the running of interest. Plaintiff must also comply with investor requirements, government or private insuring agreements. Upon receipt of the case file, the title was examined to identify all parties having or claiming any interest in the subject real estate. The following non-inclusive list of pleadings and other documents have been prepared or reviewed in this action:

1. Lis Pendens and any amendment thereto
2. Summons and Complaint and any amendment thereto
3. Affidavits and proposed Orders for publication
4. Affidavit of Default
5. Affidavit Regarding Military Status

File reference: 08-01399

6. Order of Reference
7. Notice(s) of Hearing
8. Record (Transcript) of Testimony
9. Proposed Master In Equity's Report and Judgment of Foreclosure and Sale
10. Notice of Sale

Additionally, the pleadings were drafted and served upon each defendant personally or by statutory/substitute service; reinstatement and payoff figures and payment histories were provided as requested or required. We scheduled the hearing in this matter.

Future duties include forwarding copies of the Judgment to appearing defendants, obtaining bidding instructions from Plaintiff or its designee, representing Plaintiff at the sale or arranging for such representation, preparing an Order of Sale or Report on Sale and Disbursements and Order Confirming Sale, and preparing the Master In Equity's Deed and any other documents necessary in this particular action.

In addition to the time expended to date in prosecution of this action, we anticipate a minimum additional four hours after the hearing. Moreover, depending upon the interest shown by defendants, third parties, or counsel for either and the inherent negotiations required thereby, other time may also be committed to the completion of the case. In that regard, I would reserve the right to re-visit the question of attorney fees should the action proceed in an unexpected way.

In regard to the professional standing of counsel, representation of the Plaintiff has been undertaken by the firm of Brock & Scott, PLLC. The attorneys primarily involved in this representation have been Jason L. Branham, Brian L. Campbell, Suzanne E. Brown and William P. Stork. They concentrate their practice in the areas of foreclosure, creditor-bankruptcy and residential real estate.

Furthermore, this fee is in line with the fee customarily charged by counsel with similar experience in this particular locality. Also the Plaintiff's attorneys have achieved the beneficial result of a prompt foreclosure of the mortgage.

The Plaintiff has specifically waived its right to a personal or deficiency judgment. The undersigned is not aware of any paving or other special assessments against the subject property.

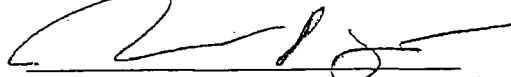
File reference: 08-01399

We would ask that the mortgage be foreclosed, that the property be sold at public auction in accordance with law, that the sale be made subject to any liens for taxes and any special assessments of record against such property which have not been removed by these proceedings; also, subject to payment by the purchaser of interest at 8% per annum, the Note's current rate, on the balance of the bid from the date of sale to date of compliance with the bid; also, subject to any existing easements or restrictions of record; and also subject to payment by the purchaser for preparation of the deed and deed stamps.

We would further ask that this Court issue an Order directing the South Carolina Department of Motor Vehicles to issue a new title regarding the subject mobile home in the name of the successful bidder at the foreclosure sale, free and clear of all liens.

REFERENCE ADJOURNED.
SWORN

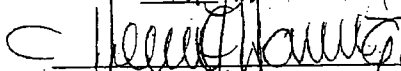
BROCK & SCOTT, PLLC

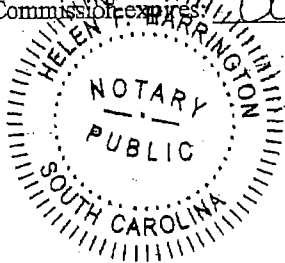


William P. Stork, SC Bar No: 100242
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Phone 803-454-3540 Fax 803-454-3541
ATTORNEYS FOR PLAINTIFF

SWORN TO BEFORE ME THIS DAY:

This the 20th day of June, 2015


(L.S.)
NOTARY PUBLIC OF SOUTH CAROLINA
My Commission expires: 09/21/2019



File reference: 08-01399

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF RICHLAND) C/A #: 2010-CP-40-5886

MidFirst Bank,
Plaintiff,

v.

Mahasin K. Bowen, as Personal
Representative for the Estate of
Mary Lee Samuel; Mahasin K. Bowen;
Raymond Samuel a/k/a Shamsud-din
Raymond Samuel; Cecil Samuel a/k/a
Cecil A. Samuel; Charles Samuel,
Jr.; Earl Hassan Samuel; Kenneth
Kareem Samuel; Tauheedah Mateen;
Kilgore Marketing Solutions dba
RSVP Columbia; South Carolina
Department of Motor Vehicles,

Defendants.

2016 JUL 19 AM 11:03
JEANNETTE M. MCBRIDE
C.C. CLERK
ORIGINAL

RICHLAND COUNTY
FILED

PETITION

Wednesday, November 4, 2015
3:45 p.m. - 3:59 p.m.

The Petition was heard before The Honorable
Judge Joseph M. Strickland, at the Richland County
Judicial Center, 1701 Main Street, Columbia, South
Carolina, on the 4th day of November, 2015 before
Nadine A. Garrett, Court Reporter and Notary Public
in and for the State of South Carolina.

1 THE COURT: All right. Today's November the 4th,
2 2015. Okay. I see your written proposal. Why
3 don't you make it clear for the record, though.

4 MR. JORDAN: Yes, sir. I do represent Mahasin K.
5 Bowen, who is the first named Defendant on the
6 list. Also here today, and I'm representing
7 him as well, is Raymond Samuel.

8 MR. SAMUEL: Kenneth Samuel.

9 MR. JORDAN: Or Kenneth Samuel.

10 THE COURT: I'm sorry?

11 MR. JORDAN: Kenneth Samuel. And, Your Honor, we
12 really can't talk simply about the petition to
13 set aside the sale. But the sale happened, it
14 happened without notice to my client, and
15 that's, I think, evident. But the reason that
16 we're here today is because my client filed a
17 motion to alter or amend the judgment of
18 foreclosure and sale. And this was a motion
19 filed timely with the court, served timely upon
20 the Defendant's attorney. And in that regard
21 I have -- it was served by certified mail
22 return receipt requested. I've got the green
23 card, but I'll hand up at this time copies of,
24 not only the green card, but the tracking and
25 the actual receipt that he paid to -- that was



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1 paid to -- at the post office to actually send
2 this certified mail. And the mailing was done
3 on the same day the motion was filed, which was
4 August the 10th. And it was actually signed
5 for on August the 11th. And that's not
6 reflected on the green card, but it does
7 reflect that on the tracking sheet, which is
8 attached to the back of what I just handed up.
9 So all that said, the motion to alter or amend
10 judgment was properly served and properly filed
11 and it was filed in a timely fashion. Well,
12 actually, it was only three days after the time
13 they received the judgment to the time they
14 actually prepared it. And, of course, they
15 were acting pro se at the time. They just now,
16 in the last week or so, have obtained my
17 involvement in this case. So what we've got
18 here, Judge, is a motion under Rule 59(e) that
19 has not been ruled on. And therefore the
20 judgment is actually not final. And the sale,
21 which was conducted, assuming that the judgment
22 was in fact filed and authorized the sale, you
23 know, the sale has to be annulled. Now,
24 unfortunately the sale resulted in the purchase
25 of the property by the Plaintiff, so, you know,



1 it would not be a difficult thing to just
2 reverse the sale, put everything back the way
3 it was before and then we can argue this
4 motion. And frankly I was prepared -- when I
5 say motion, the motion to alter or amend I'm
6 prepared to argue today. And frankly, Judge,
7 what we, you know, would discuss if you want to
8 go this far is the fact that the judgment of
9 foreclosure was a result of granting a motion
10 for summary judgment. And what we've got --
11 and the judgment is actually a lot of
12 conclusions, but no findings, okay. And what
13 we're primarily attacking here, our main
14 focus -- not our only focus, but our main focus
15 is the fact that the judgment actually reformed
16 the mortgage to add a mobile home, saying that
17 it was the intention of the parties that the
18 mobile home be included in the mortgage. And
19 this was done and the Court made the
20 conclusions in the judgments of that to the
21 effect that it should be done without any
22 evidence whatsoever of the intentions of the
23 parties. And, of course, the parties do not
24 include the Plaintiff because the Plaintiff was
25 an assignee of the mortgage. So we're talking



1 about the original mortgagee, SouthTrust
2 Mortgage Corporation, and the two mortgagors,
3 Mary Lee Samuel and Raymond Samuel. Those are
4 the parties to the mortgage, those are the
5 parties who would be able to say if they were
6 present in court what the intention of the
7 parties was. Now, of course, all of that is
8 nice to know and it's certainly nice that we
9 can go to a trial and have people testify as to
10 the intentions and that type of thing, but this
11 is summary judgment, okay. And summary
12 judgment certainly is premised on the fact that
13 there are no material issues of fact in
14 dispute. And here the answer of the Defendants
15 clearly shows that the defense was raised about
16 the mobile home. And the mortgage itself, if
17 the Court would look at the mortgage, it is
18 absolutely unambiguous. There's not a mention,
19 not an implication or anything regarding the
20 mobile home. You know, you look at the
21 appraisal that was part of the memorandum filed
22 by the Plaintiff -- motion for summary judgment
23 and it actually describes this house, not as a
24 mobile home, but a one-story manufactured
25 ranch, okay. And I surmise from that, Judge,



1 that the appraiser was directed to make sure
2 that the appraisal did not mention a mobile
3 home. I feel sure it was the intention of the
4 mortgagee not to include the mobile home in the
5 description of the mortgage property because it
6 wanted to sell this loan to someone down the
7 line as a non-mobile home loan. And mobile
8 home loans are typically for 20 years or less
9 and this loan was made for 30 years like a
10 typical stick-built house would be. So frankly
11 there's just no evidence and no attempt to
12 submit any evidence has been made. There's
13 actually not a mention of the mobile home in
14 the motion for summary judgment or in the
15 memorandum in support of the summary judgment
16 other than the fact that the amended complaint
17 was attached to the memorandum. And the -- you
18 could say that the appraisal mentioned it, but
19 it mentioned it as something other than a
20 mobile home. But in the complaint the
21 allegation is that the parties intended or that
22 there was a mistake or something of that
23 nature, but nothing has been presented to the
24 court in the form of affidavit in support of
25 that evidence, which is required in order to

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1 make a ruling on a summary judgment motion.
2 So, Your Honor, it's just apparent that this
3 case needs to have a trial on the merits, that
4 the summary judgment motion should not have
5 been granted. And I will say too that we have
6 other issues other than a mobile home, it's
7 just that that is the most glaring issue. But
8 the Defendants would ask that, not only the
9 sale be reversed or set aside, but that the
10 Court reverse it's ruling in granting a summary
11 judgment when there are clearly evidence --
12 evidence lacking to start with but, it is clear
13 that there are many, many, many material issues
14 of fact. And I'll point out too that the
15 answer in this case that the Defendants served
16 and filed is 27 pages long, including just
17 innumerable counter claims. And the Court and
18 its judgment, which of course was prepared by
19 the Plaintiff's attorney, basically concluded
20 that, without any findings of fact or any kind
21 of -- anything in there directed to the counter
22 claims, basically found that the counter claims
23 should be dismissed with prejudice. So, you
24 know, they're left, not only, you know, with a
25 finding in favor of the Plaintiff -- and the



1 Plaintiff only asked that it be granted a
2 judgment of foreclosure. It doesn't say in the
3 motion that they also are seeking to have the
4 counter claims to be, you know, dismissed or
5 with or without prejudice or anything like
6 that. But, you know -- so what the Defendants
7 really want here is to have their day in court
8 and they want to be able to confront the
9 Plaintiff with regard to the intention of the
10 parties, what proof do they have that the
11 parties to the mortgage actually intended to,
12 not only secure the land or have the land
13 secure the mortgage, but also a mobile home.
14 A mobile home in this particular case is a
15 mobile home that is personal property. It's
16 never been affixed to the land, never been in
17 any way, shape, or form converted to real
18 property, so it's still personal property. And
19 apparently there's a problem with the fact that
20 the mobile home has never been titled. So all
21 of those are issues that we would ask that we
22 have an opportunity to address on the merits.

23 THE COURT: Okay. Now, I will point out that under
24 the rules of civil procedure there is no
25 requirement that the court make findings of



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1 fact and conclusions of law when ruling on a
2 motion for summary judgment. And I understand
3 your position, but I just want to point that --
4 make that clear for the record.

5 MR. JORDAN: Yes, sir.

6 THE COURT: And Mr. Burgess just came. He's here
7 for the 4:00 o'clock case. Mr. Burgess, there
8 was some kind of snafu and your firm didn't
9 appear for the 3:00 o'clock hearing. And what
10 I'm going to do is suggest that you order a
11 transcript of this hearing of Mr. Jordan's
12 arguments just now. And I'll give your firm a
13 chance to respond in writing and we're not
14 going to have another hearing. It's pretty
15 straightforward. Mr. Jordan submitted
16 something in writing. I'll let y'all review
17 that. How much time would y'all need to
18 respond to that?

19 MR. BURGESS: Your Honor, I would say two weeks
20 would be sufficient.

21 THE COURT: Okay.

22 MR. BURGESS: Two weeks from the time we get the
23 transcript.

24 THE COURT: Ms. Garrett, how soon can you get them a
25 transcript?



STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF RICHLAND) C/A No. 2010-CP-40-05886

MidFirst Bank,
Plaintiff,

v.

Mahasin K. Bowen, as Personal
Representative for the Estate of Mary Lee
Samuel; Mahasin K. Bowen; Raymond Samuel
a/k/a Shamsud-din Raymond Samuel; Cecil
Samuel; Charles Samuel, Jr.; Earl Hassan
Samuel; Kenneth Kareem Samuel; Tauheedah
Mateen; Kilgore Marketing Solutions dba
RSVP Columbia; South Carolina Department
of Motor Vehicles,

Defendants..

COPY

HEARING

Thursday, May 19, 2016
3:52 p.m. - 4:31 p.m.

The hearing before the Honorable Joseph M. Strickland, Master-In-Equity for Richland County, was taken at 1701 Main Street, Suite 2D, Columbia, South Carolina on the 19th day of May, 2016 before Jennifer L. Cash, Court Reporter and Notary Public in and for the State of South Carolina.



1 THE COURT: This is number 2010-CP-40-05886.
2 MidFirst Bank against Mary Samuel and others.
3 Our notes indicate that the first motion is a
4 motion to withdraw admissions. Mr. Jordan, is
5 that your motion, sir?

6 MR. JORDAN: Yes, Your Honor. I have filed two
7 motions, that motion to withdraw admissions and
8 also the motion to reconsider until -- or amend
9 the order that you issued back on April -- I
10 believe it was filed on April the 25th although
11 I did not get a copy of it until May the 2nd.
12 But you did summarily deny my motion -- my
13 client's motion. They were -- they had filed
14 a motion back in August of 2015 to alter or
15 amend and I appreciate the Court affording us
16 a quick hearing today because I'm concerned
17 that my motion that I filed to alter or amend
18 being the second such motion is not going to
19 grant me 30 days to file an appeal to the Court
20 of Appeals. I think we're going to run out --
21 run off of the time frame that I got notice of
22 your order or the filing of your order denying
23 me on the motion that they had filed. We do
24 have this other motion which has to do with
25 withdrawing the admissions and what happened in



1 this case, Judge is that Mahasin Bowen which is
2 the -- she was one of the siblings that owned
3 the property along with a few others -- several
4 other brothers and sisters. And she answered
5 purportedly to answer on behalf of herself and
6 everybody else, all the other owners. But
7 obviously, she's not a lawyer and therefore I
8 certainly am not sure whether or not her answer
9 on behalf of other people constituted any type
10 of response on their behalf. But certainly her
11 answer would certainly be sufficient from her
12 perspective. And I think the Plaintiff took
13 that same position, they did file an affidavit
14 of default as to these other owners and Mahasin
15 Bowen was not found to be in default and that
16 was of course what ultimately lead to the
17 motion for summary judgement. But in this
18 particular case we -- we had a request for
19 admission that was served on Ms. Bowen by the
20 Plaintiff and there were other discovery
21 requests as well, but for purposes of the
22 hearing today we are just going to focus on the
23 motion to -- motion for admi- -- the request
24 for admissions and she did not answer any
25 discovery. Of course, the concern that I have



1 on behalf of this Defendant is the fact that
2 pursuant to Rule 36 failure to answer would
3 have been technically construed as an admission
4 by her of the matters that were contained in
5 that request for admissions. So that -- that's
6 the purpose of the motions, Judge. I'm not
7 really sure that we need to get a court order
8 on this because I would point out that the
9 failure to answer this request for admission
10 was never brought up as a issue in the case,
11 okay? It was not brought up by the Plaintiff
12 at the hearing on the motion for summary
13 judgement. It is not mentioned whatsoever in
14 the judgement of foreclosure of sale granting
15 the motion for summary judgement. So frankly,
16 I'm not sure whether it's really anything to
17 move at this stage, but in order to protect
18 myself going forward and my client's interest
19 I wanted to do this motion which effectively is
20 a request that the Court allow the -- at least
21 specifically two items in the -- in the request
22 for admissions, allow them to be explained or
23 withdrawn as an admission. And those two
24 things are request number five and request
25 number nine.



1 THE COURT: What do they say?

2 MR. JORDAN: Okay. Request number five Judge, had
3 to do with a legal description that was put in
4 the -- in that request that says effectively
5 that this is real property located in Richland
6 County that was -- that was designated or
7 described in the mortgage. Okay?

8 THE COURT: Uh-huh.

9 MR. JORDAN: So in other words, it's explaining what
10 the Plaintiff's mortgage states. It talks
11 about 5.6 something acres and it talks about a
12 mobile home. Okay? Now, unfortunately for the
13 Plaintiff, that's not what the mortgage said.
14 The mortgage said what it said and the mortgage
15 did not mention any mobile home and the legal
16 description is written completely and obviously
17 different than what the mortgage -- in the
18 mortgage is ---

19 THE COURT: All right. Mr. Stork, now he says that
20 that's just -- this is not true. I mean, his
21 client's admitted something that wasn't --
22 that's really not true. How do you respond to
23 that?

24 MR. STORK: Which number is this under?

25 THE COURT: Number five.

1 MR. STORK: Your Honor, the purpose for request for
2 admission number five is in regards to the
3 summons and complaint which of course were
4 filed while we were attempting to reform the
5 mortgage to encumber the mobile home. So the
6 purpose for request for admission number five
7 was to get them to admit or deny that the
8 mobile home was intended to be encumbered in
9 the legal description of the mortgage. Once
10 again, they failed to respond to that thereby
11 deeming this request for admission admitted.
12 And Your Honor, this was served July 16, 2013.
13 Almost three years ago and we haven't heard any
14 form of response since then. There's been
15 several attempts at depositions. None of those
16 have become fruitful. Your Honor, honestly at
17 this point any sort of claims or counter claims
18 that they would have in addition to them
19 admitting that they don't have any claims or
20 counter claims through the request for
21 admissions would be ruled moot by failure to
22 prosecute based on the fact that there have
23 been three years of outstanding discovery.
24 They've been uncooperative at every single turn
25 here, Judge. And ---



1 THE COURT: Is that -- what I'm -- is that
2 something, what they admitted and now trying to
3 withdraw here, is that something your client
4 can prove?

5 MR. STORK: Yes, Your Honor, as a matter of fact we
6 -- in support of our motion for summary
7 judgement we filed an extremely detailed
8 memorandum in support. Twenty-eight pages with
9 over a hundred pages of exhibits. And Judge,
10 one of the things that we included -- hold on
11 a second. One of the things that we included,
12 Judge, was the initial appraisal for the
13 property. In the initial origination appraisal
14 very clearly states that there's a mobile home
15 encumbered on the property.

16 THE COURT: Let me -- let me check back with Mr.
17 Jordan. Now Mr. Jordan, if you withdraw your
18 admission and they actually prove what you
19 denied or what you've now said you don't admit
20 to that means that your clients can be
21 sanctioned. I mean, isn't that how the rule
22 is? If you have to prove something that they
23 deny then the other side has to pay the cost of
24 the effort it took to prove what you should
25 have admitted.



1 MR. JORDAN: Your Honor, all we ask is to seek the
2 truth and if there's a charge for them to prove
3 the truth, you know, I'm sure to object to it
4 but ultimately if they have to pay it they have
5 to pay it. And I would like to hand up, just
6 so you can follow along with what I'm saying
7 here is this is -- this is the request for
8 admissions. This came from his Exhibits, so
9 that's number five right there and it shows the
10 legal description and here's the mortgage in
11 the description.

12 THE COURT: Okay.

13 MR. JORDAN: Okay. And all we're saying Judge, is
14 the mortgage says what it says. And no
15 admission or anything like that is going to
16 change the mortgage. And frankly, from that
17 perspective our point is that the only thing
18 that they can foreclose unless they can prove
19 somehow that the mortgage should be reformed --
20 and I point to you that the amended complaint
21 does not in it's prayer seek any kind of
22 reformation, the judgement does not conclude
23 that mortgage should be reformed. So at this
24 stage what we've got here is a mortgage that
25 stands on it's own. And the fact that my



1 client failed to admit -- actually Judge, my
2 client at that point in time was pro se. Okay?
3 She did not have a lawyer, she didn't know what
4 she was supposed to do with regard to
5 responding to discovery on time or petition to
6 waive your rights. But the bottom line is by
7 admitting -- technically admitting the request
8 number five doesn't change the mortgage. I
9 mean, you know, how -- how, you know,
10 convenient would it be for the Plaintiff to
11 just put in a request for admissions that 1701
12 Main Street is really the mortgage property so
13 therefore if you don't answer that's what it's
14 going to be. You know, I mean, so what they're
15 trying to get at is two points. Number one,
16 that the Defendant answered -- the Defendant in
17 numerous cases -- numerous points that she made
18 in her answer that the mortgage says what is
19 says and, you know, they certainly are not
20 going to concede that it means anything more
21 than -- other than what it says. And that's --
22 that answer has been the answer. It was timely
23 filed by Ms. Bowen and it's been on the books
24 all along and there's no evidence that any
25 motion was made to strike the answer or



1 anything of that nature by the Plaintiff. And
2 at this stage what we're still waiting on
3 really is any proof from the Plaintiff that
4 that particular legal description that they
5 used in the request to admit and the amended
6 complaint and in the judgement is actually an
7 appropriate legal description to have in the
8 mortgage. The mortgage has not been reformed
9 and no evidence whatsoever to show that it
10 should be reformed has been presented. And I
11 point out with regard to the appraisal that
12 that is not evidence. It was attached as an
13 Exhibit to the motion for summary judgement,
14 I'll grant you that. But there's no affidavit
15 that would, you know, that would indicate that
16 it is an appropriate document by a competent
17 witness who has confirmed that this is his
18 appraisal or even by the original mortgagee
19 who received the -- or at least allegedly
20 received the appraisal. And that party, which
21 is South Trust Mortgage Corporation has never
22 appeared in this case, has never issued an
23 affidavit of any type and that would be the
24 only party that would have any right or ability
25 to indicate to the Court that the intention to



1 include the mortgage was always the deal.
2 Because who's to say what the understanding was
3 other than the parties to the contract and the
4 parties to the contract are Mary Lee Samuel and
5 South Trust Mortgage Corporation. And Mary Lee
6 Samuel is deceased and South Trust Mortgage
7 Corporation has not appeared in any form in
8 this matter. So at the end of the day the
9 intention of the parties, which might be an
10 issue has not been -- of course they have not
11 been proved, but no effort -- no effort
12 whatsoever has been made to have it proved.

13 MR. STORK: Judge, if I may respond? There's really
14 just a few things going through my head at this
15 point. First, this is I believe the first time
16 I've ever had to argue a second 59(e) motion.
17 All of these issues were covered in the prior
18 59(e) motion, which has been denied and now
19 we're back re-arguing these on a subsequent
20 59(e) motion. Secondly, they're not even
21 really appropriately brought in a 59(e) motion
22 because they had to have been raised, argued or
23 ruled upon by the court. The Defendant who
24 showed up for the motion for summary judgement
25 hearing never brought anything up about the

1 mobile home. Third, Your Honor, Mr. Jordan I
2 believe misspoke when he stated that there was
3 no request for a reform of the mortgage in our
4 amended complaint. That's the very first
5 bullet point in our prayer for relief is that
6 the mortgage be reformed, Judge. The mortgage
7 be reformed as requested above et cetera, and
8 be related back to the date of it's
9 reformation. Additionally Judge, the reformed
10 legal description was included in the order
11 that was before the Court thereby reforming the
12 mortgage. This has been done completely and
13 totally properly. I, you know, applaud the
14 Defendant's zeal in attempting to keep this
15 property six years on after this case has been
16 filed. I understand that this is family land
17 and it probably does mean a good bit to them.
18 However, Judge, the law is the law. The
19 payments haven't been made. It is glaringly
20 obvious that the mobile home was intended to be
21 encumbered by the -- just based on the -- which
22 I included as an Exhibit to my memorandum in
23 support, the origination appraisal, Judge.
24 Which specifically stated the subject is a
25 manufactured house. This is extremely clear



1 and unambiguous, manufactured house located on
2 subject property, was intended to be included.
3 There's no reason that someone would say the
4 subject is a manufactured house in the
5 origination appraisal when it's vacant land.
6 So, Your Honor, there's really -- there was no
7 issue of material fact before the Court a year
8 ago when we argued the motion for summary
9 judgement. There was no issue of material fact
10 which would justify a motion to reconsider when
11 the previous motion to reconsider and then
12 whenever the points and authorities document --
13 I don't really know exactly what you would call
14 that, when that was ruled upon. And Your
15 Honor, there's no justification before the
16 Court again, at this second 59(e) motion to go
17 back and undo a sale that occurred months ago.
18 To undo a motion for -- or a summary judgement
19 order that was granted a year ago and to
20 continue litigation that has been ongoing for
21 six years at this time.

22 THE COURT: I was going to say, when was the last
23 payment made?

24 MR. STORK: Your Honor, last payment was made
25 February 1st, 2010.

1 THE COURT: Okay. And the sale took place when --
2 the judicial sale?

3 MR. STORK: The sale took place ---

4 MR. JORDAN: September 8, 2015.

5 MR. STORK: Thank you, Judge -- or thank you Mr.
6 Jordan.

7 THE COURT: All right. If I ---

8 MR. JORDAN: Judge ---

9 THE COURT: Mr. Jordan, if I grant your motion what
10 relief are you going to get when ---

11 MR. JORDAN: What relief we have, Judge, in this
12 motion to reconsider -- now, that is different
13 than the motion for the admissions.

14 THE COURT: Right.

15 MR. JORDAN: But, you know, what our position --
16 primary position is is that the mobile home was
17 never intended to be part of the mortgaged
18 property. Simple as that. You look at the
19 mortgage, you see what it says, no mobile home
20 is identified period. And no evidence has been
21 presented by the Plaintiff -- and again, the
22 affidavit attached to the motion for summary
23 judgement is not evidence. And no evidence
24 whatsoever -- and let me point out about the
25 appraisal. It describes this mobile home as a



1 one story ranch, okay? There's no mobile home
2 I've ever heard of that anybody would talk to
3 you and say that's a one story ranch. Okay?
4 The ---

5 THE COURT: Now ---

6 MR. JORDAN: --- reason they did that I will submit
7 to the Court is that the Plaintiff, the
8 mortgagee -- South Trust Mortgage Corporation
9 intended from the start to mislead anyone else
10 potentially purchasing this loan to affect this
11 property included a mobile home. So their
12 intention was to not describe the mobile home
13 as part of the mortgage property and that again
14 was South Trust Mortgage Corporation, the
15 original lender. That was their intention.
16 And of course there's no evidence to the
17 contrary and no evidence from Mary Lee Samuel
18 that that intention is not the case. Mr. Stork
19 has brought up in his memorandum filed last
20 December that the -- that the parties had a
21 mutual mistake. Okay. Well number one, if
22 there was in fact a mutual mistake then that's
23 a matter of fact that cannot be decided by
24 summary judgement. Any of these things about
25 what was the parties intention, whether it was

1 the intention of the parties to file some kind
2 of prior agreement that's never been put into
3 evidence or was their intention to include a
4 mobile home or was it an intention to include
5 this specific mobile home, was their intention
6 to modify the legal description of the mortgage
7 in any way? Again, no proof of any intention.
8 And if it were proof it could not be the basis
9 for deciding in favor of the Plaintiff on
10 summary judgement. It's a matter of fact, no
11 question about it, I can cite case after case
12 to that affect. It's clearly a matter of fact
13 it cannot be decided at summary judgement, so
14 in this case the judge -- the judgement that
15 was entered granted the motion for summary
16 judgement based on complete lack of proof. And
17 interestingly enough, there's just so many
18 things in the judgement that my motion for --
19 to offer an amend or reconsider addresses that
20 -- it's just curious, you know, all the errors.
21 But the main thing is the judgement did not
22 reform the legal description. And let me point
23 out too, Judge, that that legal description
24 came from a 2007 case that there was a consent
25 order entered in that case that was consented



1 by MidFirst Bank at the order of some other
2 mortgage on an adjacent piece of property and
3 the judge signed it. I don't know who it was
4 that signed that order, but it was done on a
5 consent order basis. Not after a trial or a
6 hearing or anything. That said let's clarify
7 the legal description so that this closed
8 mortgagee would not be concerned that there
9 wasn't some overlap in the coverage. That's
10 the whole purpose of that legal description
11 change in 2007. But my point is that Mary Lee
12 Samuel did not agree to that change. There's
13 no evidence whatsoever that she agreed to
14 anything other than the document she signed,
15 mortgage that she signed to mortgage this
16 property. If they've got a complaint about how
17 the mortgage legal description was prepared
18 they need to go back to the closing attorney
19 and talk to him about that. But the mortgage
20 is unambiguous, 100 percent unambiguous. And
21 if it determined to be ambiguous this cannot be
22 decided at summary judgement, you know, the
23 Court needs to take in extraneous evid- --
24 information or evidence with regard to why it's
25 ambiguous and try to explain that, but that.



1 can't be decided at summary judgement. It
2 needs to go to a normal trial or hearing on the
3 case.

4 THE COURT: Mr. Stork, let me ask you, who owns the
5 property now?

6 MR. STORK: Your Honor, the current owner is
7 MidFirst Bank.

8 THE COURT: Okay. What was the amount of the debt
9 at the time of the sale?

10 MR. STORK: The amount of debt at the time of the
11 sale ---

12 THE COURT: The judicial sale.

13 MR. STORK: Yes, Your Honor, was \$117,282.72.

14 THE COURT: You've already proffered that the last
15 payment was made on February 1st, 2010.

16 MR. STORK: That is -- my apologies, Judge. The
17 last payment was made January 1st, 2010. The
18 default date was February 1st, 2010. My
19 apologies for misspeaking earlier.

20 THE COURT: Okay. And Mr. Jordan, if I grant your
21 motions you want a new trial? Or a trial,
22 period?

23 MR. JORDAN: We would like a trial on the issue of
24 the mobile home at the very least. And
25 frankly, I think under the circumstances that



1 ought to be granted. But let me also address
2 the issue of the debt. The evidence that the
3 presented in support of the debt its hearsay.
4 They've got an affidavit of indebtedness, you
5 know, which doesn't overcome the business
6 records as evidence act. There are no business
7 records, you know, it's just a affidavit that
8 the guy in summary fashion says this is what's
9 due. That's not an appropriate affidavit to
10 cover the hearsay rule. I mean, it's -- what
11 they give you to attach would be some type of
12 computer printout or something of that nature
13 that shows that this information was prepared
14 by the bank and also contemporaneous with the,
15 you know, the technical requirements it was
16 prepared in a fashion that would be
17 trustworthy. You know, they've got nothing
18 like that and so we have a question with regard
19 to the, you know, those issues. Now ---

20 **THE COURT:** I don't -- before I rule -- before I
21 rule is there any chance Mr. Jordan that your
22 clients can settle this case?

23 **MR. JORDAN:** My client -- and I represent Mahasin
24 Bowen. I also represent Kenneth Samuel who is
25 here today. Mr. Samuel is a Vet. He's a

1 disabled Vet, correct?

2 MR. SAMUEL: Correct.

3 MR. JORDAN: He's got a -- he got a VA title and he
4 tells me he's working on trying to get
5 something -- some financing to do just that.
6 So, yes. There is a -- I think a better than
7 average chance that he could do that, but, you
8 know, I certainly can't testify for him as far
9 as how that's progressing. I don't know. But,
10 you know, certainly -- I mean, in any event,
11 Judge, no matter whether you decide that, you
12 know, we need to -- we need -- just deny the
13 motion and go forward, we've got some issues
14 here that have not been addressed that to me it
15 -- one of the -- my first point in this motion
16 to reconsider is the fact that this property
17 was sold on September 8th, 2015. We have a
18 timely filed motion to reconsider that was on
19 the, you know, on the books ready to be heard
20 and it was completely ignored.

21 THE COURT: Who made the motion to reconsider?

22 MR. JORDAN: Mahasin Bowen. Okay? And it was in
23 all respect, timely. And the interesting thing
24 is the Plaintiff's memorandum and response to
25 my memorandum earlier, it made no comment



1 whatsoever on that. I mean, that's -- I mean,
2 it's kind of hard to comment to. It was
3 outstanding, you know, and what that means is
4 is, you know, we never got that resolved so the
5 time for appeal has never run. Okay? It's
6 currently running, but it hasn't run yet.

7 THE COURT: Now, let me ask you about that. Now,
8 the time for appeal, okay. And you can refresh
9 my recollection on the appellate rule, what
10 starts the time for appeal running?

11 MR. JORDAN: The receipt of notice of -- ordinarily,
12 of notice of a judgement. You've got 30 days.

13 THE COURT: So -- so ---

14 MR. JORDAN: And that final motion to reconsider
15 that suspends the running, okay? Until that
16 motion is ruled upon.

17 THE COURT: All right. So you're saying the time
18 for appeal starts to run when your client got
19 notice of a judgement?

20 MR. JORDAN: Yes, sir.

21 THE COURT: And you're saying that if you filed a
22 rule 59(e) motion then that stays the time for
23 appeal?

24 MR. JORDAN: Well, let's say this, it at least
25 suspends it. I'm not sure whether stay is the

1 right word or not.

2 THE COURT: Suspends it?

3 MR. JORDAN: But ---

4 THE COURT: Okay. Is there -- is that what the rule
5 says?

6 MR. JORDAN: That's what the rule says on rule
7 59(e), okay? And of course, what we've got in
8 this case is the rule -- the ruling that you
9 made denying that particular motion. I'm
10 talking about our August, 2015 motion. Your
11 ruling didn't come out until April the 25th.
12 And I didn't get notice of it until May the
13 2nd. And so the time runs from May the 2nd
14 until -- for 30 days.

15 THE COURT: Now, isn't that something that you
16 should take up with the appellate court though?
17 Not with me.

18 MR. JORDAN: Well, I mean I fully expect ---

19 THE COURT: They can -- I'm sorry?

20 MR. JORDAN: I fully expect that that's what we'll
21 do if you deny our motion.

22 THE COURT: I mean, I -- I'm not sure I have the
23 authority to determine whether or not your
24 appeal is timely or any of that. I mean,
25 that's a ---



1 MR. JORDAN: I understand that point. But I mean,
2 it's certainly -- and I feel comfortable with
3 the fact that I have approximately until June
4 1st to file an appeal. And I certainly expect
5 to file an appeal earlier than that if we get
6 an adverse ruling. But the -- obviously what
7 happened here Judge, is two -- two things.
8 Number one, no ruling on the motion until April
9 25th, but the property was sold on September
10 the 8th, 2015. Okay? And the property was
11 land, 5.67 acres, and a mobile home. Okay?
12 Now, I certainly am quite familiar with what
13 happens on appeal when you appeal the sale fo
14 a real property you've got to post a bond in
15 order to stop the sale. You and I have been
16 through that, we know the rules on that pretty
17 well up and down. There's no question too that
18 this mobile home is personal property, not real
19 property. And the way I read the statute was
20 that -- with -- and the rules with regard to
21 supersedeas bonds is that is staid because it's
22 -- we're not, you know, there's no exception
23 for the sale of personal property. So, you
24 know, if we have a staid sale of a mobile home,
25 but you sold it already, you know, I mean to me



1 that's a problem. And of course, the problem
2 of course is MidFirst's problem because they
3 now claim to be the owner of the property and
4 if they do like most owners and try to sell the
5 property and then we win on appeal, well we got
6 a real big problem then.

7 THE COURT: Mr. Stork, is the property occupied at
8 this time?

9 MR. STORK: Your Honor, I honestly don't know if the
10 property is occupied ---

11 MR. JORDAN: It is.

12 MR. STORK: --- or not. It is?

13 MR. JORDAN: Yes.

14 MR. STORK: Apparently, it is. Judge, there is -- I
15 don't know exactly how to attack everything
16 that Mr. Jordan levied out there. That was a
17 very long soliloquy regarding what's going on
18 with this matter. Except to say, a 59(e)
19 motion has already been raised and ruled upon.
20 You can't bring another 59(e) motion
21 reconsidering the denial of a previous 59(e)
22 motion. The proper procedure at that point is
23 to file an appeal. You can't just keep filing
24 59(e) motions in perpetuity and that's kind of
25 what we have here. Any sort of issues



1 addressed in the 59(e) motion have to have been
2 raised and ruled upon before. You cannot first
3 bring them in a 59(e) motion. That is where
4 we're getting the -- all this -- well, honestly
5 the 59(e) motion that was filed didn't raise
6 any sort of issues regarding the mobile home.
7 The mobile home issue didn't show up until Mr.
8 Jordan filed a subsequent pleading which was in
9 the guise of, I guess maybe a modified 59(e)
10 motion entitled points and authorities. Now,
11 that has been raised and ruled upon and been
12 denied by the court. So his proper venue at
13 this point would be to file an appeal if he was
14 going to do that. Next Judge, in the third --
15 I'm going to call this before the Court the
16 third 59(e) motion for lack of a better term.
17 This is the first time we're hearing anything
18 about an affidavit of debt. The affidavit of
19 debt wasn't questioned at the summary judgement
20 hearing, it wasn't questioned at the first
21 59(e) motion, it wasn't questioned at the
22 second 59(e) motion, now this is all of a
23 sudden becoming an issue. And that is -- it
24 weights out the business records exception,
25 block one, block two, block three, block four,



1 goes through and states the judgement figures
2 and further the advances and all, so that is
3 sworn testimony delivered to the Court that was
4 served on the answering parties. No affidavits
5 in opposition. This has been just an exercise
6 in us attempting to get information, us doing
7 everything correctly. Dotting our i's and
8 crossing our t's and just dragging on and on
9 and on and on, Your Honor. We attempted
10 discovery for two years and that was fruitless
11 over two years until we went to the motion for
12 summary judgement hearing. We -- I filed a 28
13 page memorandum with over a hundred pages of
14 Exhibits prior attacking their 18 page answer,
15 which was -- included some Pennsylvania law for
16 some reason as well and there was no issue of
17 material fact before the Court. Your Honor, I
18 remember you at the hearing saying that there's
19 really -- pretty much, essentially an open and
20 shut case as far as this one goes. And that's
21 why I'm not really sure why we're before the
22 Court today, Judge. There was no issue of
23 material fact to the motion for summary
24 judgement hearing. There was no reason to
25 grant the motion to alter or amend or the



1 points and authorities and there's no reason
2 for the Court to grant the second one. If Mr.
3 Jordan wants to appeal that would be the
4 appropriate avenue right now and we'll be more
5 than happy to address that appeal as soon as
6 the notes come across my desk.

7 **THE COURT:** The motion to withdraw admissions is
8 denied and the motion on the rule 59(e) to
9 reconsider is likewise denied. Mr. Stork, if
10 you will present a brief, non-argumentative
11 order that ---

12 **MR. STORK:** Yes, Your Honor, will do.

13 **THE COURT:** Thank you all.

14 (There being nothing further, the hearing concluded
15 at 4:31 p.m.)
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Joseph M. Strickland, Master in Equity
Case No. 2010-CP-40-5886

RECEIVED

DEC 05 2016
SC Court of Appeals

Appellate Case No. 2016-001119

MidFirst Bank,..... Respondent,

v.

Mahasin K. Bowen as Personal Representative for the Estate of Mary Lee Samuel; Mahasin K. Bowen; Cecil Samuel a/k/a Cecil A. Samuel; Charles Samuel, Jr.; Earl Hassan Samuel; Kenneth Kareem Samuel; Kilgore Marketing Solutions dba RSVP Columbia; Tauheedah Mateen; Raymond Samuel a/k/a Shamsud-din Raymond Samuel; South Carolina Attorney General; South Carolina Department of Motor Vehicles,.....Defendants,

of whom Mahasin K. Bowen, as Personal Representative for the Estate of Mary Lee Samuel, and individually is..... Appellant.

CERTIFICATE OF COUNSEL

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

s/Leonard R. Jordan, Jr.

Leonard R. Jordan, Jr.

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November 30, 2016