

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-in-Equity

Appellate (Court of Appeals) Case No. 2016-000099

RECEIVED

MAY 04 2018

S.C. SUPREME COURT

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

v.

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

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

and

U.S. Bank, NA and Alyce F. Otto are the.....Respondents.

Alyce F. Otto, Trustee.....Plaintiff,

v.

Jackson L. Munsey, Jr.....Defendant.

APPENDIX – VOLUME II

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF COMMON PLEAS

3 U.S. BANK, NA, AS TRUSTEE RELATING
4 TO THE CHEVY CHASE FUNDING, LLC,
5 MORTGAGE BACKED CERTIFICATES,
6 SERIES 2004-B,

7 PLAINTIFF,

8 -VS-

9 ALYCE F. OTTO, INDIVIDUALLY; ALYCE F.
10 OTTO, TRUSTEE UNDER DECLARATION OF
11 TRUST OF ALYCE F. OTTO, DATED 11/17/09;
12 TD BANK, NA; THE UNITED STATES OF
13 AMERICA, ACTING BY AND THROUGH ITS
14 AGENCY, THE INTERNAL REVENUE
15 SERVICE; LAURA KERHULAS GIESE, AS
16 CO-TRUSTEE OF THE THEODORE ERNEST
17 KERHULAS TRUST UNDER DECLARATION
18 OF TRUST DATED 5/25/04; MARK WARNER
19 KERHULAS; AS CO-TRUSTEE OF THE
20 THEODORE ERNEST KERHULAS TRUST
21 UNDER DECLARATION OF TRUST DATED
22 5/25/04; JACKSON L. MUNSEY, JR., AND
23 CITIBANK, NA,

24 DEFENDANTS.

25 AND

JACKSON L. MUNSEY, JR.,

CROSS-CLAIM PLAINTIFF,

-VS-

ALYCE F. OTTO, INDIVIDUALLY; AND
ALYCE F. OTTO, TRUSTEE UNDER
DECLARATION OF TRUST OF ALYCE F.
OTTO, DATED 11/17/09,

CROSS-CLAIM DEFENDANTS.

TRANSCRIPT OF TESTIMONY

(2012CP42-3549)

(2012CP42-2874)

February 15, 2016

Spartanburg, South Carolina

1 REFERENCE HELD:

FEBRUARY 15, 2016.

2 BEFORE:

HONORABLE GORDON G. COOPER,
MASTER-IN-EQUITY FOR SPARTANBURG COUNTY.

4 APPEARANCES:

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Kerhulas, co-Trustees of the Theodore Ernest Kerhulas
Trust Under Declaration of Trust.

Sarah Hollis, Court Reporter

1 THE COURT: We are here on Case Number 2012CP42-3549 which is consolidated with Case
2 Number 2012CP42-2874 in the matter of U.S. Bank, NA as Trustee relating to the Chevy Chase
3 Funding, LLC, versus Alyce F. Otto, Individually, and Alyce F. Otto, Trustee Under Declaration
4 of Trust of Alyce F. Otto, et al. Also, included as the Defendants is the Kerhulas Judgment and
5 also the Defendant Jackson L. Munsey and CitiBank. The hearing today has been filed by Erin
6 Culbertson as the attorney for Jackson L. Munsey. Ms. Culbertson.
7 MS. CULBERTSON: Thank you, Judge. Your Honor we are here today based on my Motion
8 to Reconsider the Court's Order that was issued and the Order that Consolidated the Matter with
9 the Otto v. Munsey matter. And my Motion is based on two things, one we would ask that the
10 Order be amended to contain specific language that was included in the Court's Bench ruling but
11 not included in the Order reduced to writing. Specifically the Court ruled from the Bench that
12 Mr. Munsey did not have an equity right of redemption in the property and therefore would not be
13 entitled to notice of any surplus funds in the event of the foreclosure sale. So we would simply
14 ask that which was verbally ruled on by Your Honor be included in the written Order as well.
15 And then perhaps more importantly the Order that was issued by the Court referenced an Exhibit
16 A, List of Damages, but that Exhibit A was not attached to the Order. And in a Return to my
17 Motion, Judge, Mr. Anthony filed a Return on Friday and made reference to a request for a bond
18 that he was potentially going to be making and I wanted to make sure that we clear that up today
19 here as well. It is our position that the bond has already been paid in this case because these two
20 cases were consolidated. Briefs were submitted to Your Honor and Your Honor made a ruling.
21 The bond was set and in fact has been paid into Court in the amount of \$243,000.00. So I think
22 the bond amount was set.
23 THE COURT: All right. I don't have a copy of that Motion that was filed.
24 MR. ANTHONY: Of the Return?
25 THE COURT: Yes, the Return to the Motion.

1 MS. CULBERTSON: And additionally Judge, Mr. Anthony has handed around and circulated
2 his proposed Exhibit A, which we are saying should have been attached to the Order submitted to
3 the Court. And we have some objections to the items included here which I believe the Court
4 ruled differently from the Bench on. So we may need to establish what the Court's ruling from
5 the bench was and make sure it is Exhibit A, clearly is the same numbers.
6 THE COURT: All right. Mr. Anthony?
7 MR. ANTHONY: Your Honor, if it please the Court, I will hand up that Exhibit A, which you
8 ruled. Ms. Culbertson is correct it should have been attached to the Order which we submitted.
9 I apologize to the Court for our oversight apparently in not attaching it. We, first of all, don't
10 have any objections to the language about the right of redemption being barred and I presume that
11 according to Ms. Culbertson that is the Court's ruling. It seems appropriate. The Exhibit A,
12 Your Honor, we sort of talked through in the courtroom as to how that was going to be calculated
13 and then I tried to do that as best I could afterwards, going back and taking into account of
14 everything that was presented in the testimony in evidence determining the amount that I was
15 supposed to put into the Court's order. Of course, all of these action were consolidated because
16 of the fact and intention of what it appears to be that Mr. Munsey was going to make the first
17 mortgage payment, he was going to make the second mortgage payment, and he was going to
18 make the third mortgage payment to my client and there were other things that he was going to
19 pay such as homeowners association fees and the Court awarded attorney's fees and cost and then
20 there were certain checks that had been returned by U. S. Bank, or its predecessor, for which he
21 was to be given credit for those funds that have been deposited in my trust account. So that is our
22 best calculations, if there are objections to that I don't know what they are, but I can certainly
23 address them if there are. Further Your Honor, our request for a bond had to do with the fact that
24 the Court would reserve the right to amend Exhibit A, even though it wasn't attached to the Order,
25 the amount of the judgment ultimately after the foreclosure sale occurred which was scheduled to

1 occur on February 1 and, of course, did not occur and I noticed if you are looking at it that the
2 Order also mentioned February 1, 2015, so that certainly needs to be corrected in any order that
3 the Court issues, it should be February 1, 2016. And, of course, Mr. Munsey through counsel
4 filed an appeal of the foreclosure action and posted a bond which we think had to do with that
5 action, pertaining to the foreclosure action. Therefore, we think the Court ought to establish
6 some amount whether it is in the amount on Exhibit A or something else as a fixed money
7 judgment at this time which is subject to execution unless there is a bond filed in this action but of
8 course any collection efforts as to our judgment.

9 THE COURT: Ms. Culbertson.

10 MS. CULBERTSON: Your Honor these actions have been consolidated and for him to ask for a
11 separate bond I don't think is appropriate and Mr. Anthony could have submitted a brief
12 establishing that position at all the other times that we submitted briefs regarding the bond issue.
13 So again I believe that has been decided by the Court. Since this is not a foreclosure action this
14 portion of the matter is a collection action not a foreclosure and a bond is no where required.
15 And I believe that the enforceability of this damage amount is absolutely subject to the appeal of
16 the first mortgage foreclosure action and the sale of that property will determine what this
17 judgment amount will be. So I think that this judgment amount should not be collectible unless
18 and until the appeal is resolved in favor of U. S. Bank and that foreclosure is allowed to proceed
19 forward.

20 THE COURT: All right.

21 MS. CULBERTSON: My specific objections to the damages list or our specific objections to the
22 damages list, but I believe that Your Honor ruled from the bench that the Greenspace Homeowner
23 dues in the amount of \$39,200.00, the Court ruled that those were going to be wiped out by the
24 first mortgage foreclosure and therefore should not be included in this damages calculation. It
25 was our position and I will renew it again that the second mortgage has not been collected on.

1 TD Bank is a party to this action. They could have quite easily have filed, even just a cross claim
2 to collect on their debt, which would have saved them the whole \$150.00 it is going to take them
3 to file suit which they have not yet done. So in my opinion this inclusion of the second mortgage
4 to TD Bank of \$177,000.00 amount is a windfall to Mrs. Otto. I think that there is some double
5 dipping in here if you also include - - the whole second mortgage comes to \$177,000.00. You
6 have got Carolina First payments which is the same debt of \$11,000.00. And in fact, those
7 \$11,000.00 where the payments came out of the returned checks which were my client's funds
8 paid to U. S. Bank. So I think that there is some double dipping and some confusion here in
9 these numbers all of which we put on the record at the time of the trial.

10 THE COURT: All right. Mr. Anthony any thing?

11 MR. ANTHONY: Your Honor, I would just point out that I don't think that Mr. Munsey should
12 be able to order our collection merely by filing an appeal of the foreclosure action and of course
13 following the Court's ability to reduce judgment as a result of any deficiency that may be waived
14 and the Court was doing that in an effort to be fair to Mr. Munsey to be sure that he got credit for
15 anything that we did not have to pay as a result of the foreclosure. I still think that was
16 appropriate in the Court's eyes but now to come in and say well now that it is going to be two (2)
17 years before that deficiency amount is determined. We can't pursue any form of collection of the
18 money judgment which being entered would be allowing him to take advantage of the Court's
19 fairness by his own choice of filing an appeal and a bond to stop the foreclosure sale and
20 preventing the Court from determining the exact amount to any credit that he might be entitled.

21 MS. CULBERTSON: Your Honor, may I correct on one issue.

22 THE COURT: No, lets - - -

23 MS. CULBERTSON: All right.

24 THE COURT: Because we will be doing this the rest of the morning.

25 MS. CULBERTSON: Okay. I think this is important.

1 THE COURT: I understand counsel. Let me go ahead. The first thing that I am going to deal
2 with is the bond. I am not going to require a bond on the Munsey - Otto portion because that
3 amount is not determined. So the bond that has already been set is for the whole case for the
4 appeal bond, because I can't determine what the amount of the bond might, could, should be
5 because the amount of the damages in the Otto portion of this can not be determined until a sale
6 takes place. Now I understand the position that it may be a couple of years based on the appeal
7 but that is the way that this case is structured. So I can't determine the amount of the damages
8 due Otto until the sale takes place. The sale is not going to take place because the bond has been
9 set to prevent a foreclosure sale pending the appeal as provided by statute. So that takes care of
10 that issue, I think. And counsel I hope you are following me because I want you to prepare the
11 order.

12 MS. CULBERTSON: Yes sir, I will do that. Thank you.

13 THE COURT: Now the Exhibit A, this is the Exhibit A to that order.

14 MS. CULBERTSON: You are saying that is the one that you want attached?

15 THE COURT: Right.

16 MS. CULBERTSON: All right.

17 THE COURT: But that is what is at this juncture to claim damages. Which in my view of this
18 case, I would not have a final determination of the actual damages until a foreclosure sale takes
19 place and then we would come back for a damages hearing on the amount. But at that juncture,
20 this juncture, this for the damages, That was my understanding of what I said. Now that takes
21 care of the bond, this clarification as to Exhibit A, it should have been attached and it was not.
22 What were the other issues?

23 MS. CULBERTSON: Just the inclusion of the language about equitable right of redemption.

24 And no right to notice of the surplus funds in the event of a foreclosure sale.

25 THE COURT: All right. And the redemption, I ruled it was not. But as a party to the action, of

1 course, he will receive notice of any surplus funds to make a claim. So if I said he is not entitled
2 to it -- I don't think that I said that because the law requires that any party to a foreclosure action
3 has the right of notice. Now whether their claim is upheld at the surplus hearing, that is the
4 question of the evidence produced at the hearing.
5 MS. CULBERTSON: It is Your Honor's ruling then that Mr. Munsey does not have an equitable
6 interest and therefore no equitable right of redemption?
7 THE COURT: I think that is what I said at the hearing.
8 MS. CULBERTSON: Okay. I just wanted to make sure I had the language.
9 THE COURT: As far as the Otto, that was in the Otto portion of it, correct?
10 MS. CULBERTSON: Your Honor, we addressed it in both portions, actually.
11 THE COURT: But I don't think that you --
12 MS. CULBERTSON: And it was included in the U. S. Bank order, in that one it was included.
13 THE COURT: Let me look back at that order. I think the equity of redemption was barred.
14 That may have been the language. But let me look back at the order.
15 MS. CULBERTSON: Yes sir.
16 THE COURT: And I think that I want to mirror the language in the -- well the other one says
17 that the Court finds that the Defendant Jackson L. Munsey, Jr., has no equitable right of
18 redemption in the mortgage property described based on the fact that he is not a junior lien holder.
19 MS. CULBERTSON: Okay. I will put that language in.
20 THE COURT: All right. So that is the language. So mirroring the language of the other order.
21 Does that take care of the basis for the motions?
22 MS. CULBERTSON: Yes sir, that is everything.
23 THE COURT: All right. Then I will rely on you to prepare the appropriate order and to submit
24 it to Mr. Anthony for his review and approval before it gets to me.
25 MS. CULBERTSON: I will be glad to.

1 THE COURT: All right.

2 MS. CULBERTSON: Thank you, Judge.

3 MR. ANTHONY: Thank you, Your Honor.

4 THE COURT: All right. Have a good day.

5 -----END OF HEARING-----

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1 STATE OF SOUTH CAROLINA

2 COURT OF COMMON PLEAS

3 COUNTY OF SPARTANBURG

4
5 CERTIFICATE
6

7 I, the undersigned Sarah Hollis, Court Reporter for the Master-In-Equity for the County of
8 Spartanburg, State of South Carolina, do hereby certify that the foregoing is a true and accurate
9 Transcript of Motions of the proceedings had at the hearing of the captioned case, before the
10 Honorable Gordon G. Cooper, Master-In-Equity for Spartanburg County, South Carolina, on the
11 15th day of February, 2016.

12 I do further certify that I am neither of kin, counsel nor interest to any party hereto.
13

14 

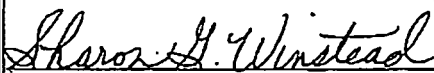
15 Sarah Hollis

16 Court Reporter
17

18 SWORN to before me this

19 4th day of May, 2016.

20 Spartanburg, South Carolina.

21
22 

23 Notary Public for South Carolina

24 My Commission Expires: September 7, 2016.
25

EXHIBIT A

First Mortgage	\$1,183,451.00
Second Mortgage	\$177,564.00
Third Mortgage	\$15,008.49
Carolina First Payments	\$11,052.00
Greenspace	\$39,200.00
Attorney Fees	\$12,600.00
Attorney Costs	\$295.00
Returned Checks	(\$15,723.00)
Funds in Trust	(\$6,044.10)
TOTAL	\$1,417,403.39

CLERK OF SUPERIOR COURT
SPARTANBURG, SOUTH CAROLINA
2016 APR 19 PM 3:50
M. HOPE BLACKLEY

#4
K

11 MIN

ADJUSTABLE RATE NOTE

(5 Year Fixed Pay/1 Month LIBOR Index/Payment and Rate Caps)

005071-

00160

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. MY MONTHLY PAYMENT INCREASES AND DECREASES MAY BE LIMITED AND MY INTEREST RATE INCREASES ARE LIMITED. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE LIMIT STATED IN THIS NOTE.

August 18, 2004
[Date]

SPARTANBURG
[City]

South Carolina
[State]

1841 FAIRVIEW FARMS RD, Campobello, SC 29322

[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay Nine Hundred Ninety Nine Thousand Five Hundred and 00/100 Dollars (U.S. \$ 999,500.00) (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Chevy Chase Bank, F.S.B. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by Transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

(A) Interest Rate

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at the yearly rate of 1.950 %. The interest rate I will pay may change.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 7 (B) of this Note.

(B) Interest Rate Change Dates

The interest rate I will pay may change on the first day of October, 2004 and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date.

(C) Interest Rate Limit

My interest rate will never be greater than 19.900 %.

(D) The Index

Beginning with the first Interest Rate Change Date, my interest rate will be based on an Index. The "Index" is the one month London Interbank Offered Rate (LIBOR) as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day after the twenty-fifth day of the month immediately preceding the month in which the Interest Rate Change Date occurs is called the "Current Index."

If the Index or any Index previously substituted under this Section 2 (D) is no longer available, or is otherwise unpublished, the Note Holder may choose a new Index and a new Margin to result in a rate similar to the rate in effect at that time which is based upon comparable information. The Note Holder will give me notice of the choice.

MIN

(E) Calculation of Interest Rate Changes

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding Two and 950/1000 percentage points (2.950 %) (the "Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the interest rate limit stated in Section 2 (C), the rounded amount will be my new interest rate until the next Interest Rate Change Date.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month. I will make my monthly payments, as described in Subsections B through F, below, on the first day of each month beginning on October 1, 2004. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on September 1, 2034, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date." I will make my monthly payments at P.O. Box 17000, Baltimore, MD 21203 or at a different place if required by the Note Holder.

(B) Minimum Payment

As of the date of this Note, my "Minimum Payment" of principal and interest is \$ 3,669.41. This amount will remain the same for the first 60 monthly payments due under this Note. Thereafter, my Minimum Payment is subject to change as described in detail, below. I must make at least the Minimum Payment each month.

(C) Additions/Reductions to My Unpaid Principal

My Minimum Payment may be less than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid principal I owe in full on the Maturity Date in substantially equal payments. If this occurs, each month that my Minimum Payment is less than the interest portion, the Note Holder will subtract the amount of that payment from the amount of the interest portion and will add the difference to my unpaid principal. The Note Holder also will add interest on the amount of this difference to my unpaid principal each month. The interest rate on the interest added to principal will be the rate set forth in Section 2 (A) above.

(D) Payment Changes

My Minimum Payment will change under the following circumstances:

(i) Payment Change Dates

My monthly Minimum Payment may change on the first day of October, 2009, and on that same day every 12th month thereafter. Each of these dates is called a "Payment Change Date." Before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay my unpaid principal in full on the Maturity Date in substantially equal installments at my new interest rate calculated pursuant to paragraph 2(E) above. My new monthly Minimum Payment will be set equal to the recalculated amount except that my new Minimum Payment will not be more than 7.500 percent greater or less than the amount of the last monthly payment that was due before the applicable Payment Change Date.

(ii) Adjustment Dates

Notwithstanding Subsection (i), above, on the 1st Payment Change Date and on each succeeding 5th Payment Change Date thereafter, my Minimum Payment will be adjusted as explained above, except that the described 7.500 percent limitation will not apply.

(iii) Other Changes

My monthly payment may also change as described in Section F, below.

(E) Payment Options

Additional payment options, such as: (i) a fully-amortizing payment (i.e., a payment that would be sufficient to repay the unpaid principal balance in full on the Maturity Date in substantially equal installments at the current Fully Indexed Rate); (ii) an interest-only payment (i.e., a payment equal to the interest accrued on the principal balance at the Fully Indexed Rate); and, (iii) a 15-year amortization option, may, at the Note Holder's discretion, be shown on my monthly statement. These payment options are shown for my convenience and may change each month based on changes in the Index (as described in Section 2 (D)) and changes in the amount of my principal balance. Although none of these optional payments is required, a timely payment made in accordance with any payment option shown on my monthly statement will be deemed to be in compliance with the terms of this Note. In all events, a payment option offered on my monthly statement will never be less than my Minimum Payment.

(F) Payment Limitations

In all events, my unpaid principal balance can never exceed 110 percent of the principal amount I originally borrowed ("Original Balance"). If on any monthly statement any payment would cause my principal balance to exceed that maximum amount, my Minimum Payment on that statement will be adjusted to an amount that would cause my unpaid principal balance to equal 110 percent of my Original Balance. Thereafter, until otherwise changed in accordance with the terms of this Note, my Minimum Payment will be adjusted to an amount which would be sufficient to repay my then unpaid principal balance in full on the Maturity Date at my current interest rate in substantially equal payments.

4. NOTICES OF CHANGES

The Note Holder will deliver or mail to me a notice of any changes in the amount of my Minimum Payment at least 25 days before the effective date of any change. The notice will contain the interest rate or rates applicable to my loan for each month since the prior notice or, for the first notice, since the date of this Note, and the payment amount applicable to the loan. The notice will also include information required by law to be given to me, and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so. I may make a full prepayment or partial prepayments, without paying any prepayment charge (subject to any Prepayment Penalty Addendum included in the Loan Documents). The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. A partial prepayment, will not result in a change in the amount or due dates of any of my monthly payment options unless the Note Holder agrees in writing to those changes. My partial prepayment may reduce the amount of some of my payment options after the first Payment Change Date following my partial prepayment. However, any reduction due to my partial prepayment could be offset by an interest rate increase. My partial prepayment will not affect the amount of my Minimum Payment following my partial prepayment unless I comply with the following: (1) notify the Note Holder in writing of my desire to have the Minimum Payment recalculated prior to the next scheduled Payment Change Date; (2) execute the loan modification documents required by the Note Holder to effectuate said recalculation; and (3) pay to the Note Holder a \$500.00 modification fee.

6. LOAN CHARGES

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

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of fifteen (15) calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the late charge will be five (5) percent of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

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

(C) Notice of Default

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

(D) No Waiver by Note Holder

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

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

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

8. GIVING OF NOTICES

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

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. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

[Handwritten signature] *AD*

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

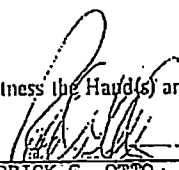
11. **UNIFORM SECURED NOTE**

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

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of the Security Instrument. Lender shall also not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in the Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an Assumption Agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in the Security Instrument. Borrower will continue to be obligated under the Note and Security Instrument unless Lender releases Borrower in writing. If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by the Security Instrument. If the Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower.

Witness the Hand(s) and Seal(s) of the Undersigned.


 RUDRICK G. OTTO
 367-38-8016

Date


 ALYCE F. OTTO
 407-76-7692

Date

Date

Date

Pay To The Order of
U.S. Bank, N.A. as Trustee

Without Recourse To
Chew Chase Bank, F.S.B.

Darlene K. Opalski

Darlene K. Opalski
Assistant Secretary

3 YEAR GRADUATED PREPAYMENT PENALTY
ADDENDUM TO NOTE

This Addendum is attached to and made part of that Note (the "Note") dated August 18, 2004 by and between RUDRICK G. OTTO and ALYCE F. OTTO

("Borrower(s)"), and Chevy Chase Bank, F.S.B.

("Lender" or "Note Holder").

To the extent that this Addendum conflicts with the Note, this Addendum shall control. Unless specifically defined otherwise, all capitalized terms shall have the meanings set forth in the Note.

1. The paragraph of the Note entitled "Borrower's Right to Prepay," is hereby deleted and replaced with the following:

BORROWER'S RIGHT TO PREPAY

(A) Prepayment

I have the right to make payments of principal at any time before they are due. A "prepayment" is a payment of principal before it is due.

(B) Partial or Full Prepayments

I may make partial prepayments or a full prepayment. A "partial prepayment" is any amount paid in a month that is greater than the minimum payment amount due in such month. A "full prepayment" is a payment of the entire unpaid principal balance.

(C) Prepayment Penalty

If I make a full prepayment, I will pay a prepayment penalty according to the schedule below. If I make a partial prepayment, I will pay a prepayment penalty according to the schedule below if the total of all partial prepayments I have made during any 12-month period exceeds 20% of the original loan amount set forth in the Note. The prepayment penalty will apply only to the amount exceeding the 20% threshold. The Note Holder will deduct any partial prepayment penalty assessed from the prepayment amount before applying the prepayment against the principal balance.

(D) Prepayment Penalty Schedule

My prepayment penalty shall be equal to the following percentage of the amount of principal I prepay on the Prepayment Date. The "Prepayment Date" shall be the date on which I make the prepayment.

First Loan Year	(1st through the 12th month)	3%
Second Loan Year	(13th through the 24th month)	2%
Third Loan Year	(25th through the 36th month)	1%

(E) Notice

When I make a full or partial prepayment, I will tell the Note Holder in writing that I am doing so.

(F) Waiver of Prepayment Penalty

The Note Holder will waive the prepayment penalty if full prepayment is due to the sale of the subject property and I obtain the financing for my new property from the Note Holder within ninety (90) days of the Prepayment Date in an amount that is at least 90% of loan payoff amount.

(G) Effect of a Partial Prepayment

The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the amount or due dates of my monthly payment unless the Note Holder agrees in writing to those changes. If my Note is for an adjustable rate mortgage, my partial prepayment may reduce the monthly payment amount after the first Payment Change Date following any partial prepayment; however, any reduction due to any partial prepayment may be offset by an interest rate increase.

2. Other than as expressly set forth in this Addendum, the Note remains in full force and effect, according to its terms.

RUDRICK G. OTTO

Date

ALYCE F. OTTO

Date

Date

Date

112

REN 3290 PAGE 070.

Return To:
Document Control Dept.
7501 Wisconsin Avenue
Bethesda, MD 20814

Prepared By:
Larry Tual, Loan Closer
Chovy Chase Bank, F.S.B.
7501 Wisconsin Avenue
Bethesda, MD 20814

MTG-2004-44018
Recorded 22 Pages on 8/24/2004 12:12:48 PM
Recording Fee \$78.00 Documentary Stamp: \$0.00
Office of Registrar of Deeds, Spartanburg, S.C.
Stephen Ford, Registrar



(Space Above This Line For Recording Date)

MORTGAGE

MIN

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 10.

(A) "Security Instrument" means this document, which is dated August 19, 2004 together with all Riders to this document.

(D) "Borrower" is RUDRICK C. OTTO and ALYCE F. OTTO

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 670-MERS.

SOUTH CAROLINA - Single Family - Fannie Mae Freddie Mac UNIFORM INSTRUMENT WITH MERS Form 3041 1/01

GA(SC) 00001

Page 1 of 11

VMP MORTGAGE FORMS - (R02573-728)



REC 3290 EXH 071

SCHEDULE A:

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

This being the same property conveyed to Fairview Associates, LLC by deed of Greenspace of Fairview, LLC dated December 27, 2001, recorded December 27, 2001 in Deed Book 74-2, page 317, Register of Deeds for Spartanburg County. See deed of Fairview Associates, LLC conveying property to Rudrick G. Otto and Alyce F. Otto recorded July 12, 2004 in Deed Book 80-T, page 257, Register of Deeds for Spartanburg County.

Handwritten initials: JR. and JLG

(D) "Lender" is Chevy Chase Bank, F.S.B.

Lender is a Federally chartered savings bank organized and existing under the laws of the United States of America. Lender's address is 7501 Wisconsin Avenue, Bethesda, MD 20814.

(E) "Note" means the promissory note signed by Borrower and dated August 18, 2004. The Note states that Borrower owes Lender Nine Hundred Ninety Nine Thousand Five Hundred and 00/100 Dollars (U.S. \$ 999,500.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than September 1, 2034.

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

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

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

- | | | |
|---|---|---|
| ☒ Adjustable Rate Rider | ☐ Condominium Rider | ☐ Second Home Rider |
| ☐ Balloon Rider | ☐ Planned Unit Development Rider | ☐ 1-4 Family Rider |
| ☐ VA Rider | ☐ Biweekly Payment Rider | ☒ Other(s) (specify) Legal Descrip. |

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

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

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

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

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

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

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

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used

REN 3290 PAGE 073

MDN

In this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

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

Type of Recording Jurisdiction (Name of Recording Jurisdiction)

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF.

SUBJECT TO COVENANTS OF RECORD.

Parcel ID Number: 1841 EATRVIEH FARMS RD
Capebello (City) , South Carolina 29322 (Zip Code)
which currently has the address of (Sum)

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns,) and to the successors and assigns of MERS, forever, together with "all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and cancelling this Security Instrument.

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

4A(5C) 3000

Page 2 of 11

Form 3041 1/01

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

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

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

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

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

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

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

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other liens which can attach prior to the Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be

In writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow item, Lender may exercise its rights under Section 8 and pay such amount and Borrower shall then be obligated under Section 8 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

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

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or orally (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

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

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

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

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

ten. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

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

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

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

the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

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

7. Preservation, Maintenance and Protection of the Property. Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

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

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

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding to bankruptcy, probate, for condemnation or foreclosure, for enforcement of a lien which may obtain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

Homeys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

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

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

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

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

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

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

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

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

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

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

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

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

20. **Sale of Note; Change of Loan Servicer; Notice of Foreclosure.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity known as the "Loan Servicer" that collects periodic payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

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

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

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

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

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

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

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

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-230 of the South Carolina Code of Laws.

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

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

Signed, sealed and delivered in the presence of:

SE 7/9/

[Signature] (Seal)
REUBEN G. OTTO
Borrower

[Signature]

[Signature] (Seal)
ALYCE F. OTTO
Borrower

____ (Seal)
Borrower

____ (Seal)
Borrower

____ (Seal)
Borrower

____ (Seal)
Borrower

____ (Seal)
Borrower

____ (Seal)
Borrower

END-5A(S) (cont)

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STATE OF SOUTH CAROLINA
County of Spartanburg

Personally appeared before me the undersigned witness
and made oath that he/she saw the within named Donor(s) sign, seal, and as his/her/their act and deed,
deliver the within written Mortgage; and that he/she with

, witnessed the execution thereof.

The other witness
Subscribed
Above

James T. Sp

Sworn to before me this 18~~th~~ day of Aug 2004

My Commission Expires:

2-24-09

JA Rowe
Notary Public for South Carolina

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ADJUSTABLE RATE RIDER

(5 Year Fixed Pay/1 Month LIBOR Index/Payment and Rate Caps)

THIS ADJUSTABLE RATE RIDER is made this 18th day of August, 2004 and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to Chevy Chase Bank, F.S.B. (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

1841 FAIRVIEW EAKES RD, Campobello, SC 29322
(Property Address)

THIS RIDER CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. MY MONTHLY PAYMENT INCREASES AND DECREASES MAY BE LIMITED AND MY INTEREST RATE INCREASES ARE LIMITED. THE PRINCIPAL AMOUNT TO REPAY COULD BE GREATER THAN THE AMOUNT ORIGINALLY BORROWED, BUT NOT MORE THAN THE LIMIT STATED IN THE NOTE.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

I. INTEREST

(A) Interest Rate

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at the yearly rate of 1.950 %. The interest rate I will pay may change.

The interest rate required by this Section I is the rate I will pay both before and after any default described in Section 7 (B) of the Note.

(B) Interest Rate Change Dates

The interest rate I will pay may change on the first day of October, 2004 and on that day every month thereafter. Each date on which my interest rate could change is called an "Interest Rate Change Date." The new rate of interest will become effective on each Interest Rate Change Date.

(C) Interest Rate Limit

My interest rate will never be greater than 19.900 %.

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(D) The Index

Beginning with the first Interest Rate Change Date, my interest rate will be based on an Index. The "Index" is the one month London Interbank Offered Rate (LIBOR) as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day after the twenty-fifth day of the month immediately preceding the month in which the Interest Rate Change Date occurs is called the "Current Index."

If the Index or any Index previously substituted under this Section 1 (D) is no longer available, or is otherwise unpublished, the Note Holder may choose a new Index and a new Margin to result in a rate similar to the rate in effect at that time which is based upon comparable information. The Note Holder will give me notice of the choice.

(E) Calculation of Interest Rate Changes

Before each Interest Rate Change Date, the Note Holder will calculate my new interest rate by adding Two and 950/1000 percentage points (2.950 %) (the "Margin") to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the interest rate limit stated in Section 1 (C), the rounded amount will be my new interest rate until the next Interest Rate Change Date.

2. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month. I will make my monthly payments, as described in Subsections (B) through (F), below, on the first day of each month beginning on October 1, 2004. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under the Note. My monthly payments will be applied to interest before principal. If, on

September 1, 2034, I still owe amounts under the Note, I will pay those amounts in full on that date, which is called the "Maturity Date." I will make my monthly payment at, P.O. Box 17000, Baltimore, MD 21203, or at a different place if required by the Note Holder.

(B) Minimum Payment

As of the date of the Note, my "Minimum Payment" of principal and interest is \$3,669.41. This amount will remain the same for the first 60 monthly payments due under the Note. Thereafter, my Minimum Payment is subject to change as described in detail, below. I must make at least the Minimum Payment each month.

AD.

(C) Additions/Reductions to My Unpaid Principal

My Minimum Payment may be less than the amount of the interest portion of the monthly payment that would be sufficient to repay the unpaid principal I owe in full on the Maturity Date in substantially equal payments. If this occurs, each month that my Minimum Payment is less than the interest portion, the Note Holder will subtract the amount of that payment from the amount of the interest portion and will add the difference to my unpaid principal. The Note Holder also will add interest on the amount of this difference to my unpaid principal each month. The interest rate on the interest added to principal will be the rate set forth in Section 1, above.

(D) Payment Changes

My Minimum Payment will change under the following circumstances:

(i) Payment Change Dates. My monthly Minimum Payment may change on the first day of October, 2009, and on that same day every 12th month thereafter. Each of these dates is called a "Payment Change Date." Before each Payment Change Date, the Note Holder will calculate the amount of the monthly payment that would be sufficient to repay my unpaid principal in full on the Maturity Date in substantially equal installments at my new interest rate calculated pursuant to paragraph 1(i) above. My new monthly Minimum Payment will be set equal to the recalculated amount except that my new Minimum Payment will not be more than 7.500% greater or less than the amount of the last monthly payment that was due before the applicable Payment Change Date.

(ii) Adjustment Dates. Notwithstanding Subsection 1, above, on the 1st Payment Change Date and on each succeeding 5th Payment Change Date thereafter, my Minimum Payment will be adjusted as explained above, except that the described 7.500% limitation will not apply.

(iii) Other Changes. My monthly payment may also change as described in Section (F), below.

(E) Payment Options

Additional payment options, such as: (i) a fully-amortizing payment (i.e., a payment that would be sufficient to repay the unpaid principal balance in full on the Maturity Date in substantially equal installments at the current Fully Indexed Rate); (ii) an interest-only payment (i.e., a payment equal to the interest accrued on the principal balance at the Fully Indexed Rate); and, (iii) a 15-year amortization option, may, at the Note Holder's discretion, be shown on my monthly statement. These

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payment options are shown for my convenience and may change each month based on changes in the Index (as described in Section 1 (D)) and changes in the amount of my principal balance. Although none of these optional payments is required, a timely payment made in accordance with any payment option shown on my monthly statement will be deemed to be in compliance with the terms of the Note. In all events, a payment option offered on my monthly statement will never be less than my Minimum Payment.

(F) Payment Limitations

In all events, my unpaid principal balance can never exceed 110 percent of the principal amount I originally borrowed ("Original Balance"). If on any monthly statement any payment would cause my principal balance to exceed that maximum amount, my Minimum Payment on that statement will be adjusted to an amount that would cause my unpaid principal balance to equal 110 percent of my Original Balance. Thereafter, until otherwise changed in accordance with the terms of this Note, my Minimum Payment will be adjusted to an amount which would be sufficient to repay my then unpaid principal balance in full on the Maturity Date at my current interest rate in substantially equal payments.

3. NOTICES OF CHANGES

The Note Holder will deliver or mail to me a notice of any changes in the amount of my Minimum Payment at least 25 days before the effective date of any change. The notice will contain the interest rate or rates applicable to my loan for each month since the prior notice or, for the first notice, since the date of the Note, and the payment amount applicable to the loan. The notice will also include information required by law to be given to me, and also the title and telephone number of a person who will answer any question I may have regarding the notice.

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so. I may make a full prepayment or partial prepayments, without paying any prepayment charge (subject to any Prepayment Penalty Addendum included in the Loan Documents). The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under the Note. A partial prepayment will not result in a change in the amount or due dates of any of my monthly payment options unless the Note Holder agrees in

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writing to those changes. My partial prepayment may reduce the amount of some of my payment options after the first Payment Change Date following my partial prepayment. However, any reduction due to my partial prepayment could be offset by an interest rate increase. My partial prepayment will not affect the amount of my Minimum Payment following my partial prepayment unless I comply with the following: (1) notify the Note Holder in writing of my desire to have the Minimum Payment recalculated prior to the next scheduled Payment Change Date; (2) execute the loan modification documents required by the Note Holder to effectuate said recalculation; and (3) pay to the Note Holder a \$500.00 modification fee.

5. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by Federal Law as of the date of the Security Instrument. Lender shall also not exercise this option if: (a) Borrower ceases to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in the Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an Assumption Agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in the Security Instrument. Borrower will continue to be obligated under the Note and the Security Instrument unless Lender releases Borrower in writing. If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by the Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by the Security Instrument without further notice or demand on Borrower.

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants
contained in the Adjustable Rate Rider.



RUDRICK G. OTTO Date



ALYCE F. OTTO Date

Date Date

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) CONTRACT FOR DEED

THIS CONTRACT FOR DEED made and entered into this 4th day of March, 2011,
between the following parties:

PARTIES:

Seller: Alyce F. Otto, as Trustee under the Declaration of Trust of
Alyce F. Otto dated November 17, 2009, with an address of 1841 Fairview
Farms Road, Campobello, South Carolina 29322 (hereinafter referred to as
"Seller").

Purchaser: Jackson L. Munsey, Jr., an Individual, with an address of 405
East Springs Road, Columbia, South Carolina 29223 (hereinafter referred
to as "Purchaser").

WITNESSETH:

In consideration of the monetary amounts as stated herein, the sufficiency of
which is hereby acknowledged by both parties, and subject to the covenants and
agreements hereinafter contained and provided, Seller hereby covenants and agrees to
convey and assure to Purchaser and Purchaser hereby agrees to purchase from Seller
the following described property, to wit:

1825, 1835 and 1841 Fairview Farms Road, Campobello, SC 29322, more

particularly described as as Tract G of Greenspace of Fairview, LLC, more particularly and specifically described on Exhibit "A" attached hereto and Incorporated herein by reference (hereinafter referred to as the "Property").

It is mutually covenanted and agreed that this Contract for Deed is made and entered into upon the following covenants and agreements:

1. The purchase price to be paid by Purchaser directly to or for the benefit of the Seller is the sum of \$1,400,000.00, said purchase price to be paid in the following manner:
 - (a) The credit of the sum of \$10,000.00 in check or electronic funds paid directly to Seller as a non-refundable deposit prior to the execution of this instrument;
 - (b) A note, a copy of which is attached hereto and Incorporated herein, payable to the Seller in the current principal amount at closing of the Seller's note to Chevy Chase Bank, F.S.B., secured by a first mortgage to Chevy Chase Bank & Trust, or its successor and/or assign (hereinafter referred to as "Mortgage No. 1"), in the amount of \$1,061,968.32, under the same current or modified terms and conditions of the note and mortgage between the Seller and Mortgage No. 1 dated August 18, 2004. Said note shall be paid in monthly installments directly to the holder of Mortgage No. 1, with

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the first payment of such Installment due and payable on April 1, 2011, and a like amount thereafter every month until April 1, 2016, when on that date the balance shall be due and payable. Purchaser acknowledges and agrees that this monthly Installment may adjust from time to time based on the terms and conditions set forth in loan documents upon notice from Mortgage No. 1. The Purchaser shall have the option to extend the maturity date to April 1, 2019 with a principal of reduction of five percent (5%) of the outstanding balance;

- (c) A note, a copy of which is attached hereto and incorporated herein, payable to the Seller in the current principal amount at closing of the Seller's note to Carolina First Bank, secured by a second mortgage to Carolina First Bank, or its successor and/or assigns (hereinafter referred to as "Mortgage No. 2") in the amount of \$193,665.68, under the payments to reflect the current or modified terms and conditions of the note and mortgage between the Seller and Carolina First Bank Mortgage No. 2 dated June 18, 2008. Said note shall be paid in monthly installments of \$1,842.00 directly to the holder of Mortgage No. 2, with the first payment of such installment due and payable on March 17, 2011, and a like amount thereafter every month until June 17, 2013, when on that date the

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balance shall be due and payable. The Purchaser hereby acknowledges and agrees that the original terms and conditions of this note contain a prepayment penalty;

- (d) The payment of the Seller's lien to the United States Internal Revenue Service (hereinafter referred to as the "IRS") in the estimated amount of \$14,601.71. In the event that said estimated payoff amount is in excess of the actual payoff amount, any excess shall be held in escrow by the closing attorney and shall be paid to the Seller after recorded satisfaction of the lien.
- (e) The payment of the 2010 *ad valorem* (real property) taxes now due and payable to Spartanburg County in the amount of \$5,978.87;
- (f) The payment of 2010 assessments due and payable to Greenspace of Fairview, LLC, along with penalties in the amount of \$4,590.34 plus \$500.13 due for fire ant treatment of the property;
- (g) The payment of arrears, penalties and legal fees of the first mortgage held by Mortgage No. 1 in the amount of \$50,839.96;
- (h) Intentionally Deleted.
- (i) The payment to Seller in cash or certified funds estimated in the amount of \$43,076.84 after payment of Seller's pro-rata portion of 2011 taxes and assessments;
- (j) The remaining sum shall be payable with a note, a copy of which is

attached hereto and incorporated herein, to the Seller in the principal amount of \$13,000.00 with an interest rate of two and one-half percent (2.5%) per annum to be amortized over seven years with a balloon payment due and payable in four years. Said note shall be paid directly to the Seller with the first payment of such installment due and payable on April 1, 2011, and a like amount thereafter every month until April 1, 2015, when on that date the balance, if any, shall be due and payable. Monthly payments may be anticipated and more than the required amount can be paid without penalty. Additional payments to principal may also be made without penalty. Purchaser shall make the monthly payments to the Seller at set forth under Paragraph 17 herein, or any other place of designation agreed upon by Purchaser and Seller. If any monthly payment is made after the 10th day of the month, a late fee of five percent (5%) will be charged (hereinafter referred to the "Late Payment Fee"). The Late Payment Fee will be charged for each and every month that the Purchaser makes payment after the 10th day of such month. Upon default, including failure to pay upon final maturity, the interest rate on the amount due from Purchaser shall be Nine and 00/100 (9.00%) percent per annum.

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2. Seller hereby represents and warrants that the Property is free and clear of all liens and encumbrances and other objections, except for those items set forth in the certified title opinion of Joshua O.C. Lonon, Esq. dated December 30, 2010, and updated as of the date of this instrument, attached hereto as Exhibit "B" and incorporated herein by reference. Purchaser hereby subordinates this Contract for Deed to first and second mortgages on the Property listed on Exhibit "B" under Item(s) 16 and 17 and referenced herein as Mortgage No. 1 and Mortgage No. 2, respectively.
3. Upon Purchaser making all payments and performing all other covenants and agreements herein set forth to be performed by Purchaser, Seller shall convey the Property, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, to Purchaser free and clear of all liens, encumbrances and other objections by a good, fee simple general warranty deed. At the time of the conveyance of the Property by Seller to Purchaser, Purchaser shall be responsible for and pay (a) the cost of the preparation of the Deed and (b) the fees associated with the transfer and recording of the Deed and (c) the costs associated with or arising out of the transfer of the LLC shares.
4. Purchaser shall pay, when due, *ad valorem* (real property) taxes and other governmental charges for the tax year 2011, and thereafter for a full tax

year until the Contract for Deed is completed. The tax map reference number for the property is: 1 03-00 003.00. Purchaser shall receive a pro-rata credit for 2011 taxes at the execution and closing of this Contract for Deed.

5. Neither party shall, as a result of an act or omission, cause the Property in any way to be further encumbered, either voluntarily or involuntarily, without the written consent of the other party and to immediately, after notice thereof, remove, or cause to be removed, any encumbrances placed against the Property. In the event that said encumbrances are not removed, the non-encumbering party, after thirty (30) days notice of intent, may institute whatever proceeding may be necessary or required in order to have said encumbrances removed or the Property released therefrom. For so removing said encumbrances or releasing said Property, the encumbering party shall be responsible for the payment of the non-encumbering party's costs, and expenses including, but not limited to reasonable attorney's fees. In the event the encumbering party, after demand, fails or refuses to pay said expenses, costs, or attorney's fees, the non-encumbering party may bring an action against the encumbering party for the costs and expenses of collection, including, but not limited to reasonable attorney's fees. Should a judgment be filed against the Seller affecting the Property, or should an encumbrance be placed against the

Property as a result of Seller's acts or omissions, Purchaser after actual notice thereof, may in addition, cease to make payments to Seller under the note directly payable to Seller as called for set forth under Paragraph 1(j) and shall have the right of setoff against any amounts due for any such liens or encumbrances including costs arising therefrom and reasonable attorney fees. Should a judgment be filed against the Purchaser affecting the Property, or should an encumbrance be placed against the Property as a result of Purchaser's acts or omissions, Seller after actual notice thereof, may in addition, add to the principal balance of the promissory note under Paragraph 1(j) any amounts due for any such lien or encumbrances including costs arising therefrom and reasonable attorney fees.

6. Purchaser shall receive possession of the Property upon the execution of this Contract for Deed, and thereafter Purchaser shall be entitled to use and enjoy the Property to the same extent as if Purchaser had full and complete legal and equitable title thereto, subject to the terms, conditions, rules and regulations of the Conservation Easement and Greenspace of Fairview, LLC, as fully disclosed to the Purchaser prior to execution of this Contract for Deed.
7. Purchaser shall pay when due all charges for utility services, including, but not limited to, water, heating, gas, electricity, telephone and sewer

service furnished to the Property.

8. Purchaser shall pay when due all fees and assessments associated with Greenspace of Fairview, LLC, in accordance with the restrictive covenants and/or operating agreement. Seller shall consult with Purchaser regarding any votes cast and exercising any voting rights under the Property's membership interest in Greenspace of Fairview, LLC.
9. In the event of a disallowance by the IRS and/or the South Carolina Tax Commission, which prevents both parties from the benefits of a deduction for interest or depreciation or capital gain on the Property, then it is hereby agreed by and between the parties hereto that those deductions disallowed by both parties resulting from transactions occurring after the date hereof shall accrue to the benefit of the Purchaser. As a result, upon receipt of the governmental agencies reports, commonly known as IRS Form 1098, for payment of interest of the respective first and second mortgages as set forth herein, issued by Mortgage No. 1 and Mortgage No. 2 to Seller, Seller shall issue the same governmental agencies reports for all interest payments paid by Purchaser on behalf of and directly to Seller. Seller may assign this task to Purchaser's obligations with Seller's verification of information reported.
10. Seller shall report to all credit reporting agencies the payment history of the Purchaser for each payment obligation hereunder. Seller may assign

this task to Purchaser's obligations with Seller's verification of information reported.

11. Purchaser shall keep all Improvements upon the Property in good repair and shall not commit waste or permit impairment or deterioration of said Improvements. Purchaser accepts possession of the property in its present "AS-IS" condition as of the date of this Contract for Deed. It is understood and agreed that Purchaser accepts and assumes any and all risk of loss to all trees, shrubs, or other damage to the property due to fire or other casualty, acts of God and the elements from the date hereof. It is understood and agreed between the Seller and Purchaser that Purchaser will maintain a policy of hazard insurance on the Property in an amount not less than \$1,400,000.00 and will name Seller on such policy as a loss payee and provide Seller annual notice of same.
12. The following shall constitute events of default of Purchaser hereunder:
 - (a) The Purchaser's failure to pay an installment of principal or interest, or any other sum, within thirty (30) days of the date when it is due under this Instrument. Any default by Purchaser under any one of the notes referred to hereinabove in Paragraph 1 shall be deemed a default under all of the notes.
 - (b) The Purchaser's assignment of any or all of Purchaser's interest in the Property, without the Seller's prior written consent.

- (c) The Purchaser's failure to maintain the Property in good condition and in compliance with all restrictive covenants and in compliance with the Conservation Easement and the rules and regulations promulgated by Greenspace of Fairview, LLC and the restrictive covenants, as fully disclosed to the Purchaser prior to execution of this Contract for Deed.
- (d) The commencement of any proceeding under the Federal Bankruptcy Code or any law of the United States or of any state relating to insolvency, receivership or debt adjustment by the Purchaser, or the commencement of any such proceeding against the Purchaser which results in the institution of any such proceedings against the Purchaser and is consented to by the Purchaser or remains undismissed for sixty (60) days, or the Purchaser is adjudicated a bankrupt, or a trustee or receiver is appointed for any substantial part of the Purchaser's property, or the Purchaser makes an assignment for the benefit of creditors, admits in writing an inability to pay debts generally as they become due or becomes insolvent.
- (e) The Purchaser's failure to pay when due and payable all *ad valorem* (real property) taxes against the Property.
- (f) The Purchaser's failure to maintain a policy of hazard insurance on

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the Property in an amount not less than \$1,400,000.00 and to name Seller on such policy as a loss payee, and to provide Seller annual notice of same.

- (9) The Purchaser's failure to pay, when due, all fees and assessments associated with Greenspace of Fairview, LLC in accordance with the restrictive covenants and/or operating agreement.

13. Upon the occurrence of any event of default or other nonperformance or noncompliance by Purchaser of any term or condition herein, Seller shall give Purchaser written notice of same and Purchaser shall cure such default, non-performance or non-compliance within thirty (30) days after the Purchaser's receipt of written notice thereof from Seller. In the event that Purchaser fails to cure such default, nonperformance or noncompliance, then the Seller at its option, may seek to divest the Purchaser of its interest under the terms of this Contract for Deed. The Seller's interest in the Property shall be treated as the interest of the holder of a third mortgage on the Property and the remedy of the Seller shall be to foreclose the interest of the Purchaser in the same manner as the Seller would foreclose the interest of the Purchaser as if the Seller were the Mortgagee under a third mortgage and the Purchaser were the Mortgagor, and the Purchaser shall be liable for all costs arising therefrom including reasonable attorney fees. The remedies set forth herein in all

instances are not exclusive, but cumulative and in addition to all other remedies which may exist under the law.

14. In the event Seller fails, neglects, or refuses to perform, in whole or part, any of the covenants, agreements, or obligations herein provided upon the part of the Seller to be performed, Purchaser shall give Seller written notice of same and Seller shall cure such default, non-performance or non-compliance within thirty (30) days after the Seller's receipt of written notice thereof from Purchaser. In the event that Seller fails to cure such default, nonperformance or noncompliance, then the Purchaser, at its option, is hereby authorized and empowered, at the cost of the Seller, to perform or cause to be performed, any or all of said covenants, agreements and obligations, and expend such sums of money as may be reasonable therefore, or for any other purpose which is, in the opinion of the Purchaser, reasonably necessary for the protection of the Property. All such sums of money so expended by Purchaser, together with interest thereon, at the rate of five percent (5%) from the several dates of expenditure thereof until paid, shall become indebtedness under this agreement and shall be repaid by Seller to the Purchaser, immediately upon demand, at the address of the Purchaser as set forth in Paragraph 17 herein. Any failure, neglect, or refusal by Seller to repay the sums as herein provided shall constitute a default hereunder and the Seller shall be

liable for any and all costs arising therefrom including reasonable attorney fees. Purchaser, at its option, may deduct from any payments due directly to Seller under the terms and conditions of this agreement as set forth under Paragraph 1(j). In the event Purchaser falls, neglects, or refuses to perform, in whole or part, any of the covenants, agreements, or obligations herein provided upon the part of the Purchaser to be performed, Seller shall give Purchaser written notice of same and Purchaser shall cure such default, non-performance or non-compliance within thirty (30) days after the Purchaser's receipt of written notice thereof from Seller. In the event that Purchaser fails to cure such default, nonperformance or noncompliance, then the Seller, at its option, is hereby authorized and empowered, at the cost of the Purchaser, to perform or cause to be performed, any or all of said covenants, agreements and obligations, and expend such sums of money as may be reasonable therefore, or for any other purpose which is, in the opinion of the Seller, reasonably necessary for the protection of the Property. All such sums of money so expended by Purchaser, together with interest thereon, at the rate of five percent (5%) from the several dates of expenditure thereof until paid, shall become indebtedness under this agreement and shall be repaid by Purchaser to the Seller, immediately upon demand, at the address of the Seller as set forth in Paragraph 17

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herein. Any failure, neglect, or refusal by Purchaser to repay the sums as herein provided shall constitute a default hereunder and the Purchaser shall be liable for any and all costs arising therefrom including reasonable attorney fees.

15. Failure or delay of either party hereto to enforce any right or to exercise any option available because of any default hereunder shall not constitute a waiver of the right to exercise same in the event of any subsequent default.
16. At all times while this Contract for Deed is in effect or while said Property is occupied by Purchaser, Seller shall not be liable or responsible for any activities or accidents that may occur on or in connection with Purchaser's use of said Property. Purchaser shall be solely responsible for any damage, injury or other loss, to persons or property that may occur upon the property as a result of the negligent, unlawful or willful act or omission of the Purchaser or their visitors and shall defend, indemnify and hold the Seller harmless for any damage, loss or expense resulting therefrom.
17. All notices, requests and other communications between the parties under or in connection with this Contract for Deed shall be in writing and mailed by registered or certified mail, return receipt requested, at the below address, until written notice to the contrary:

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Seller: 101 E. Rutherford Street
Landrum, SC 29356

Purchaser: 405 East Springs Road
Columbia, SC 29223

18. This Contract for Deed represents the entire agreement between the parties, and no warranties, representations, promises or statements have been made by either party unless endorsed hereon in writing and duly executed by the parties.
19. This Contract for Deed shall be construed according to the laws of South Carolina.
20. This Contract for Deed shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto. All rights and remedies given to either party herein, or by law, shall be cumulative and alternative. If any provision of this Contract for Deed is held invalid or unenforceable, the remainder of it shall not be affected thereby and to this end the provisions hereof are declared severable.
21. The Seller represents that there is no real estate commission due to any real estate broker as a result of the execution of this contract for deed or for the future transfer of legal title to the subject property.
22. The parties acknowledge that the Property is currently encumbered by mortgages which give the mortgagee(s) the right to demand immediate

payment in full from the mortgagor in the event of any full or partial transfer of legal or equitable title by the mortgagor (the "Due on Sale Clause"). This Contract for Deed may be construed to be in violation of the Due on Sale Clause and may cause the Mortgagee(s) to demand full payment on its/their respective note(s). The mortgage(s) also allow(s) for the mortgagee(s) to bring a foreclosure action upon the subject property for failure to make payments when due, failure to insure the property or other violations of the terms of mortgage(s), which could result in a loss of the Purchaser's equitable interest in the subject property and other damages to the Purchaser. The Seller expressly agrees to hold the Purchaser harmless and to indemnify the Purchaser for proximate damages resulting from enforcement of the Due on Sale Clause of the mortgage(s). The Seller also expressly agrees to hold the Purchaser harmless and to indemnify the Purchaser for proximate damages or for any violation of the terms of the mortgage(s) that is/are not the fault of the Purchaser.

[SIGNATURES ON FOLLOWING PAGES]

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IN WITNESS WHEREOF, the undersigned party hereto has caused this Contract
for Deed to be executed the day and year first above written.

WITNESSES:

AS TO SELLER:

Witness No. 1

Witness No. 2 Notary

Alyce F. Otto, as Trustee under the
Declaration of Trust of Alyce F. Otto
dated November 17, 2009, Seller.

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that
she saw the within named Alyce F. Otto, as Trustee under the Declaration of Trust of
Alyce F. Otto dated November 17, 2009, Seller, sign, seal and as its act and deed,
deliver the within written Contract for Deed and that she with the other witness whose
name is subscribed above witnessed the execution thereof.

Witness No. 1

SWORN to and before me this ____ day of March, 2011.

(SEAL)

Notary Public for South Carolina

My commission expires: 6/16/2012

PAGE 18 OF 20

IN WITNESS WHEREOF, the undersigned parties hereto has caused this Contract
for Deed to be executed the day and year first above written.

AS TO PURCHASER:

[Signature]
Witness No. 1

[Signature]
Jackson L. Munsey, Jr., Purchaser

[Signature]
Witness No. 2 Notary

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that
she saw the within named Jackson L. Munsey, Jr., Purchaser, sign, seal and as his act
and deed, deliver the within written Contract for Deed and that he with the other
witness whose name is subscribed above witnessed the execution thereof.

[Signature]

SWORN to and before me this 4th day of March, 2011.

[Signature] (SEAL)
Notary Public for South Carolina
My commission expires: 4/6/2012

PAGE 19 OF 20

EXHIBIT A

PROPERTY DESCRIPTION 1825/1841/1835 Fairview Farms Road Tax Map No. 1 03-00 003.00

All that certain piece, parcel or tract of land lying, situate and being in the State of South Carolina, County of Spartanburg containing 25.08 acres, more or less, and being shown as Distribution Tract G on a plat of survey for Greenspace of Fairview, LLC, dated August 2, 2001 by Mitchell Surveying and recorded in Plat Book 151 at page 523. Reference is made to said plat and the record thereof for a more complete and accurate description.

This being a portion of the same property conveyed to Alyce F. Otto, Trustee under Declaration of Trust of Alyce F. Otto dated the 17th Day of November, 2009 by Deed of Alyce F. Otto recorded November 24, 2009 in Deed Book 95 A at page 439. Also, being a portion of the same property conveyed to Rudrick George Otto, Trustee under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009 by Deed of Rudrick G. Otto recorded November 24, 2009 in Deed Book 95 A at page 435. Reference is also made to the deed from Alyce F. Otto, Successor Trustee under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009 to Alyce F. Otto, Trustee under Declaration of Trust of Alyce F. Otto dated the 17th day of November, 2009, said deed being dated February 9, 2011 and recorded February 10, 2011 in Deed Book 97-V, Page 181.

All referenced recordings are in the Register of Deeds Office for Spartanburg County, South Carolina unless otherwise noted herein.



Capital One, N.A.
PO Box 21887
Eagan, MN 55121-0887

REPRESENTATION AND WARRANTY DOCUMENT



7107 8381 6542 0202 4198

TI 7

November 2, 2011

0-752-47419-0000005-001-01-000-000-000-000

RUDRICK OTTO
ALYCE OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356-1523

RE: Loan No.0554185801
Property: 1841 FAIRVIEW FARMS RD
CAMPOBELLO SC 29322-8906
Principal Balance: \$1,018,477.09

Dear Rudrick Otto and ALYCE OTTO:

Under the provisions of your loan documents for the above referenced loan, you are hereby notified that your loan is now in default, because one or more monthly payments are past due.

We must receive payment in CERTIFIED FUNDS in the amount of *\$20,098.70, on or before December 2, 2011 (which date is not less than 30 calendar days from the date of this notice), the payment of which sum will cure the default. Only the TOTAL AMOUNT DUE to reinstate the loan will be accepted.

If payment is not received by December 2, 2011, additional costs, including attorneys' fees may be incurred for which you will be responsible. Your failure to cure the default on or before this date shall result in the acceleration (immediately becoming due and payable in full) of the entire sum secured by the loan security instrument (Deed of Trust or Mortgage) and the immediate institution of foreclosure proceedings by either strict foreclosure or by sale of the property by public auction.

As provided in the loan security instrument, you have the right to reinstate your loan after loan acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense you may have to the acceleration and sale.

You may be eligible for alternatives to foreclosure. If you would like to discuss these options, please contact our office at 1-877-230-8516 and request information about loss mitigation.

If you need additional assistance in meeting your obligation, you may contact a HUD approved counseling agency by calling HUD's toll-free housing counseling number at 1-800-569-4287.

Sincerely,

Collection Department
Mortgage Loan Servicing Division

* If payment is to be received by the last business day of the current month, this figure should be reduced by the amount of next month's payment.

XC046

REPRESENTATION OF PRINTED DOCUMENT

Servicemembers Civil Relief Act Notice Disclosure	U.S. Department of Housing and Urban Development Office of Housing	OMB Approval 2502-0584 Exp. 7/31/2012
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Legal Rights and Protections Under the SCRA

Servicemembers on "active duty" or "active service," or a dependent of such a servicemember may be entitled to certain legal protections and debt relief pursuant to the Servicemembers Civil Relief Act (50 USC App. §§ 501-596) (SCRA).

Who May Be Entitled to Legal Protections Under the SCRA?

- Regular members of the U.S. Armed Forces (Army, Navy, Air Force Marine Corps and Coast Guard).
- Reserve and National Guard personnel who have been activated and are on Federal active duty
- National Guard personnel under a call or order to active duty for more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds
- Active service members of the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration.
- Certain United States citizens serving with the armed forces of a nation with which the United States is allied in the prosecution of a war or military action.

What Legal Protections Are Servicemembers Entitled To Under the SCRA?

- The SCRA states that a debt incurred by a servicemember, or servicemember and spouse jointly, prior to entering military service shall not bear interest at a rate above 6 % during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage, or during the period of military service in the case of any other obligation or liability.
- The SCRA states that in a legal action to enforce a debt against real estate that is filed during, or within 9 months after the servicemember's military service, a court may stop the proceedings for a period of time, or adjust the debt. In addition, the sale, foreclosure, or seizure of real estate shall not be valid if it occurs during, or within 9 months after the servicemember's military service unless the creditor has obtained a valid court order approving the sale, foreclosure, or seizure of the real estate.
- The SCRA contains many other protections besides those applicable to home loans.

How Does A Servicemember or Dependent Request Relief Under the SCRA?

- In order to request relief under the SCRA from loans with interest rates above 6% a servicemember or spouse must provide a written request to the lender, together with a copy of the servicemember's military orders. (Capital One, N.A., P.O. Box 21887 Eagan, MN 55121)
- There is no requirement under the SCRA, however, for a servicemember to provide a written notice or a copy of a servicemember's military orders to the lender in connection with a foreclosure or other debt enforcement action against real estate. Under these circumstances, lenders should inquire about the military status of a person by searching the Department of Defense's Defense Manpower Data Center's website, contacting the servicemember, and examining their files for indicia of military service. Although there is no requirement for servicemembers to alert the lender of their military status in these situations, it still is a good idea for the servicemember to do so.

How does a servicemember or dependent obtain information about the SCRA?

- Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. A military legal assistance office locator for all branches of the Armed Forces is available at <http://legalassistance.law.af.mil/content/locator.php>
- "Military OneSource" is the U. S. Department of Defense's information resource. If you are listed as entitled to legal protections under the SCRA (see above), please go to www.militaryonesource.com/scra or call 1-800-342-9647 (toll free from the United States) to find out more information. Dialing instructions for areas outside the United States are provided on the website.

form HUD-92070
(6/2011)
XC046



Capital One, N.A.
PO Box 21887
Eagan, MN 55121-0887

REPRESENTATION OF FINANCIAL INSTITUTION



7107 8381 6542 0202 4204

November 2, 2011

6-752-47418-0000007-001-01-000-000-000

RUDRICK OTTO
ALYCE OTTO
1841 FAIRVIEW FARMS RD
CAMPOBELLO SC 29322-8906

RE: Loan No. 0554185801
Property: 1841 FAIRVIEW FARMS RD
CAMPOBELLO SC 29322-8906
Principal Balance: \$1,018,477.09

Dear Rudrick Otto and ALYCE OTTO:

Under the provisions of your loan documents for the above referenced loan, you are hereby notified that your loan is now in default, because one or more monthly payments are past due.

We must receive payment in CERTIFIED FUNDS in the amount of *\$20,098.70, on or before December 2, 2011 (which date is not less than 30 calendar days from the date of this notice), the payment of which sum will cure the default. Only the TOTAL AMOUNT DUE to reinstate the loan will be accepted.

If payment is not received by December 2, 2011, additional costs, including attorneys' fees may be incurred for which you will be responsible. Your failure to cure the default on or before this date shall result in the acceleration (immediately becoming due and payable in full) of the entire sum secured by the loan security instrument (Deed of Trust or Mortgage) and the immediate institution of foreclosure proceedings by either strict foreclosure or by sale of the property by public auction.

As provided in the loan security instrument, you have the right to reinstate your loan after loan acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense you may have to the acceleration and sale.

You may be eligible for alternatives to foreclosure. If you would like to discuss these options, please contact our office at 1-877-230-8516 and request information about loss mitigation.

If you need additional assistance in meeting your obligation, you may contact a HUD approved counseling agency by calling HUD's toll-free housing counseling number at 1-800-569-4287.

Sincerely,

Collection Department
Mortgage Loan Servicing Division

* If payment is to be received by the last business day of the current month, this figure should be reduced by the amount of next month's payment.

XC046

REPRESENTATION OF PRINTED DOCUMENT

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- Reserve and National Guard personnel who have been activated and are on Federal active duty
- National Guard personnel under a call or order to active duty for more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds
- Active service members of the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration.
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- The SCRA states that in a legal action to enforce a debt against real estate that is filed during, or within 9 months after the servicemember's military service, a court may stop the proceedings for a period of time, or adjust the debt. In addition, the sale, foreclosure, or seizure of real estate shall not be valid if it occurs during, or within 9 months after the servicemember's military service unless the creditor has obtained a valid court order approving the sale, foreclosure, or seizure of the real estate.
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- "Military OneSource" is the U. S. Department of Defense's information resource. If you are listed as entitled to legal protections under the SCRA (see above), please go to www.militaryonesource.com/scra or call 1-800-342-9647 (toll free from the United States) to find out more information. Dialing instructions for areas outside the United States are provided on the website.

form HUD-92070
(6/2011)
XC046

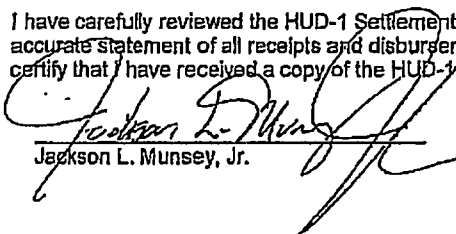
A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT		B. TYPE OF LOAN: 1. ☐ FHA 2. ☐ FmHA 3. ☐ CONV. UNINS. 4. ☐ VA 5. ☐ CONV. INS. 6. FILE NUMBER: 2892 7. LOAN NUMBER: 8. MORTGAGE INS CASE NUMBER:	
C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals. 1.0 3/99 (MUNSEY-2892.PFD/2892(14))			
D. NAME AND ADDRESS OF BORROWER: Jackson L. Munsey, Jr. 405 East Springs Road Columbia, SC 29223		E. NAME AND ADDRESS OF SELLER: Declaration of Trust of Alyce F. Otto dated 11/17/09 1841 Fairview Farms Road Campobello, SC 29322	
G. PROPERTY LOCATION: 1825 Fairview Farms Road Campobello, SC 29322 Spartanburg County, South Carolina		F. NAME AND ADDRESS OF LENDER: 	
H. SETTLEMENT AGENT: 20-8751380 Lonon Law Firm, LLC PLACE OF SETTLEMENT 134 Oakland Avenue, Suite A Spartanburg, SC 29302		I. SETTLEMENT DATE: March 4, 2011	
J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price	1,400,000.00	401. Contract Sales Price	1,400,000.00
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	4,970.00	403.	
104.		404.	
105.		405.	
<i>Adjustments For Items Paid By Seller In advance</i>		<i>Adjustments For Items Paid By Seller In advance</i>	
106. City/Town Taxes to		406. City/Town Taxes to	
107. County Taxes to		407. County Taxes to	
108. Assessments 03/05/11 to 04/01/11	350.00	408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	1,405,330.00	420. GROSS AMOUNT DUE TO SELLER	1,400,000.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		600. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money	10,000.00	501. Excess Deposit (See Instructions)	
202. Principal Amount of New Loan(s)		502. Settlement Charges to Seller (Line 1400)	76,511.01
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first Mortgage	
205.		505. Payoff of second Mortgage	
206.		506. Deposit retained by seller	10,000.00
207.		507.	
208. Note to Seller	13,000.00	508. Note to Seller	13,000.00
209.		509.	
<i>Adjustments For Items Unpaid By Seller</i>		<i>Adjustments For Items Unpaid By Seller</i>	
210. City/Town Taxes to		510. City/Town Taxes to	
211. County Taxes 01/01/11 to 03/05/11	938.15	511. County Taxes 01/01/11 to 03/05/11	938.15
212. Assessments to		512. Assessments 01/01/11 to 03/05/11	840.00
213. Chevy Chase Note	1,061,968.32	513. Chevy Chase Note	1,061,968.32
214. Carolina First Note	193,665.68	514. Carolina First Note	193,665.68
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	1,279,572.15	520. TOTAL REDUCTION AMOUNT DUE SELLER	1,356,923.16
300. CASH AT SETTLEMENT FROM/TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross Amount Due From Borrower (Line 120)	1,405,330.00	601. Gross Amount Due To Seller (Line 420)	1,400,000.00
302. Less Amount Paid By/For Borrower (Line 220)	(1,279,572.15)	602. Less Reductions Due Seller (Line 520)	(1,356,923.16)
303. CASH (X FROM) (TO) BORROWER	125,757.85	603. CASH (X TO) (FROM) SELLER	43,076.84

L. SETTLEMENT CHARGES				PAD FROM BORROWER'S FUNDS AT SETTLEMENT	PAD FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL COMMISSION Based on Price \$ @ %					
Division of Commission (line 700) as follows:					
701. \$	to				
702. \$	to				
703. Commission Paid at Settlement					
704.	to				
800. ITEMS PAYABLE IN CONNECTION WITH LOAN					
801. Loan Origination Fee	%	to			
802. Loan Discount	%	to			
803. Appraisal Fee		to			
804. Credit Report		to			
805. Lender's Inspection Fee		to			
806. Underwriting Fee		to			
807. Tax Service Fee		to			
808. Flood Certification Fee					
809. Processing Fee					
810. YSP to Broker paid by Lender					
811.					
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901. Interest From	to	@ \$	/day (days %)		
902. MIP Tolls. for Life of Loan	for	months to			
903. Hazard Insurance Premium for	years to				
904.					
905.					
1000. RESERVES DEPOSITED WITH LENDER					
1001. Hazard Insurance	months @ \$		per month		
1002. Mortgage Insurance	months @ \$		per month		
1003. City/Town Taxes	months @ \$		per month		
1004. County Taxes	months @ \$		per month		
1005. Assessments	months @ \$		per month		
1006.	months @ \$		per month		
1007.	months @ \$		per month		
1008. Aggregate Adjustment	months @ \$		per month		
1100. TITLE CHARGES					
1101. Settlement or Closing Fee	to				
1102. Abstract or Title Search	to				
1103. Title Examination	to	Lonon Law Firm, LLC		450.00	
1104. Title Insurance Binder	to				
1105. Document Preparation	to				
1106. Notary Fees	to				
1107. Attorney's Fees	to	Lonon Law Firm, LLC		4,500.00	
(includes above item numbers:)					
1108. Title Insurance	to				
(includes above item numbers:)					
1109. Lender's Coverage	\$				
1110. Owner's Coverage	\$				
1111.					
1112.					
1113.					
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording Fees: Deed \$	20.00; Mortgage \$		Releases \$	20.00	
1202. City/County Tax/Stamp: Deed			Mortgage		
1203. State Tax/Stamp: Deed			Mortgage		
1204. Spartanburg County Register of Deeds					
1205.					
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey	to				
1302. Pest Inspection	to				
1303.					
1304. 2010 property taxes	to	County Treasurer	1-03-00-003.00		5,978.87
1305. See add'l disb. exhibit	to				70,532.14
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)				4,970.00	78,511.01

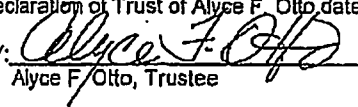
ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower: Jackson L. Munsey, Jr.
Seller: Declaration of Trust of Alyce F. Otto dated 11/17/09
Settlement Agent: Lonon Law Firm, LLC
(864)327-1764
Place of Settlement: 134 Oakland Avenue, Suite A
Spartanburg, SC 29302
Settlement Date: March 4, 2011
Property Location: 1825 Fairview Farms Road
Campobello, SC 29322
Spartanburg County, South Carolina

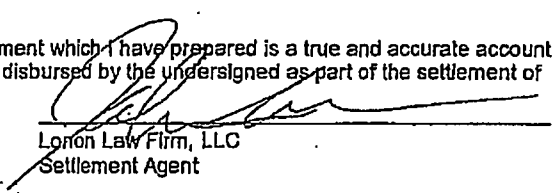
I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.


Jackson L. Munsey, Jr.

Declaration of Trust of Alyce F. Otto dated 11/17/09

BY: 
Alyce F. Otto, Trustee

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 received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.


Lonon Law Firm, LLC
Settlement Agent

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

{MUNSEY-2992.PFD/2992/14}

ADDITIONAL DISBURSEMENTS EXHIBIT

Borrower: Jackson L. Munsey, Jr.
Seller: Declaration of Trust of Alyce F. Otto dated 11/17/09
Settlement Agent: Lonon Law Firm, LLC
 (864)327-1764
Place of Settlement: 134 Oakland Avenue, Suite A
 Spartanburg, SC 29302
Settlement Date: March 4, 2011
Property Location: 1825 Fairview Farms Road
 Campobello, SC 29322
 Spartanburg County, South Carolina

PAYEE/DESCRIPTION	NOTE/REF NO	BORROWER	SELLER
Greenspace of Fairview, LLC			4,590.34
Judgment payoff	Alyce F. Otto		
Internal Revenue Service			14,601.71
IRS lien			
Chevy Chase			50,839.96
Delinquency to Chevy Chase			
Greenspace of Fairview, LLC			500.13
Fire ant treatment			
Total Additional Disbursements shown on Line 1305		\$ 0.00	\$ 70,532.14

(MUNSEY-2992.PFD/2992/14)

DISBURSEMENTS SUMMARY / BALANCE SHEET

Borrower: Jackson L. Munsey, Jr.
Seller: Declaration of Trust of Alyce F. Otto dated 11/17/09
Settlement Agent: Lonon Law Firm, LLC
 (864)327-1764
Place of Settlement: 134 Oakland Avenue, Suite A
 Spartanburg, SC 29302
Settlement Date: March 4, 2011
Property Location: 1825 Fairview Farms Road
 Campobello, SC 29322
 Spartanburg County, South Carolina

INCOMING FUNDS

Jackson L. Munsey, Jr.	125,757.85
Total Incoming Funds	125,757.85

DISBURSEMENTS

County Treasurer	2010 property taxes	5,978.87
Greenspace of Fairview, LLC	Judgment payoff	4,590.34
H Internal Revenue Service	IRS lien	14,501.71
Chevy Chase	Delinquency to Chevy Chase	50,839.96
Greenspace of Fairview, LLC	Fire ant treatment	500.13
Greenspace of Fairview, LLC	Assessments	1,200.00
Declaration of Trust of Alyce F. Otto dated 11/17/0	Closing Proceeds	43,076.84
Lonon Law Firm, LLC	Settlement Agents Fees	4,950.00
Title Examination		450.00
Attorney's Fees		4,500.00
Spartanburg County Register of Deeds	Government Charges	20.00
Recording Fees		20.00
Number of checks - 8	Total Disbursements	125,757.85

(MUNSEY-2392.PFD/2992/14)

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

Capital One

CAPITAL ONE N.A.
CAPITAL ONE N.A.
ESCROW DISBURSEMENT CLR
4WN 848 0554185801
0554185801

CHECK NO. 059732

7198 2550
MO DAY YR
07/16/2012

FUNDS DISBURSED FROM SUSPENSE ACCOUNT
Five Thousand Three Hundred Six and 00/100 Dollars

AMOUNT
*****\$5,306.00
VOID IF NOT CASHED WITHIN 90 DAYS

PAY TO THE ORDER OF
RUDRICK G OTTO
ALYCE F OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356

AUTHORIZED SIGNATURE

⑈059732⑈ ⑆255071981⑆ 019m430120m60⑈

Disbursement Check Voucher

PAYEE NAME & ADDRESS
RUDRICK G OTTO
ALYCE F OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356

CHECK NUMBER: 059732
CHECK DATE: 07/16/2012
PAYEE CODE: 0554185801

BATCH: 4WN

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0554185801	RD OTTO	REFUND PHT	307		5,306.00

Check Totals:

1 Item

\$5,306.00

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

Capital One

CAPITAL ONE NA
CAPITAL ONE NA
ESCROW DISBURSEMENT CLR
4WN 848 0554185801
0554185801

CHECK NO. 065861
7158 2550
MO/DAY/YR 08/21/2012

AMOUNT
*****\$5,208.00
VOID IF NOT CASHED WITHIN 90 DAYS

FUNDS DISBURSED FROM SUSPENSE ACCOUNT
Five Thousand Two Hundred Eight and 00/100 Dollars

PAY TO THE ORDER OF
RUDRICK G OTTO
ALYCE F OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356

[Signature]
AUTHORIZED SIGNATURE

⑈065861⑈ ⑆255071981⑆ 019⑈430120⑈6⑈

Disbursement Check Voucher

PAYEE NAME & ADDRESS
RUDRICK G OTTO
ALYCE F OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356

CHECK NUMBER: 065861
CHECK DATE: 08/21/2012
PAYEE CODE: 0554185801

BATCH: 4WN

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0554185801	RG OTTO	RETURN PNT	307		\$,208.00

Check Totals:

1 Item

\$5,208.00

THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW. DO NOT CASH IF NOT PRESENT.

Capital One

CAPITAL ONE NA
CAPITAL ONE NA
ESCROW DISBURSEMENT CLR
4WN 848 0554185801
0554185801

CHECK NO. 066010
7183 2550
MO/DAY/YR 08/22/2012

FUNDS DISBURSED FROM SUSPENSE ACCOUNT
Five Thousand Two Hundred Nine and 00/100 Dollars

PAY TO THE ORDER OF
RUDRICK G OTTO
ALYCE F OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356

AMOUNT
*****\$5,209.00
VOID IF NOT CASHED WITHIN 60 DAYS

AUTHORIZED SIGNATURE

⑈066010⑈ ⑆255071981⑆ 019⑈430120⑈E⑈

Disbursement Check Voucher

PAYEE NAME & ADDRESS
RUDRICK G OTTO
ALYCE F OTTO
101 E RUTHERFORD ST
LANDRUM SC 29356

CHECK NUMBER: 066010
CHECK DATE: 08/22/2012
PAYEE CODE: 0554185801

BATCH: 4WN

PAGE 1 OF 1

LOAN NUMBER	SHORT NAME/ INIT NAME/ PROPERTY ADDRESS	DESCRIPTION	TRAN CODE	DATE	AMOUNT DUE
0554185801	RO OTTO	RETURN PNT	307		5,209.00

Check Totals:

1 Item

\$5,209.00

DEE-2004-35554
Recorded 3 Pages on 7/12/2004 2:07:27 PM
Recording Fee: \$10.00 Documentary Stamps: \$0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register



Prepared By:

Alex J. Newton
Attorney at Law
101 N. Pine Street, Suite 303
Spartanburg, S.C. 29302
Telephone: 864-573-5299
Fax: 864-573-5603
File: 20040351

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Fairview Associates, LLC in consideration of Ten Dollars (\$10.00) Dollars have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto Rudrick G. Otto and Alyce F. Otto their heirs and/or assigns, forever:

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

This being the same property conveyed to Fairview Associates, LLC by deed of Greenspace of Fairview, LLC dated December 27, 2001, recorded December 27, 2001 in Deed Book 74-Z, page 317, Register of Deeds for Spartanburg County.

Grantee's Address: 1842 Fairview Farms Road
Campobello, SC 29322

Block Map Reference: 1-03-00-003.00

This conveyance is made subject to easements and restrictions of record and otherwise affecting the property.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the premises before mentioned unto the Grantee, his Heirs, Successors and Assigns forever.

And the Grantors do hereby bind themselves and their heirs, to warrant and forever defend all and singular premises unto the Grantee, his Heirs and Assigns against themselves and their heirs, and against any person whomsoever lawfully claiming or to claim the same, or any part thereof.

IN WITNESS WHEREOF, THE GRANTORS have set their hands and seals this the 12th July, 2004.

SIGNED, SEALED AND DELIVERED
IN PRESENCE OF:

Kerrin Dawson
witness to sign here

Fairview Associates, LLC
By: [Signature] (SEAL)
Edrick G. Otto

[Signature]
notary to sign here

____ (SEAL)

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

ACKNOWLEDGMENT

I, a Notary Public of the County and State aforesaid, certify that Fairview Associates, LLC By: It's member appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official seal, this the 12th July, 2004

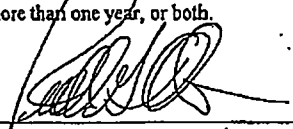
[Signature] (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: Feb. 25, 2013

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

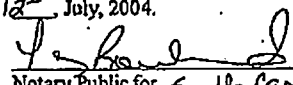
AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. Property located at 1842 Fairview arms Road, bearing Spartanburg County Tax Map Number 1-03-00-003.00, was transferred by Fairview Associates, LLC to Rudrick G. Otto and Alyce F. Otto on July 2004.
2. The transaction was (check one):
☒ an arm's length real property transaction and the sales price paid or to be paid in money or money's worth was \$
☐ not an arm's length real property transaction and the fair market value of the property is \$
3. The above transaction is exempt, or partially exempt, from the recording fee as set forth in S. C. Code Ann. § 12-24-10 et. seq. because the deed is:
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Seller(s) of the property.
5. I further understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


Rudrick G. Ott

SWORN to before me this
12th July, 2004.


Notary Public for South Carolina

My Commission Expires: Feb. 25, 2013

95A- PG 435

DEE-2009-48391
Recorded 4 Pages on 11/24/2009 3:20:44 PM
Recording Fee: \$10.00 Documentary Stamps: \$0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register



BLOCK MAP REFERENCE NO.:

1-03-00-003.00

1-08-05-015.00

ADDRESS OF GRANTEE:

1841 Fairview Farms Rd.
Campobello, SC 29322

STATE OF SOUTH CAROLINA)

) TITLE TO REAL ESTATE

COUNTY OF SPARTANBURG)

KNOW ALL MEN BY THESE PRESENTS that RUDRICK G. OTTO, in consideration of the sum of One and no/100 (\$1.00) Dollar, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto RUDRICK GEORGE OTTO, TRUSTEE UNDER DECLARATION OF TRUST OF RUDRICK GEORGE OTTO DATED THE 17th DAY OF NOVEMBER, 2009, his successors and assigns forever:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN

Together with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining; to have and to hold all and singular the said premises before mentioned unto the grantee and the grantee's successors and assigns, forever. And the grantor does hereby bind himself, his heirs, successors and assigns to warrant and forever defend all and singular the said premises unto the grantee and the grantee's successors and assigns, against the grantor, his heirs and assigns against the grantor and his heirs and assigns, and against any person whomsoever lawfully claiming or to claim the same, or any part thereof, except as to restrictions and easements of record, if any.

IN WITNESS WHEREOF, the grantor has hereunto set his hand and seal this 18 day of November, 2009.

SIGNED, Sealed and Delivered

95A- PG 436

In the Presence of:

Rudrick G. Otto
Julie Soto

Rudrick G. Otto (SEAL)
RUDRICK G. OTTO

STATE OF SOUTH CAROLINA)

) ACKNOWLEDGMENT

COUNTY OF SPARTANBURG)

The foregoing instrument was acknowledged before me this 18th day of November, 2009
by RUDRICK G. OTTO .

William H. Ashmore (SEAL)

Notary Public for South Carolina

My commission expires 5-8-12

EXHIBIT "A"

PARCEL ONE: An undivided one-half (1/2) interest in and to all that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, containing 25.08 acres, more or less, and being shown and designated as Distribution Tract G on plat entitled "Survey for Greenspace of Fairview, LLC Tract 5" dated November 26, 2001, prepared by Joe E. Mitchell, Registered Land Surveyor, recorded in Plat Book 151, page 523, and having such metes and bounds as appears thereon, incorporated herein by reference.

Being the same property conveyed to Rudrick G. Otto and Alyce F. Otto by Fairview Associates, LLC by deed recorded July 12, 2004 in Deed Book 80-T at page 257, RMC Office for Spartanburg County, S.C.

PARCEL TWO: An undivided one-half (1/2) interest in and to all that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as Lot No. A, as shown on survey prepared for Arthur B. Coggins and James E. Ashmore dated February 11, 1983 and recorded in Plat Book 88, page 806, RMC Office for Spartanburg County, S.C. For a more particular description, reference is hereby made to the above referred to plat and record thereof.

Being the same property conveyed to Rudrick G. Otto and Alyce F. Otto by Garrick and Garrick Real Estate, LLC by deed recorded February 17, 2005 in Deed Book 82-J at page 96, RMC Office for Spartanburg County, S.C.

STATE OF SOUTH CAROLINA)
) AFFIDAVIT FOR EXEMPT TRANSFERS
COUNTY OF SPARTANBURG)

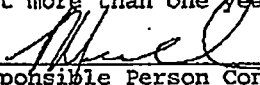
PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on the back of this affidavit and I understand such information.
2. The property being transferred is located at Campobello, bearing Spartanburg County Tax Map Number 1-03-00-003.00 and 1-08-05-015.00, was transferred by Rudrick G. Otto to Rudrick George Otto, Trustee under Declaration of Trust of Rudrick George Rudrick dated the 17th day of November 2009.
3. The deed is exempt from the deed recording fee because (See Information section of affidavit): transfer to family trust

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes _____ of No _____.

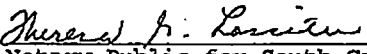
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: attorney

5. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


Responsible Person Connection
with the Transaction

SWORN to before me this
24th day of November, 2009.

S. Michael Pack, Jr.
Print or Type Name Here

 (Seal)
Notary Public for South Carolina
My Commission expires: February 25, 2013

4

95A- PG 439

DEE-2000 48392
Recorded 4 Pages on 11/24/2009 3:21:00 PM
Recording Fee: \$10.00 Documentary Stamps: \$0.00
Office of Registrar of Deeds, Spartanburg, S.C.
Stephen Ford, Registrar



BLOCK MAP REFERENCE NO:

1-03-00-003.00

1-08-05-015.00

ADDRESS OF GRANTEE:

1841 Fairview Farms Rd
Campobello, SC 29322

STATE OF SOUTH CAROLINA)

) TITLE TO REAL ESTATE

COUNTY OF SPARTANBURG)

KNOW ALL MEN BY THESE PRESENTS that ALYCE F. OTTO, in consideration of the sum of One and no/100 (\$1.00) Dollar, the receipt of which is hereby acknowledged, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto ALYCE F. OTTO, TRUSTEE UNDER DECLARATION OF TRUST OF ALYCE F. OTTO DATED THE 17th DAY OF NOVEMBER, 2009, her successors and assigns forever:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN

Together with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining; to have and to hold all and singular the said premises before mentioned unto the grantee and the grantee's successors and assigns, forever. And the grantor does hereby bind herself, her heirs, successors and assigns to warrant and forever defend all and singular the said premises unto the grantee and the grantee's successors and assigns, against the grantor, her heirs and assigns against the grantor and her heirs and assigns, and against any person whomsoever lawfully claiming or to claim the same, or any part thereof, except as to restrictions and easements of record, if any.

IN WITNESS WHEREOF, the grantor has hereunto set her hand and seal this 18 day of November, 2009.

SIGNED, Sealed and Delivered

95A- PG 440

In the Presence of:

[Signature]
[Signature]

[Signature] (SEAL)
ALYCE F. OTTO

STATE OF SOUTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF SPARTANBURG

The foregoing instrument was acknowledged before me this 18th day of November, 2009
by ALYCE F. OTTO.

[Signature]

Notary Public for South Carolina

My commission expires 5-8-12

95A- PG 441

EXHIBIT "A"

PARCEL ONE: An undivided one-half (1/2) interest in and to all that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, containing 25.08 acres, more or less, and being shown and designated as Distribution Tract G on plat entitled "Survey for Greenspace of Fairview, LLC Tract 5" dated November 26, 2001, prepared by Joe E. Mitchell, Registered Land Surveyor, recorded in Plat Book 151, page 523, and having such metes and bounds as appears thereon, incorporated herein by reference.

Being the same property conveyed to Rudrick G. Otto and Alyce F. Otto by Fairview Associates, LLC by deed recorded July 12, 2004 in Deed Book 80-T at page 257, RMC Office for Spartanburg County, S.C.

PARCEL TWO: An undivided one-half (1/2) interest in and to all that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as Lot No. A, as shown on survey prepared for Arthur B. Coggins and James E. Ashmore dated February 11, 1983 and recorded in Plat Book 88, page 805, RMC Office for Spartanburg County, S.C. For a more particular description, reference is hereby made to the above referred to plat and record thereof.

Being the same property conveyed to Rudrick G. Otto and Alyce F. Otto by Garrick and Garrick Real Estate, LLC by deed recorded February 17, 2005 in Deed Book 82-J at page 96, RMC Office for Spartanburg County, S.C.

95A- 85442

STATE OF SOUTH CAROLINA)
) AFFIDAVIT FOR EXEMPT TRANSFERS
COUNTY OF SPARTANBURG)

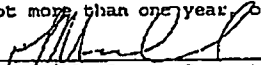
PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on the back of this affidavit and I understand such information.
2. The property being transferred is located at Campobello, bearing Spartanburg County Tax Map Number 1-03-00-003.00 and 1-08-05-015.00, was transferred by Alyce F. Otto to Alyce F. Otto, Trustee under Declaration of Trust of Rudrick George Rudrick dated the 17th day of November 2009.
3. The deed is exempt from the deed recording fee because (See Information section of affidavit): transfer to family trust

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes ☐ of No ☐.

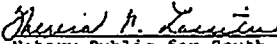
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: attorney

5. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


Responsible Person Connection
with the Transaction

SWORN to before me this
24th day of November, 2009.

S. Michael Pack, Jr.
Print or Type Name Here

 (Seal)
Notary Public for South Carolina
My Commission expires: February 25, 2013

91197 - VPG181

DEE-2011-4594
Recorded 4 Pages on 2/10/2011 1:05:40 PM
Recording Fee: \$10.00 Documentary Stamps: \$0.00
Office of Registrar of Deeds, Spartanburg, S.C.
Dorothy Earle, Register



State of South Carolina

County of Spartanburg

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that I, Alyce F. Otto, Successor Trustee Under Declaration of Trust of Rudrick George Otto Dated the 17th day of November, 2009 (hereinafter called "Grantor"), in consideration of Ten and 00/100 Dollars (\$10.00), the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release unto Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto Dated the 17th day of November, 2009, her successors and assigns:

See attached Exhibit A.

Grantee's Address:

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining;

TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, and the Grantee's heirs and assigns forever. And the Grantor does hereby bind the grantor and the grantor's heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the Grantee and the Grantee's heirs or successors and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Any reference to this instrument to the singular shall include the plural, and vice versa. Any reference to one gender shall include the others, including the neuter. Such words of inheritance shall be applicable as are required by the gender of the Grantee.

DEC 97 - VPG 182

WITNESS the Grantor's hand and seal this the 9th day of February, 2011.

SIGNED, SEALED AND DELIVERED
in the presence of:

Declaration of Trust of Rudrick George Otto
Dated the 17th day of November, 2009

Marilyn J. Otto
[Signature]

By: [Signature] (Seal)
Alyce F. Otto, Successor Trustee

State of South Carolina)

County of Spartanburg)

PROBATE

PERSONALLY APPEARED BEFORE ME the undersigned witness and made oath that (s)he saw the within-named Alyce F. Otto, Successor Trustee Under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009, sign, seal and as her act and deed deliver the within-written Title to Real Estate and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Marilyn J. Otto

SWORN to before me this
9th day of February, 2011.

[Signature] (SEAL)
Notary Public for South Carolina
My Commission Expires: 01/29/2013

DEL 97 - VPG 183

EXHIBIT A

PARCEL ONE:

ALL OF THE GRANTOR'S RIGHT TITLE AND INTEREST IN AND TO:

ALL that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, containing **25.08 acres**, more or less, and being shown and designated as **Distribution Tract G** upon plat entitled "Survey for Greenspace of Fairview, LLC Tract 5" dated November 26, 2001, prepared by Joe E. Mitchell, RLS, recorded in **Plat Book 151, Page 523 806** in the Office of the Register of Deeds for Spartanburg County. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

BMR: 1 03-00 003.00

ALSO:

PARCEL TWO:

ALL OF THE GRANTOR'S RIGHT TITLE AND INTEREST IN AND TO:

ALL that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as **Lot No. A** upon plat of survey prepared for Arthur B. Coggins and James E. Ashmore dated February 11, 1983 and recorded in **Plat Book 88, Page 806** in the Office of the Register of Deeds for Spartanburg County. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

BMR: 1 08-05 015.00

THIS ABOVE PROPERTY BEING the same property conveyed to Rudrick George Otto, Trustee Under Declaration of Trust of Rudrick George Otto Dated the 17th day of November, 2009, by deed dated November 18, 2009 and recorded November 24, 2009 in Deed Book 95-A, Page 435 in the Office of the Register of Deeds for Spartanburg County.

Alpe Olt

DEC 97 - VPG 184

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

AFFIDAVIT FOR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on the back of this affidavit and I understand such information.
2. The property being transferred is located at multiple parcels, bearing Spartanburg County Tax Map Numbers 1 03-00 003.00 and 1 08-05 015.00, was transferred by Alyce F. Otto, Successor Trustee under Declaration of Trust of Rudrick George Otto dated the 17th day of November 2009 to Alyce F. Otto, Trustee under Declaration of Trust of Alyce F. Otto dated the 17th day of November 2009 on February 9, 2011.
3. The deed is exempt from the deed recording fee because (See Information section of affidavit): See No. 9 on the reverse.
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor
5. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor, and upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Declaration of Trust of Rudrick George Otto dated the
17th day of November 2009

By:

Alyce F. Otto
Alyce F. Otto, Successor Trustee

SWORN to before me this February 9, 2011

Jan. Clary
Notary Public for South Carolina

My Commission Expires: 01/29/2012

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30, is equal or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty as long as no consideration is paid for the transfer other than the interests in the realty that are being exchanged in order to partition the realty;
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value in such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner, or trust beneficiary of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;
- (9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family" means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;
- (11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and,
- (12) that constitute a corrective deed or a quitclaim deed used to confirm title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.
- (13) transferring realty subject to a mortgage to the mortgagee whether by deed in lieu of foreclosure executed by the mortgagee or deed pursuant to foreclosure proceedings.
- (14) Transferring realty from an agent to the agent's principal in which the realty was purchased with funds of the principal, provided that a notarized document is also filed with the deed that establishes the fact that the agent and principal relationship existed at the time of the original purchase as well as for the purpose of purchasing the realty.
- (15) transferring title to facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivision to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined the Federal Power Act.

COPY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

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

Plaintiff,

-vs-

Alyce F. Otto, individually;
Alyce F. Otto, Trustee Under
Declaration of Trust of Alyce F.
Otto, dated 11/17/09; TD Bank, NA;
The United States of America,
Acting by and through its agency,
The Internal Revenue Service;
Laura Kerhulas Giese, as co-
Trustee of the Theodore Ernest
Kerhulas Trust Under Declaration
Of Trust dated 5/25/04; Mark
Warner Kerhulas, as co-Trustee of
The Theodore Ernest Kerhulas
Trust Under Declaration of Trust
Dated 5/25/04; Jackson L. Munsey,
Jr.; and Citibank, NA,

Defendants.

And

Jackson L. Munsey, Jr.

Cross-Claim Plaintiff,

-vs-

Alyce F. Otto, Individually; and
Alyce F. Otto, Trustee under
Declaration of Trust of Alyce F.
Otto, dated 11/17/09,

Cross-Claim Defendants.

IN THE COURT OF COMMON PLEAS

C. A. NO.: 2012-CP-42-3549

MOTION TO SET ASIDE DEFAULT
AND LEAVE TO FILE ANSWER
OUTSIDE OF TIME

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CLERK OF COURT
SPARTANBURG COUNTY
2013 FEB -4 PM 3:23
M. HOPE BLACKLEY

NOW COMES the undersigned counsel for the Defendant and Cross-Claim Plaintiff Jackson L. Munsey, Jr. ("Munsey"), and hereby moves to set aside any default entered against Munsey in this matter, pursuant to Rule 55(c) of the South Carolina Rules of Civil Procedure.

Munsey is currently the occupant and purchaser of the real property which is the subject matter of this litigation. (Munsey Aff. ¶¶ 2, 3.) He is also currently involved in a separate foreclosure action with Defendant Alyce F. Otto ("Otto"), involving the same parcel of property. (Munsey Aff. ¶ 2.) When Munsey was served with this lawsuit, he was in contact with Otto's attorney, who was in the process of negotiating a settlement with Plaintiff in this matter. (Munsey Aff. ¶ 5.) Munsey believed that a settlement was imminent. (*Id.*)

When Otto's attorney stopped communicating with Munsey, he became aware that a settlement was not in the works and that it would be advisable for him to retain his own counsel. (Munsey Aff. ¶ 6.) He retained the law firm of Kehl Culbertson, LLC, in late December, and an Answer and Counterclaims were filed with the Spartanburg County Clerk of Court on December 27, 2012.

The standard for setting aside default is "good cause," and South Carolina courts have ruled that standard to be more lenient than the standard for setting aside a judgment for inadvertence or excusable neglect under SCRCP 60(b)(1). *Bage, LLC vs. Southeastern Roofing Co. of Spartanburg, Inc.*, 373 S.C. 457, 646 S.E.2d 153 (Ct. App. 2007). Further, South Carolina holds that rule 55(c) should be liberally construed to promote justice and allow parties to dispose of cases on the merits rather than procedural errors. *See, e.g., Dixon vs. Besco Engineering*, 328 S.C. 174, 463 S.E.2d 636 (Ct. App. 1995); *Ricks vs. Weinrauch*, 293 S.C. 372, 360 S.E.2d 553 (Ct. App. 1987).

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

The factors to be considered in setting aside a default are as follows: (1) the timing of defaulting party's motion for relief; (2) whether the party has a meritorious defense; and (3) the degree of prejudice to the other party if relief is granted. *Wham vs. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 381 S.E.2d 499 (Ct. App. 1989). As stated in Munsey's Affidavit, he was diligently communicating and negotiating with Otto's counsel in both this matter and the Otto Foreclosure, which is a companion action, and believed a settlement was being negotiated. As soon as he learned otherwise, he retained counsel and filed an Answer. Further, his Answer, which is of record with this Court, contains numerous meritorious defenses, counterclaims, and cross-claims, which must be adjudicated in the interest of fairness. Finally, there is no prejudice to the Plaintiff if Munsey's default is set aside. Should Plaintiff prove its case on the merits, Plaintiff will be entitled to monetary relief in the form of daily-accruing interest; hence, there is no harm to Plaintiff in allowing Munsey to file his Answer, present his counter- and cross-claims, and fully and fairly adjudicate his claims.

This Motion is further based on common and statutory laws, the pleadings in this case, and any affidavits, documents, evidence or memoranda which may properly be filed with the Court at or in advance of the hearing in this matter.

WHEREFORE, undersigned counsel for Munsey respectfully requests that this Court set aside any default entered against him and allow him the opportunity to proceed with litigating his Answer, Counterclaims, and Crossclaims in the instant matter.

Erin Culbertson
Erin Culbertson (SC Bar #68271)
KEHL CULBERTSON, LLC
114 Manly St. (29601)
Post Office Box 1904
Greenville, SC 29602
864/370-8222 864/370-8227 (fax)

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SPARTANBURG COUNTY
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H. HOPE BLACKLEY

erin@upstatepropertylaw.com

Counsel for Defendant and Cross-Claim Plaintiff
Jackson L. Munsey, Jr.

January 29, 2013
Greenville, SC

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

COPY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

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

Plaintiff,)

-vs-)

Alyce F. Otto, individually;)
Alyce F. Otto, Trustee Under)
Declaration of Trust of Alyce F.)
Otto, dated 11/17/09; TD Bank, NA;)
The United States of America,)
Acting by and through its agency,)
The Internal Revenue Service;)
Laura Kerhulas Giese, as co-)
Trustee of the Theodore Ernest)
Kerhulas Trust Under Declaration)
Of Trust dated 5/25/04; Mark)
Warner Kerhulas, as co-Trustee of)
The Theodore Ernest Kerhulas)
Trust Under Declaration of Trust)
Dated 5/25/04; Jackson L. Munsey,)
Jr.; and Citibank, NA,)

Defendants.)

And)

Jackson L. Munsey, Jr.)

Cross-Claim Plaintiff,)

-vs-)

Alyce F. Otto, Individually; and)
Alyce F. Otto, Trustee under)
Declaration of Trust of Alyce F.)
Otto, dated 11/17/09,)

Cross-Claim Defendants.)

IN THE COURT OF COMMON PLEAS

C. A. NO.: 2012-CP-42-3549

AFFIDAVIT OF JACKSON L. MUNSEY, JR.

✓

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

Jackson L. Munsey, Jr., personally appearing before me, and being duly sworn, states the following:

1. I am a citizen and resident of the County of Spartanburg, State of South Carolina. I am over the age of eighteen and I am a Defendant and Cross-Claim Plaintiff in the above-captioned civil action. The information contained in this Affidavit is based on my personal knowledge.

2. I am currently the occupant of the property which is the subject matter of the above-captioned foreclosure, as well as a related foreclosure styled as Alyce F. Otto, Trustee vs. Jackson L. Munsey, Jr., bearing Spartanburg County Civil Action No. 2012-CP-42-2874 (the "Otto Foreclosure").

3. I am in the process of purchasing the subject property from Defendant Alyce F. Otto ("Otto"), pursuant to the terms and conditions of a Contract for Deed, as referenced in the Complaint of the above-captioned matter, and which is also the subject of the Otto Foreclosure.

4. I was served with the Summons, Complaint, and Lis Pendens in the above-captioned matter on August 31, 2012.

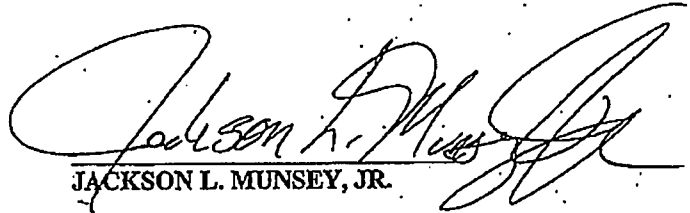
5. Prior to that date, and continuing for weeks afterwards, I was in communication with Otto's attorney, Ken Anthony, attempting to understand, negotiate, and resolve both the instant matter and the Otto Foreclosure. It was my understanding and belief that we would be able to settle with the Plaintiff and would not be forced to litigate this matter of the Otto Foreclosure.

6. In November, Ken Anthony stopped communicating and corresponding with me and it became apparent that litigation was unavoidable. I retained counsel as soon as I was able to do so and filed an Answer and Counterclaims with this Court on December 27, 2012.

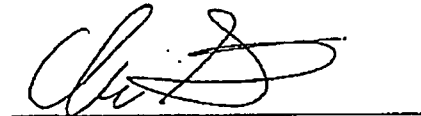
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D. HOEGL ACKLEY

FURTHER AFFLIANT SAYETH NOT.

Date _____


JACKSON L. MUNSEY, JR.

Sworn to before me this _____
day of January, 2013.



Notary Public for South Carolina

My commission expires: _____ My Commission Expires
October 26, 2019

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

COPY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

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

Plaintiff,

-vs-

Alyce F. Otto, individually;
Alyce F. Otto, Trustee Under
Declaration of Trust of Alyce F.
Otto, dated 11/17/09; TD Bank, NA;
The United States of America,
Acting by and through its agency,
The Internal Revenue Service;
Laura Kerhulas Giese, as co-
Trustee of the Theodore Ernest
Kerhulas Trust Under Declaration
Of Trust dated 5/25/04; Mark
Warner Kerhulas, as co-Trustee of
The Theodore Ernest Kerhulas
Trust Under Declaration of Trust
Dated 5/25/04; Jackson L. Munsey,
Jr.; and Citibank, NA,

Defendants.

And

Jackson L. Munsey, Jr.

Cross-Claim Plaintiff,

-vs-

Alyce F. Otto, Individually; and
Alyce F. Otto, Trustee under
Declaration of Trust of Alyce F.
Otto, dated 11/17/09,

Cross-Claim Defendants.

IN THE COURT OF COMMON PLEAS

C. A. NO.: 2012-CP-42-3549

MOTION TO CONSOLIDATE WITH
C. A. NO.: 2012-CP-42-2874

FILED
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SPARTANBURG COUNTY
2013 FEB -4 PM 3:23
M. HOPE BLACKLEY

NOW COMES the undersigned counsel for the Defendant and Cross-Claim Plaintiff Jackson L. Munsey, Jr. ("Munsey"), and hereby moves to consolidate the above-captioned matter with that currently pending foreclosure styled as Alyce F. Otto, Trustee vs. Jackson L. Munsey, Jr., bearing Civil Action Number 2012-CP-42-2874. The basis of this motion is that the two cases involve common questions of law and fact, involve the same parcel of real property, and pursuant to Rule 42 of the South Carolina Rules of Civil Procedure, should be consolidated in the interests of judicial economy.

This Motion is further based on common and statutory laws, the pleadings in this case, and any affidavits, documents, evidence or memoranda which may properly be filed with the Court at or in advance of the hearing in this matter.

WHEREFORE, undersigned counsel for Munsey respectfully requests that this Court inquire into the issues presented in this Motion, hold such hearings as the Court deems advisable, and issue its Order consolidating this matter with 2012-CP-42-2874, to be tried together as on action.

Erin Culbertson
Erin Culbertson (SC Bar # 68271)
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Counsel for Defendant and Cross-Claim Plaintiff
Jackson L. Munsey, Jr.

January 17, 2013
Greenville, SC

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SPARTANBURG COUNTY
JAN 17 2013
PM 3:23
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

C. A. NO.: 2012-CP-42-3549

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

Plaintiff,

-vs-

Alyce F. Otto, individually;
Alyce F. Otto, Trustee Under
Declaration of Trust of Alyce F.
Otto, dated 11/17/09; TD Bank, NA;
The United States of America,
Acting by and through its agency,
The Internal Revenue Service;
Laura Kerhulas Giese, as co-
Trustee of the Theodore Ernest
Kerhulas Trust Under Declaration
Of Trust dated 5/25/04; Mark
Warner Kerhulas, as co-Trustee of
The Theodore Ernest Kerhulas
Trust Under Declaration of Trust
Dated 5/25/04; Jackson L. Munsey,
Jr.; and Citibank, NA,

Defendants.

And

Jackson L. Munsey, Jr.

Cross-Claim Plaintiff,

-vs-

Alyce F. Otto, Individually; and
Alyce F. Otto, Trustee under
Declaration of Trust of Alyce F.
Otto, dated 11/17/09,

Cross-Claim Defendants.

MOTION FOR RELIEF
FROM ENTRY OF DEFAULT

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CLERK OF COURT
SPARTANBURG COUNTY
2015 NOV 23 PM 2:02
M. HOPE BLACKLEY

NOW COMES the undersigned counsel for the Defendant and Cross-Claim Plaintiff Jackson L. Munsey, Jr. ("Munsey"), and hereby moves to set aside any default entered against Munsey in this matter, pursuant to Rule 55(c) of the South Carolina Rules of Civil Procedure.

On December 27, 2012, Munsey filed a Summons, Answer, Counterclaims and Cross-Claims in the above-captioned matter, alleging certain affirmative defenses and compulsory counterclaims against Plaintiff US Bank, NA ("US Bank") and certain affirmative defenses and compulsory counter and cross-claims against Defendant Alyce F. Otto ("Otto"). On February 4, 2013, Munsey filed a motion to consolidate two pending actions bearing Civil Actions Numbers 2012-CP-42-3549 and 2012-CP-42-2874. On February 4, 2013, Munsey also filed a Motion to Set Aside Default and Leave to File Answer Outside of Time. Along with his Motion to Set Aside Default, Munsey also filed an Affidavit, containing certain factual allegations and attestations related to the "good cause" element of his Motion to Set Aside Default. All of the above documents and filings are of record with the Court.

On May 6, 2013, the Court held a hearing on Munsey's two pending motions. The Motion to Consolidate was granted, by Order dated and filed May 6, 2013. The Motion to Set Aside Default was denied, by Order dated and filed May 6, 2013.

Munsey again respectfully seeks relief from entry of default in the within matter, based upon the facts and arguments contained below.

As established by the Affidavit previously filed in this matter and as confirmed by the Affidavit of Stephanie Munsey, attached hereto as Exhibit A and made a part hereof by reference, Munsey is currently the occupant and purchaser of the real property which is the subject matter of this litigation. (Munsey Aff. ¶¶ 2, 3.) He is also currently involved in a separate foreclosure action with Defendant Alyce F. Otto ("Otto"), claiming the same parcel of

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property. (Munsey Aff. ¶ 2.) When Munsey was served with this lawsuit, he was in contact with Otto's attorney, who was in the process of negotiating a settlement with Plaintiff in this matter. (Munsey Aff. ¶ 5; Stephanie Munsey Aff. ¶¶ 10-15.) Munsey even went so far as to deposit settlement funds with Otto's attorney, which he continues to hold to date. (Stephanie Munsey Aff. ¶ 13.) Munsey believed that a settlement was imminent. (Id.)

When Otto's attorney abruptly stopped communicating with Munsey, he became aware that a settlement was not in the works and that it would be advisable for him to retain his own counsel. (Munsey Aff. ¶ 6; Stephanie Munsey Aff. ¶ 16.) He contacted the law firm of Kehl Culbertson, LLC, in November of 2012 and retained the firm in mid-December. An Answer and Counterclaims were served on the opposing parties on December 21, 2012, and filed with the Spartanburg County Clerk of Court on December 27, 2012. Munsey's Motion to Set Aside Default was filed within a few weeks of that, on February 4, 2013.

Since that time, Otto has been granted leave of the Court TWICE to amend her Answer and Counterclaim (September 4, 2013 and April 7, 2015). The contested foreclosure hearing has been scheduled and canceled multiple times. New counsel of record has been permitted to make an appearance on behalf of Defendant TD Bank, NA (February 12, 2015). New counsel of record has been permitted to make an appearance on behalf of the Plaintiff (March 9, 2015). Defendants Laura Kerhulas Giese and Mark Warner Kerhulas have been granted leave of the court to amend their answer, file a cross-claim, and participate in discovery (July 13, 2015).

Munsey's original Answer and Counterclaims was filed less than 120 days after being served by US Bank, and less than 90 days after US Bank filed a Certificate of Default, during almost all of which Munsey was in regular communication with Otto's attorney attempting to settle the dispute. In fact, Otto's attorney even represented Munsey's wife, who is a member

of the SC Bar, that he was not "going to call time on you," and continued to conduct settlement discussions with Munsey long based any default deadlines. (Stephanie Munsey Aff. ¶¶ 12-15.)

The standard for setting aside an entry of default is "good cause," and South Carolina courts have ruled that standard to be more lenient than the standard for setting aside a judgment for inadvertence or excusable neglect under SCRCP 60(b)(1). *Bage, LLC vs. Southeastern Roofing Co. of Spartanburg, Inc.*, 373 S.C. 457, 646 S.E.2d 153 (Ct. App. 2007). Further, South Carolina holds that Rule 55(c) should be liberally construed to promote justice and allow parties to dispose of cases on the merits rather than procedural errors. See, e.g., *Dixon vs. Besco Engineering*, 320 S.C. 174, 463 S.E.2d 636 (Ct. App. 1995); *Ricks vs. Weinrauch*, 293 S.C. 372, 360 S.E.2d 535 (Ct. App. 1987).

The factors to be considered in setting aside a default are as follows: (1) the timing of defaulting party's motion for relief; (2) whether the party has a meritorious defense; and (3) the degree of prejudice to the other party if relief is granted. *Wham vs. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 381 S.E.2d 499 (Ct. App. 1989). As stated in Munsey's Affidavit, he was diligently communicating and negotiating with Otto's counsel in both this matter and the Otto Foreclosure, which is a companion action, and believed a settlement was being negotiated. As soon as he learned otherwise, he retained counsel and filed an Answer. Further, his Answer, which is of record with this Court, contains numerous meritorious defenses, counterclaims, and cross-claims, which must be adjudicated in the interest of fairness. Munsey has been deposed and conducted significant discovery with US Bank. Finally, as has been shown by the fact that this case has been pending for almost three (3) years since the entry of Munsey's Answer and Motions, there is no prejudice to the Plaintiff if Munsey's default is set aside. Should Plaintiff prove its case on the merits, Plaintiff will be entitled to monetary relief in the form of daily-

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accruing interest; hence, there is no harm to Plaintiff in allowing Munsey to file his Answer, present his counter- and cross-claims, and fully and fairly adjudicate his claims.

This Motion is further based on common and statutory laws, the pleadings in this case, and any affidavits, documents, evidence or memoranda which may properly be filed with the Court at or in advance of the hearing in this matter.

WHEREFORE, undersigned counsel for Munsey respectfully requests that this Court set aside any entries of default and allow him the opportunity to proceed with litigating his Answer, Counterclaims, and Crossclaims in the instant matter.


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erin@palmettolawfirm.com

Counsel for Defendant and Cross-Claim Plaintiff
Jackson L. Munsey, Jr.

November 23, 2015
Greenville, SC

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

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

Plaintiff,)

-vs-)

Alyce F. Otto, individually;)
Alyce F. Otto, Trustee Under)
Declaration of Trust of Alyce F.)
Otto, dated 11/17/09; TD Bank, NA;)
The United States of America,)
Acting by and through its agency,)
The Internal Revenue Service;)
Laura Kerhulas Giese, as co-)
Trustee of the Theodore Ernest)
Kerhulas Trust Under Declaration)
Of Trust dated 5/25/04; Mark)
Warner Kerhulas, as co-Trustee of)
The Theodore Ernest Kerhulas)
Trust Under Declaration of Trust)
Dated 5/25/04; Jackson L. Munsey,)
Jr.; and Citibank, NA,)

Defendants.)

And)

Jackson L. Munsey, Jr.)

Cross-Claim Plaintiff,)

-vs-)

Alyce F. Otto, Individually; and)
Alyce F. Otto, Trustee under)
Declaration of Trust of Alyce F.)
Otto, dated 11/17/09,)

Cross-Claim Defendants.)

IN THE COURT OF COMMON PLEAS

C. A. NO.: 2012-CP-42-3549

**AFFIDAVIT OF
STEPHANIE BLANTON MUNSEY**

M. HOPE BLACKLEY
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Stephanie Blanton Munsey, personally appearing before me, and being duly sworn, states the following:

1. I am a citizen and resident of the County of Spartanburg, State of South Carolina. I am over the age of eighteen and my husband, Jackson L. Munsey, Jr. ("Jack"), is the Defendant and Cross-Claim Plaintiff in the above-captioned civil action. The information contained in this Affidavit is based on my personal knowledge.

2. I am a member in good standing of the South Carolina Bar and have practiced law in the state of South Carolina for eighteen (18) years.

3. Along with Jack and our minor son, I am currently an occupant of the property which is the subject matter of the above-captioned foreclosure, which has been consolidated with a related foreclosure action styled as Alyce F. Otto, Trustee vs. Jackson L. Munsey, Jr. (the "Otto Foreclosure"). The consolidation was effected by Order of this Court dated May 6, 2013.

4. My husband is under contract to purchase the subject property from Defendant Alyce F. Otto ("Otto"), pursuant to the terms and conditions of a Contract for Deed dated March 4, 2011 (the "Contract"), as referenced in the Complaint of the above-captioned matter. A copy of the Contract is attached hereto as Exhibit A and made a part hereof by reference.

5. Shortly after the closing held on March 4, 2011, Jack began requesting login information and online access and/or monthly mortgage statements to the two mortgage accounts he was obligated to pay under the terms of the Contract. Otto consistently refused to allow him online access and failed to provide Jack with copies of each month's mortgage statements, despite her agreement and obligation to do so.

6. On April 15, 2012, Jack met with Otto personally at her place of business (after numerous previous requests via telephone and email) to request that she provide him the required

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Form 1098 Mortgage Interest statement for each of the mortgages he was obligated to pay, in order that he could prepare his income taxes and take the allowable and agreed-upon deduction for his payments on the Contract. During this conversation, Jack learned from Otto that the Capital One/US Bank mortgage was in default. Jack and Otto together placed a call to Capital One, during which conference call, the customer service representative told Jack and Otto that all payments had been received, but had been misallocated to principal, and certain payments had been returned by check to Otto. Otto agreed to return all the wrongfully-refunded payments to Capital One; Capital One agreed to reallocate the principal reduction payments to regular monthly payments and to properly apply the refunded payments once received back from Otto. Otto further agreed to forward monthly mortgage statements to Jack and to issue the requisite Form 1098 statements within thirty (30) days.

7. In May of 2012, having received nothing from Otto, Jack and I became concerned about Otto's lack of communication; as a result, I personally searched the Spartanburg County public records. In my search, I discovered that two judgments and a federal tax lien had been filed against Otto since the closing date of March 4, 2011, which encumbrances were a direct and specific violation of Section 5 of the Contract.

8. Jack notified Otto of these violations, invoked his right under the Contract to withhold third mortgage payments directly to Otto until the encumbrances were cleared, and again requested the Form 1098 statements in a letter dated May 15, 2012. A copy of this letter is attached hereto as Exhibit B and made a part hereof by reference.

9. Jack continued to make mortgage payments directly to both Capital One (the first mortgage holder) and TD Bank (the second mortgage holder) throughout this period.

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10. Jack was served with the Summons, Complaint, and Lis Pendens in Otto Foreclosure on July 27, 2012.

11. On August 3, 2012, I had a telephone conference with Otto's attorney, Ken Anthony ("Anthony"), to discuss the litigation, during which Anthony requested that I provide him with evidence of Jack's payment history to Otto. I followed up our telephone conference with an email to Anthony, to which I attached a copy of Jack's earlier letter to Otto. This email is attached hereto as Exhibit C and made a part hereof by reference.

12. Over the course of the next two months, I was in regular communication with Anthony via telephone, email, and a face-to-face meeting. On September 5, 2012, I personally met with Anthony at his office, during which meeting he acknowledged that Capital One had returned certain monthly payments made by Jack to Otto. He showed me copies of several checks issued to Otto by Capital One, described as "refund payments." He informed me that Otto had "several other" returned checks from Capital One, but he did not have any information as to the number or amounts of the refunded payments. Anthony agreed to obtain and provide me with an accounting of all refunded payments from Capital One to Otto, as well as a reinstatement amount to bring the Capital One mortgage current. Capital Bank was unable and unwilling to communicate with Jack or me, due to the fact that Otto was the borrower of record and had never given Jack access to the account. Otto was unwilling to communicate with Jack and refused to allow him access to the account. Therefore, Anthony, as legal counsel for Otto, was the only person who could obtain the requested information for us.

13. I immediately provided Anthony with any and all information he requested, including verification of all mortgage payments Jack paid directly to Capital One, and

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consistently confirmed Jack's interest in reinstating the delinquent mortgage and settling both foreclosure actions.

14. I am attaching emails between Anthony and me from the period of August through November of 2012 collectively as Exhibit D, which are incorporated herein by reference. Of particular importance are the following:

- (a) August 20, 2012: I provided Anthony a full payment history for 2012. I renewed Jack's request for an accounting history from Otto's lenders. I asked Anthony to contact me so that we could discuss an extension of time within which to file an Answer to the Otto Foreclosure.
- (b) August 24, 2012: I asked Anthony to confirm that he was "agreeable to an extension since we were working towards a resolution in this matter." Anthony responded, "I am not going to call time on you."

15. In a show of good faith, I arranged for Jack to wire funds to Anthony in the amount of the September mortgage payment due to Capital One, as well as funds which represented the third mortgage payments to Otto from May to September of 2012, which were withheld pursuant to the Contract based on Otto's violation regarding the encumbrances. The total amount of funds paid into trust with Anthony was \$6,044.14, all as documented in emails contained in Exhibit D.

16. When Anthony finally obtained a reinstatement amount from Capital One (dated October 12, 2012, and forwarded to me on October 17, 2012), I immediately asked him again to account for all funds wrongfully returned to Otto by Capital One and to verify all funds he held in escrow related to the property, whether received from Jack, Otto, or Capital One, and he failed and refused to do so.

17. After review of the reinstatement amount, I requested that Anthony make an inquiry regarding certain amounts contained in that reinstatement figure, as it appeared that Capital One had included payment of the property taxes, which I had previously paid. I also

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provided Anthony with a paid tax receipt to provide to Capital One as part of this inquiry. Again, this request had to be made by Anthony since Capital One was unable and unwilling to communicate with either Jack or me, as Otto was the borrower of record and had never given Jack access to the account. Anthony was unwilling and/or refused to do so.

18. Jack was unwilling to provide funds for a reinstatement without a clear understanding and agreement as to what those funds represented, how the reinstatement funds would be applied, and a full accounting and return of all the wrongfully-refunded payments to Otto.

19. Throughout the next several weeks, I repeatedly asked Anthony to account for all funds wrongfully returned by Capital One to Otto, and he failed and/or refused to do so. I repeatedly asked Anthony to verify whether the reinstatement amount included a duplicative charge for property taxes, and he failed and/or refused to do so. My final direct email communication with Anthony was on November 9, 2012 (included as part of Exhibit D hereto), wherein I expressed my confusion and frustration with Anthony's lack of communication. I requested a response from him by November 14, 2012, in order to resolve all the outstanding issues as discussed and planned.

20. Within weeks after Anthony inexplicably ceased communicating with me and refused to further participate in resolving either the Capital One or the Otto Foreclosure, Jack and I met with Erin Culbertson, Esq., of Kehl Culbertson, LLC. Although we spoke with her in late November or early December, the earliest she could meet with us due to her schedule was mid-December. She immediately drafted and served responsive pleadings to both foreclosure actions on December 21, 2012, which was filed on December 27, 2012.

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M. HOPE BLAKLEY

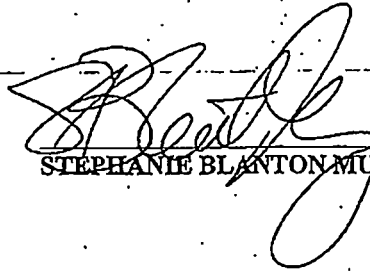
21. Jack acted diligently in communicating with Anthony and providing all information requested. Consistent, regular communication with the opposing party's counsel, a deposit of funds to be held by opposing party's counsel pending a resolution of the matter, and a good-faith belief that opposing party's counsel will be true to his word and "not call time on you" seems to fall clearly under the "good cause" anticipated by Rule 55 (c) of the South Carolina Rules of Civil Procedure.

FURTHER AFFIANT SAYETH NOT.

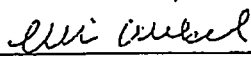
SIGNATURE PAGE TO FOLLOW

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 NOV 23 PM 2:02

November 23, 2015


STEPHANIE BLANTON MUNSEY

Sworn to before me this 23rd
day of November, 2015.


Notary Public for South Carolina
My commission expires: 6/30/2018

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2015 NOV 23 PM 2:02
M. HOPE BLACKLEY

Exhibit A

STATE OF SOUTH CAROLINA)

CONTRACT FOR DEED

COUNTY OF SPARTANBURG)

THIS CONTRACT FOR DEED made and entered into this 4th day of March, 2011,
between the following parties:

PARTIES:

Seller: Alyce F. Otto, as Trustee under the Declaration of Trust of
Alyce F. Otto dated November 17, 2009, with an address of 1841 Fairview
Farms Road, Campobello, South Carolina 29322 (hereinafter referred to as
"Seller").

Purchaser: Jackson L. Munsey, Jr., an individual, with an address of 405
East Springs Road, Columbia, South Carolina 29223 (hereinafter referred
to as "Purchaser").

WITNESSETH:

In consideration of the monetary amounts as stated herein, the sufficiency of
which is hereby acknowledged by both parties, and subject to the covenants and
agreements hereinafter contained and provided, Seller hereby covenants and agrees to
convey and assure to Purchaser and Purchaser hereby agrees to purchase from Seller
the following described property, to wit:

1825, 1835 and 1841 Fairview Farms Road, Campobello, SC 29322, more

PAGE 1 OF 20

particularly described as as Tract G of Greenspace of Fairview, LLC, more particularly and specifically described on Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Property").

It is mutually covenanted and agreed that this Contract for Deed is made and entered into upon the following covenants and agreements:

1. The purchase price to be paid by Purchaser directly to or for the benefit of the Seller is the sum of \$1,400,000.00, said purchase price to be paid in the following manner:
 - (a) The credit of the sum of \$10,000.00 in check or electronic funds paid directly to Seller as a non-refundable deposit prior to the execution of this instrument;
 - (b) A note, a copy of which is attached hereto and incorporated herein, payable to the Seller in the current principal amount at closing of the Seller's note to Chevy Chase Bank, F.S.B., secured by a first mortgage to Chevy Chase Bank & Trust, or its successor and/or assign (hereinafter referred to as "Mortgage No. 1"), in the amount of \$1,061,968.32, under the same current or modified terms and conditions of the note and mortgage between the Seller and Mortgage No. 1 dated August 18, 2004. Said note shall be paid in monthly installments directly to the holder of Mortgage No. 1, with

PAGE 2 OF 20

the first payment of such installment due and payable on April 1, 2011, and a like amount thereafter every month until April 1, 2016, when on that date the balance shall be due and payable. Purchaser acknowledges and agrees that this monthly installment may adjust from time to time based on the terms and conditions set forth in loan documents upon notice from Mortgage No. 1. The Purchaser shall have the option to extend the maturity date to April 1, 2019 with a principal of reduction of five percent (5%) of the outstanding balance;

- (c) A note, a copy of which is attached hereto and incorporated herein, payable to the Seller in the current principal amount at closing of the Seller's note to Carolina First Bank, secured by a second mortgage to Carolina First Bank, or its successor and/or assigns (hereinafter referred to as "Mortgage No. 2") in the amount of \$193,665.68, under the payments to reflect the current or modified terms and conditions of the note and mortgage between the Seller and Carolina First Bank Mortgage No. 2 dated June 18, 2008. Said note shall be paid in monthly installments of \$1,842.00 directly to the holder of Mortgage No. 2, with the first payment of such installment due and payable on March 17, 2011, and a like amount thereafter every month until June 17, 2013, when on that date the

balance shall be due and payable. The Purchaser hereby acknowledges and agrees that the original terms and conditions of this note contain a prepayment penalty;

- (d) The payment of the Seller's lien to the United States Internal Revenue Service (hereinafter referred to as the "IRS") in the estimated amount of \$14,601.71. In the event that said estimated payoff amount is in excess of the actual payoff amount, any excess shall be held in escrow by the closing attorney and shall be paid to the Seller after recorded satisfaction of the lien.
- (e) The payment of the 2010 *ad valorem* (real property) taxes now due and payable to Spartanburg County in the amount of \$5,978.87;
- (f) The payment of 2010 assessments due and payable to Greenspace of Fairview, LLC, along with penalties in the amount of \$4,590.34 plus \$500.13 due for fire ant treatment of the property;
- (g) The payment of arrears, penalties and legal fees of the first mortgage held by Mortgage No. 1 in the amount of \$50,839.96;
- (h) Intentionally Deleted.
- (i) The payment to Seller in cash or certified funds estimated in the amount of \$43,076.84 after payment of Seller's pro-rata portion of 2011 taxes and assessments;
- (j) The remaining sum shall be payable with a note, a copy of which is

attached hereto and incorporated herein, to the Seller in the principal amount of \$13,000.00 with an interest rate of two and one-half percent (2.5%) per annum to be amortized over seven years with a balloon payment due and payable in four years. Said note shall be paid directly to the Seller with the first payment of such installment due and payable on April 1, 2011, and a like amount thereafter every month until April 1, 2015, when on that date the balance, if any, shall be due and payable. Monthly payments may be anticipated and more than the required amount can be paid without penalty. Additional payments to principal may also be made without penalty. Purchaser shall make the monthly payments to the Seller at set forth under Paragraph 17 herein, or any other place of designation agreed upon by Purchaser and Seller. If any monthly payment is made after the 10th day of the month, a late fee of five percent (5%) will be charged (hereinafter referred to the "Late Payment Fee"). The Late Payment Fee will be charged for each and every month that the Purchaser makes payment after the 10th day of such month. Upon default, including failure to pay upon final maturity, the interest rate on the amount due from Purchaser shall be Nine and 00/100 (9.00%) percent per annum.

PAGE 5 OF 20

2. Seller hereby represents and warrants that the Property is free and clear of all liens and encumbrances and other objections, except for those items set forth in the certified title opinion of Joshua O.C. Lonon, Esq. dated December 30, 2010, and updated as of the date of this instrument, attached hereto as Exhibit "B" and incorporated herein by reference. Purchaser hereby subordinates this Contract for Deed to first and second mortgages on the Property listed on Exhibit "B" under item(s) 16 and 17 and referenced herein as Mortgage No. 1 and Mortgage No. 2, respectively.
3. Upon Purchaser making all payments and performing all other covenants and agreements herein set forth to be performed by Purchaser, Seller shall convey the Property, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, to Purchaser free and clear of all liens, encumbrances and other objections by a good, fee simple general warranty deed. At the time of the conveyance of the Property by Seller to Purchaser, Purchaser shall be responsible for and pay (a) the cost of the preparation of the Deed and (b) the fees associated with the transfer and recording of the Deed and (c) the costs associated with or arising out of the transfer of the LLC shares.
4. Purchaser shall pay, when due, *ad valorem* (real property) taxes and other governmental charges for the tax year 2011, and thereafter for a full tax

year until the Contract for Deed is completed.. The tax map reference number for the property is: 1 03-00 003.00. Purchaser shall receive a pro-rata credit for 2011 taxes at the execution and closing of this Contract for Deed.

5. Neither party shall, as a result of an act or omission, cause the Property in any way to be further encumbered, either voluntarily or involuntarily, without the written consent of the other party and to immediately, after notice thereof, remove, or cause to be removed, any encumbrances placed against the Property. In the event that said encumbrances are not removed, the non-encumbering party, after thirty (30) days notice of intent, may institute whatever proceeding may be necessary or required in order to have said encumbrances removed or the Property released therefrom. For so removing said encumbrances or releasing said Property, the encumbering party shall be responsible for the payment of the non-encumbering party's costs, and expenses including, but not limited to reasonable attorney's fees. In the event the encumbering party, after demand, fails or refuses to pay said expenses, costs, or attorney's fees, the non-encumbering party may bring an action against the encumbering party for the costs and expenses of collection, including, but not limited to reasonable attorney's fees. Should a judgment be filed against the Seller affecting the Property, or should an encumbrance be placed against the

Property as a result of Seller's acts or omissions, Purchaser after actual notice thereof, may in addition, cease to make payments to Seller under the note directly payable to Seller as called for set forth under Paragraph 1(j) and shall have the right of setoff against any amounts due for any such liens or encumbrances including costs arising therefrom and reasonable attorney fees. Should a judgment be filed against the Purchaser affecting the Property, or should an encumbrance be placed against the Property as a result of Purchaser's acts or omissions, Seller after actual notice thereof, may in addition, add to the principal balance of the promissory note under Paragraph 1(j) any amounts due for any such lien or encumbrances including costs arising therefrom and reasonable attorney fees.

6. Purchaser shall receive possession of the Property upon the execution of this Contract for Deed, and thereafter Purchaser shall be entitled to use and enjoy the Property to the same extent as if Purchaser had full and complete legal and equitable title thereto, subject to the terms, conditions, rules and regulations of the Conservation Easement and Greenspace of Fairview, LLC, as fully disclosed to the Purchaser prior to execution of this Contract for Deed.
7. Purchaser shall pay when due all charges for utility services, including, but not limited to, water, heating, gas, electricity, telephone and sewer

service furnished to the Property.

8. Purchaser shall pay when due all fees and assessments associated with Greenspace of Fairview, LLC, in accordance with the restrictive covenants and/or operating agreement. Seller shall consult with Purchaser regarding any votes cast and exercising any voting rights under the Property's membership interest in Greenspace of Fairview, LLC.
9. In the event of a disallowance by the IRS and/or the South Carolina Tax Commission, which prevents both parties from the benefits of a deduction for interest or depreciation or capital gain on the Property, then it is hereby agreed by and between the parties hereto that those deductions disallowed by both parties resulting from transactions occurring after the date hereof shall accrue to the benefit of the Purchaser. As a result, upon receipt of the governmental agencies reports, commonly known as IRS Form 1098, for payment of interest of the respective first and second mortgages as set forth herein, issued by Mortgage No. 1 and Mortgage No. 2 to Seller, Seller shall issue the same governmental agencies reports for all interest payments paid by Purchaser on behalf of and directly to Seller. Seller may assign this task to Purchaser's obligations with Seller's verification of information reported.
10. Seller shall report to all credit reporting agencies the payment history of the Purchaser for each payment obligation hereunder. Seller may assign

this task to Purchaser's obligations with Seller's verification of information reported.

11. Purchaser shall keep all improvements upon the Property in good repair and shall not commit waste or permit impairment or deterioration of said improvements. Purchaser accepts possession of the property in its present "AS-IS" condition as of the date of this Contract for Deed. It is understood and agreed that Purchaser accepts and assumes any and all risk of loss to all trees, shrubs, or other damage to the property due to fire or other casualty, acts of God and the elements from the date hereof. It is understood and agreed between the Seller and Purchaser that Purchaser will maintain a policy of hazard insurance on the Property in an amount not less than \$1,400,000.00 and will name Seller on such policy as a loss payee and provide Seller annual notice of same.

12. The following shall constitute events of default of Purchaser hereunder:

- (a) The Purchaser's failure to pay an installment of principal or interest, or any other sum, within thirty (30) days of the date when it is due under this Instrument. Any default by Purchaser under any one of the notes referred to hereinabove in Paragraph 1 shall be deemed a default under all of the notes.
- (b) The Purchaser's assignment of any or all of Purchaser's interest in the Property, without the Seller's prior written consent.

- (c) The Purchaser's failure to maintain the Property in good condition and in compliance with all restrictive covenants and in compliance with the Conservation Easement and the rules and regulations promulgated by Greenspace of Fairview, LLC and the restrictive covenants, as fully disclosed to the Purchaser prior to execution of this Contract for Deed.
- (d) The commencement of any proceeding under the Federal Bankruptcy Code or any law of the United States or of any state relating to insolvency, receivership or debt adjustment by the Purchaser, or the commencement of any such proceeding against the Purchaser which results in the institution of any such proceedings against the Purchaser and is consented to by the Purchaser or remains undismissed for sixty (60) days, or the Purchaser is adjudicated a bankrupt, or a trustee or receiver is appointed for any substantial part of the Purchaser's property, or the Purchaser makes an assignment for the benefit of creditors, admits in writing an inability to pay debts generally as they become due or becomes insolvent.
- (e) The Purchaser's failure to pay when due and payable all *ad valorem* (real property) taxes against the Property.
- (f) The Purchaser's failure to maintain a policy of hazard insurance on

the Property in an amount not less than \$1,400,000.00 and to name Seller on such policy as a loss payee, and to provide Seller annual notice of same.

- (g) The Purchaser's failure to pay, when due, all fees and assessments associated with Greenspace of Fairview, LLC in accordance with the restrictive covenants and/or operating agreement.

13. Upon the occurrence of any event of default or other nonperformance or noncompliance by Purchaser of any term or condition herein, Seller shall give Purchaser written notice of same and Purchaser shall cure such default, non-performance or non-compliance within thirty (30) days after the Purchaser's receipt of written notice thereof from Seller. In the event that Purchaser fails to cure such default, nonperformance or noncompliance, then the Seller at its option, may seek to divest the Purchaser of its interest under the terms of this Contract for Deed. The Seller's interest in the Property shall be treated as the interest of the holder of a third mortgage on the Property and the remedy of the Seller shall be to foreclose the interest of the Purchaser in the same manner as the Seller would foreclose the interest of the Purchaser as if the Seller were the Mortgagee under a third mortgage and the Purchaser were the Mortgagor, and the Purchaser shall be liable for all costs arising therefrom including reasonable attorney fees. The remedies set forth herein in all

instances are not exclusive, but cumulative and in addition to all other remedies which may exist under the law.

14. In the event Seller fails, neglects, or refuses to perform, in whole or part, any of the covenants, agreements, or obligations herein provided upon the part of the Seller to be performed, Purchaser shall give Seller written notice of same and Seller shall cure such default, non-performance or non-compliance within thirty (30) days after the Seller's receipt of written notice thereof from Purchaser. In the event that Seller fails to cure such default, nonperformance or noncompliance, then the Purchaser, at its option, is hereby authorized and empowered, at the cost of the Seller, to perform or cause to be performed, any or all of said covenants, agreements and obligations, and expend such sums of money as may be reasonable therefore, or for any other purpose which is, in the opinion of the Purchaser, reasonably necessary for the protection of the Property. All such sums of money so expended by Purchaser, together with interest thereon, at the rate of five percent (5%) from the several dates of expenditure thereof until paid, shall become indebtedness under this agreement and shall be repaid by Seller to the Purchaser, immediately upon demand, at the address of the Purchaser as set forth in Paragraph 17 herein. Any failure, neglect, or refusal by Seller to repay the sums as herein provided shall constitute a default hereunder and the Seller shall be

liable for any and all costs arising therefrom including reasonable attorney fees. Purchaser, at its option, may deduct from any payments due directly to Seller under the terms and conditions of this agreement as set forth under Paragraph 1(j). In the event Purchaser fails, neglects, or refuses to perform, in whole or part, any of the covenants, agreements, or obligations herein provided upon the part of the Purchaser to be performed, Seller shall give Purchaser written notice of same and Purchaser shall cure such default, non-performance or non-compliance within thirty (30) days after the Purchaser's receipt of written notice thereof from Seller. In the event that Purchaser fails to cure such default, nonperformance or noncompliance, then the Seller, at its option, is hereby authorized and empowered, at the cost of the Purchaser, to perform or cause to be performed, any or all of said covenants, agreements and obligations, and expend such sums of money as may be reasonable therefore, or for any other purpose which is, in the opinion of the Seller, reasonably necessary for the protection of the Property. All such sums of money so expended by Purchaser, together with interest thereon, at the rate of five percent (5%) from the several dates of expenditure thereof until paid, shall become indebtedness under this agreement and shall be repaid by Purchaser to the Seller, immediately upon demand, at the address of the Seller as set forth in Paragraph 17

herein. Any failure, neglect, or refusal by Purchaser to repay the sums as herein provided shall constitute a default hereunder and the Purchaser shall be liable for any and all costs arising therefrom including reasonable attorney fees.

15. Failure or delay of either party hereto to enforce any right or to exercise any option available because of any default hereunder shall not constitute a waiver of the right to exercise same in the event of any subsequent default.
16. At all times while this Contract for Deed is in effect or while said Property is occupied by Purchaser, Seller shall not be liable or responsible for any activities or accidents that may occur on or in connection with Purchaser's use of said Property. Purchaser shall be solely responsible for any damage, injury or other loss, to persons or property that may occur upon the property as a result of the negligent, unlawful or willful act or omission of the Purchaser or their visitors and shall defend, indemnify and hold the Seller harmless for any damage, loss or expense resulting therefrom.
17. All notices, requests and other communications between the parties under or in connection with this Contract for Deed shall be in writing and mailed by registered or certified mail, return receipt requested, at the below address, until written notice to the contrary:

Seller: 101 E. Rutherford Street
Landrum, SC 29356

Purchaser: 405 East Springs Road
Columbia, SC 29223

18. This Contract for Deed represents the entire agreement between the parties, and no warranties, representations, promises or statements have been made by either party unless endorsed hereon in writing and duly executed by the parties.
19. This Contract for Deed shall be construed according to the laws of South Carolina.
20. This Contract for Deed shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto. All rights and remedies given to either party herein, or by law, shall be cumulative and alternative. If any provision of this Contract for Deed is held invalid or unenforceable, the remainder of it shall not be affected thereby and to this end the provisions hereof are declared severable.
21. The Seller represents that there is no real estate commission due to any real estate broker as a result of the execution of this contract for deed or for the future transfer of legal title to the subject property.
22. The parties acknowledge that the Property is currently encumbered by mortgages which give the mortgagee(s) the right to demand immediate

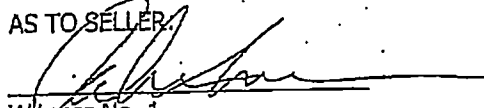
payment in full from the mortgagor. In the event of any full or partial transfer of legal or equitable title by the mortgagor (the "Due on Sale Clause"). This Contract for Deed may be construed to be in violation of the Due on Sale Clause and may cause the Mortgagee(s) to demand full payment on its/their respective note(s). The mortgage(s) also allow(s) for the mortgagee(s) to bring a foreclosure action upon the subject property for failure to make payments when due, failure to insure the property or other violations of the terms of mortgage(s), which could result in a loss of the Purchaser's equitable interest in the subject property and other damages to the Purchaser. The Seller expressly agrees to hold the Purchaser harmless and to indemnify the Purchaser for proximate damages resulting from enforcement of the Due on Sale Clause of the mortgage(s). The Seller also expressly agrees to hold the Purchaser harmless and to indemnify the Purchaser for proximate damages or for any violation of the terms of the mortgage(s) that is/are not the fault of the Purchaser.

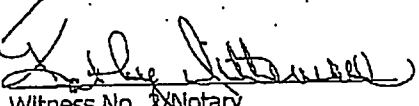
[SIGNATURES ON FOLLOWING PAGES]

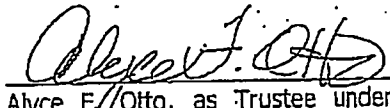
IN WITNESS WHEREOF, the undersigned party hereto has caused this Contract
for Deed to be executed the day and year first above written.

WITNESSES:

AS TO SELLER:


Witness No. 1


Witness No. 2/Notary

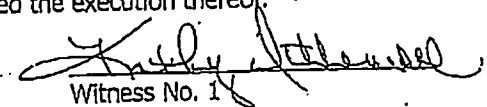

Alyce F. Otto, as Trustee under the
Declaration of Trust of Alyce F. Otto
dated November 17, 2009, Seller

STATE OF SOUTH CAROLINA)

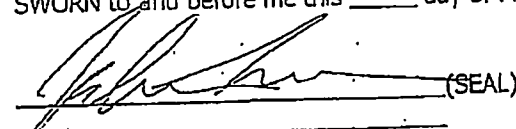
PROBATE

COUNTY OF SPARTANBURG)

PERSONALLY appeared before me the undersigned witness and made oath that
she saw the within named Alyce F. Otto, as Trustee under the Declaration of Trust of
Alyce F. Otto dated November 17, 2009, Seller, sign, seal and as its act and deed,
deliver the within written Contract for Deed and that she with the other witness whose
name is subscribed above witnessed the execution thereof.


Witness No. 1

SWORN to and before me this ____ day of March, 2011.


(SEAL)

Notary Public for South Carolina

My commission expires: 6/6/2012

PAGE 18 OF 20

IN WITNESS WHEREOF, the undersigned parties hereto has caused this Contract
for Deed to be executed the day and year first above written.

AS TO PURCHASER:

Witness No. 1

Jackson L. Munsey, Jr., Purchaser

Witness No. 2 Notary

STATE OF SOUTH CAROLINA)

PROBATE

COUNTY OF SPARTANBURG)

PERSONALLY appeared before me the undersigned witness and made oath that
she saw the within named Jackson L. Munsey, Jr., Purchaser, sign, seal and as his act
and deed, deliver the within written Contract for Deed and that he with the other
witness whose name is subscribed above witnessed the execution thereof.

SWORN to and before me this 4th day of March, 2011.

(SEAL)

Notary Public for South Carolina

My commission expires: 4/6/2012

EXHIBIT A

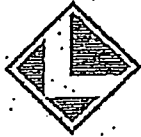
PROPERTY DESCRIPTION

1825/1841/1835 Fairview Farms Road
Tax Map No. 1 03-00 003.00

All that certain piece, parcel or tract of land lying, situate and being in the State of South Carolina, County of Spartanburg containing 25.08 acres, more or less, and being shown as Distribution Tract G on a plat of survey for Greenspace of Fairview, LLC, dated August 2, 2001 by Mitchell Surveying and recorded in Plat Book 151 at page 523. Reference is made to said plat and the record thereof for a more complete and accurate description.

This being a portion of the same property conveyed to Alyce F. Otto; Trustee under Declaration of Trust of Alyce F. Otto dated the 17th Day of November, 2009 by Deed of Alyce F. Otto recorded November 24, 2009 in Deed Book 95 A at page 439. Also, being a portion of the same property conveyed to Rudrick George Otto, Trustee under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009 by Deed of Rudrick G. Otto recorded November 24, 2009 in Deed Book 95 A at page 435. Reference is also made to the deed from Alyce F. Otto, Successor Trustee under Declaration of Trust of Rudrick George Otto dated the 17th day of November, 2009 to Alyce F. Otto, Trustee under Declaration of Trust of Alyce F. Otto dated the 17th day of November, 2009, said deed being dated February 9, 2011 and recorded February 10, 2011 in Deed Book 97-V, Page 181.

All referenced recordings are in the Register of Deeds Office for Spartanburg County, South Carolina unless otherwise noted herein.



LONON
Law Firm LLC

P.O. Box 1984
Spartanburg, SC 29304

134 Oakland Avenue
Spartanburg, SC 29302

(864) 327-1764
Fax: (864) 327-1762
contact@lononlawfirm.com

March 3, 2011

Mrs. Stephanie Munsey

Sent via email to sbmunsey@gmail.com

Re: Tract G, 25.08 Acres
Greenspace of Fairview
1825 Fairview Farms Road
Tax Map No. 1 03-00 003.00

Dear Stephanie:

This is to certify that we have examined the records of the Spartanburg County Register of Deeds Office regarding the above-referenced property for a period of at least forty years from September 11, 1956 through March 1, 2011. Title is currently vested in the name of Alyce F. Otto, Trustee under Declaration of Trust of Alyce F. Otto dated the 17th Day of November, 2009. According to our examination, we find the property subject to the following exceptions:

1. Rights or claims of parties in possession not shown by the public record.
2. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises.
3. Easements, or claims of easements, not shown by the public records, including unrecorded claims for labor or material.
4. Taxes or special assessments not shown as existing liens by the public records.
5. Zoning ordinances, regulations or restrictions for use of property.
6. Rights of way for underground utilities, if any.
7. Existing easements for public roads and public utilities now in use, if any.
8. Any lien, or right to a lien for services, labor or material heretofore or hereafter furnished, imposed by law and shown on public record.
9. Roads, streams, ways or easements or claims of easements not shown by the public records, riparian rights and title to any filled-in-land.

10. Past due water bills, while not liens, prohibit transfer of meters to new owners until past due bills are paid.
11. Matters filed only in the federal courts or only at the district office of the Internal Revenue Service.
12. Taxes for the year 2011 and subsequent years, a lien not yet due or payable.
13. The number of acres notes in the legal description is not guaranteed.
14. Matters as disclosed on plat of survey referenced in legal description.
15. Taxes for the year 2010, a lien now due and payable in the amount of \$5,435.34.
16. Mortgage given by Rudrick George Otto and Alyce F. Otto to Chevy Chase Bank, FSB dated August 18, 2004 and recorded August 24, 2004 in Book 3290 at page 70 in the principal amount of \$999,500.00.
17. Mortgage given by Rudrick George Otto and Alyce F. Otto to Carolina First Bank dated June 18, 2008 and recorded June 20, 2008 in Book 4100 at page 708 in the principal amount of \$218,807.82.
18. Estate of Rudrick Otto shown in Spartanburg County Probate Court File No. 2010-ES-42-0016.
19. Usual right of way and easement to Thermal Belt Telephone Company recorded in Deed Book 28 G at page 194.
20. Conservation Easement recorded in Deed Book 74 Z at page 265 and amended in Deed Book 87 D at page 213.
21. Lake and Dam Maintenance Agreement recorded in Book 75 P at page 886.
22. Pending foreclosure filed in the Spartanburg County Court of Common Pleas referencing Case No. 2010-CP-42-5750.
23. Pending Condemnation Notice filed in the Spartanburg County Court of Common Pleas referencing Case No. 2010-CP-42-4803.
24. Right of Way Agreement to Duke Energy Corporation recorded in Deed Book 89 X at page 364.
25. Golden Hills Subdivision Protective Covenants and Easements recorded in Deed Book 60 K at page 926 and revised in Deed Book 67 Q at page 883.
26. Golden Hills Road Maintenance Agreement recorded in Deed Book 61 L at page 441.

27. Golden Hills Subdivision, Section 2 Protective Covenants and Easements recorded in Deed Book 62 X at page 155 and amended in Deed Book 79 E at page 762.
28. Assignment of Protective Covenants and Easements recorded in Book 72 R at page 560.
29. Restrictions shown in Deed Book 72 R at page 554.
30. Amended and Restated Conservation Easement recorded in Deed Book 87 D at page 213.
31. Judgment filed against Patty Otto in favor of Lauren Halbkat on January 26, 2011 in the amount of \$4,398.74.
32. Judgment filed against Alyce F. Otto in favor of Greenspace of Fairview LLC on February 21, 2011 in the amount of \$4,590.34.
33. Federal Tax lien filed against Alyce F. Otto in favor of the Internal Revenue Service on February 11, 2010 in the amount of \$16,273.04 in Book 13 page 43.

Sincerely,

LONON LAW FIRM, LLC

Joshua O.C. Lonon

/kd-2992 (Munsey)

EXHIBIT B

Jackson L. Munsey, Jr.
1841 Fairview Farms Road
Campobello, South Carolina 29322
Telephone: 803-318-7277

May 15, 2012

Alyce F. Otto
101 E. Rutherford Street
Landrum, South Carolina 29356

RE: Contract for Deed dated March 4, 2011 by and between Alyce F. Otto, as Trustee under the Declaration of Trust of Alyce F. Otto dated November 17, 2009, as Seller and Jackson L. Munsey, Jr., as Purchaser ("Contract for Deed")

Dear Patty:

It has come to my attention after routine search of the public records for Spartanburg County that two (2) separate judgments have been levied against you since entering into the Contract for Deed. Please find enclosed copies of the following judgments:

- 1) Judgment against Shamrock Realty Investments, LLC, Alyce F. Otto a/k/a Patty Otto in favor of Laura Kerhulas Geise and Mark Warner Kerhulas, Co-Trustees of the Therodore Earnest Kerhulas Trust u/t/d May 25, 2005 dated December 27, 2011 with Greenville County Judgment Roll Number 2009-CP-23-10866 and filed with the Spartanburg County Clerk of Court with Case Action Number 2012-CP-42-0014 on January 3, 2012 in the amount of \$571,327.90; and
- 2) Judgment against Alyce F. Otto dated and filed on May 2, 2012 with Case Action Number 2012-CP-42-0234 in favor of Citibank, N.A. in the amount of \$12,396.66.

Also, please find attached the Notice of a Federal Tax Lien dated September 26, 2011 and recorded October 12, 2011 in Book 14, at Page 932, Spartanburg County public records, in the amount of \$6,577.50. It is my understanding that Lonon Law Firm, LLC recently released escrowed funds made payable to the IRS for settlement of the Federal Tax Lien in Book 13, at Page 43. It is my further understanding that you have contacted the law firm to request the excess held in escrow, however, the lien has not been satisfied of record yet and thus cannot be released. Regardless of the satisfaction of that IRS lien, I object to any excess funds being released to you in light of the additional IRS lien. Any excess escrowed funds should go towards to the payment of the new liens.

Additionally, while I have been forced to write this letter of notice to you, I need to address other outstanding matters under the Contract for Deed. Under Paragraph 9, we agreed that any benefits of a deduction for interest on the Property would accrue to my benefit. Despite our phone conversation, and our meeting last month wherein I provided you the required documentation, I have yet to receive the Form 1098 for any of the mortgages. Therefore, I was unable to file my 2011 taxes and forced to file an extension. As a result, I am in need of this information immediately so I may prepare my taxes.

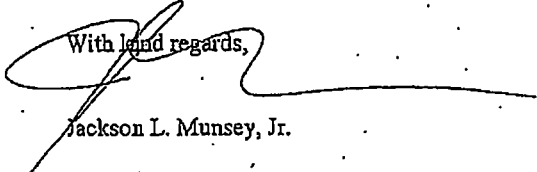
Moreover, despite numerous requests, I have yet to receive access to the first and second mortgage records so I can confirm receipt of payments. Since you are obviously unwilling to provide me internet access to the accounts as requested, I demand that monthly statements of accounts are provided for my accounting. I have also not received the invoices for the annual real estate taxes or for the quarterly fees of Greenspace of Fairview, LLC.

As for Greenspace of Fairview, LLC, in Paragraph 8 of the Contract for Deed, you are required to consult with me regarding any votes cast and exercising any voting rights under the Property's membership interest. This has not occurred since taken possession of the Property. I am entitled to the use and enjoyment of the Property to the same extent as if I had full and complete legal and equitable title, subject to the terms, conditions, rules and regulations of Greenspace of Fairview, LLC. However, it is very difficult to remain compliant when I am not informed of activities affecting the Property. It is your obligation to maintain the communication with Greenspace of Fairview, LLC for the benefit of the Property and my use and enjoyment. As a potential solution to this matter, please inquiry to see if the by-laws allow for a proxy of your vote to be given to me. As of yet, I have not received copies of the by-laws and the rules of Greenspace of Fairview, LLC. All I want is to be a good neighbor and protect the community.

As result of your failure, neglect and refusal to perform, in whole or part, of the covenants, agreements and obligations as outlined herein and, in accordance with Paragraph 5 and Paragraph 14 of the Contract for Deed, you are hereby given thirty (30) days to remove the above encumbrances placed against the Property, and to cure the default, nonperformance and noncompliance outlined herein. Additionally, as my option under the same paragraphs, payments to you under the Note described under Paragraph 1(j) will cease to be set aside for the right of setoff against the amounts due for the above-referenced encumbrances. Once the public records show that the liens have been satisfied, or otherwise dismissed, and the other obligations have been met, then payments under said Note will resume.

I look forward to a quick resolution of these issues.

With kind regards,



Jackson L. Munsey, Jr.

Enclosures

2012-CP-42-0014

Greenville County JR# 2009-CP-23-10866
C.A. No. 2009-CP-23-10866

Spartanburg County JR#

NAMES OF PARTIES AGAINST WHOM JUDGMENT HAVE BEEN OBTAINED ATTORNEYS

Shamrock Realty Investments, LLC 101 E. Rutherford St. Landrum, SC 29356	Alyce F. Otto 1841 Fairview Farms Rd. Campobello, SC 29322 Patty Otto 1841 Fairview Farms Rd. Campobello, SC 29322	Kenneth W. Nettles, Jr. Lyles, Darr & Clark, LLP Attorneys At Law P.O. Box 5726 Spartanburg, SC 29304
---	---	---

NAMES OF PARTIES IN WHOSE FAVOR JUDGMENTS HAVE BEEN OBTAINED ATTORNEYS

Laura Kerhulas Giese and Mark Warner Kerhulas,
Co-Trustees of the Theodore Ernest Kerhulas Trust
U/T/D May 25, 2004
Attn: Mark W. Kerhulas, Trustee
1620 Butter Street
Landrum, SC 29356

David L. Walsh
Gaines & Walsh, Attorneys At Law
P. O. Box 5156
Spartanburg, SC 29304
(864) 583-6363

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JAN -3 AM 11:46
M. HOPE BLACKLEY

DAMAGES AND COSTS

Amount of Judgment	\$571,329.90	Amount Brought Forward	\$571,329.90
Clerk's Costs including this transcript (file S&C and motion)	Included	Attorney Fees	Included
Cost of Service	Included	Total Amount of Judgment & Costs	\$571,329.90
Interest	Included	Interest at 8.00% per annum [\$125.22/day] from 12/10/2011	
Total	\$571,329.90		

Judgment filed and recorded in the Office of the Clerk of Court for Greenville County, S.C. on the 14th day of December, 2011.

Greenville, S.C. December 27, 2011

I CERTIFY that the foregoing is a correct transcript from the Docker of Judgment kept in my office.

Paul B. Wickensimer
PAUL B. WICKENSIMER
CLERK OF COURT
Greenville County, SC

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

FORM 4
JUDGMENT IN A CIVIL CASE
CIVIL ACTION NO. 2012-CP-42-0234

CITIBANK, N.A.
PLAINTIFF(S)

ALYCE F OTTO
DEFENDANT(S)

Submitted By: Trevor M. Hughey
Address: P. O. Box 26268, Raleigh, NC 27611

Attorney for: ☒ Plaintiff ☐ Defendant
or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX)
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other
- NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional information for the Clerk:

INFORMATION FOR THE PUBLIC INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
CITIBANK, N.A.	ALYCE F OTTO	\$12,396.66
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

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

Circuit Court Judge

Judge Code

Date

SCRCP Form 4C (12/2011)

Page 1 of 2

For Clerk of Court Office Use Only

This judgment was entered on the 2 day of May, 2012 and a copy first class or placed in the appropriate attorney's box on this 2 day of May, 2012 to attorneys of record or to parties (when appearing pro se) as follow:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

M. Hoge
CLERK OF COURT

Court Reporter: _____

2
MAY 11 4 08
CLERK

Form 668 (Y)(c) (Rev. February 2004)	3477	Department of the Treasury - Internal Revenue Service Notice of Federal Tax Lien
Area: SMALL BUSINESS/SELF EMPLOYED AREA #3 Lien Unit Phone: (800) 913-6050		Serial Number 816926111
As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.		For Optional Use by Recording Office FEDERAL TAX LIEN BOOK <u>14</u> PAGE <u>932</u>
Name of Taxpayer ALYCE F OTTO		
Residence 101 E RUTHERFORD ST LANDRUM, SC 29356-1523		
IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refilled by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).		
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)
941	12/31/2009	65-1304870
		Date of Assessment (d)
		04/12/2010
		Last Day for Refiling (e)
		05/12/2020
		Unpaid Balance of Assessment (f)
		6577.50
FED-2011-35696 Recorded 1 Pages on 10/12/2011 11:03:36 AM Recording Fee: \$10.00 Documentary Stamp: \$0.00 Office of Registrar of Deeds, Spartanburg, S.C. Dorothy Earle, Registrar 		
Place of Filing REGISTER OF DEEDS SPARTANBURG COUNTY SPARTANBURG, SC 29303		Total \$ 6577.50

This notice was prepared and signed at BALTIMORE, MD, on this,

the 26th day of September, 2011.

Signature		Title REVENUE OFFICER	23-02-1222
for C. D. PEOPLES		(919) 402-0334	

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien
Rev. Rul. 71-466, 1971-2 C.B. 409)

PAY TO: Keep By Recording Office

Form 668(Y)(c) (Rev. 2-2004)
CAT. NO 80025X



stephanie munsey< sbmunsey@gmail.com>

1841 Fairview Farms Road (Otto/ Munsey)

stephanie munsey< sbmunsey@gmail.com>
To: kanthony@anthonylaw.com

Fri, Aug 3, 2012 at 11:14 AM

Ken:

Thank you for accepting my call today to briefly discuss the recent litigation filed by Patty. Please find attached a copy of the letter dated May 15, 2012, that Jack mailed to Patty outlining the issues that still require resolution. It is believed that this letter sets forth all of the information that is required by her, but do ask for copies of any demands made as alleged in the Complaint along with current statements of account of all three (3) notes. Jack is gathering the entire payment history from the bank and will have that information hopefully by Monday. Like you, it is believed that this matter can be resolved very quickly, and greatly appreciate the efforts to do so.

Additionally, Landrum being a small community, it is our understanding that Patty is openly discussing her actions against Jack with others and using derogatory inferences. Patty's privacy has been maintained during the course of this business relationship, and the same courtesy in turn is respectfully requested.

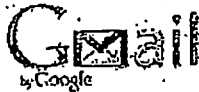
Thank you for time and look forward to a quick resolution to this matter. Please do not hesitate to contact me with any questions.

Stephanie Blanton Munsey, Esq.
SC Bar #11122
Phone: 803-603-8775
Email: sbmunsey@gmail.com

Otto Letter 051512.pdf
591K

<https://mail.google.com/mail/u/0/?ui=2&ik=81522880&ui=18>

Exhibit D



stephanie munsey<sbmunsey@gmail.com>

1841 Fairview Farms Road (Otto/ Munsey)

stephanie munsey<sbmunsey@gmail.com>
To: kanthony@anthonylaw.com

Thu, Aug 9, 2012 at 12:02 PM

Ken:

I wanted to give you an update on the bank statements. In May, Jack moved his Bank of America account from a Florida account where he was previously employed to a local account. BofA requires that the accounts be closed and reopened rather than transferred. Therefore, he no longer has online access to his accounts prior to June 1st. The past account information has been requested as of Tuesday with a 3 to 5 day turn around time, but have not yet received the information. In the meantime, please find attached evidence of recent payments as follows:

1st Mortgage:

Paid \$5,306.00 (Capital One) on 6/01/2012; and
Paid \$5,306.00 (Capital One) on 7/12/2012

2nd Mortgage:

Paid \$1,875.00 (TD Bank) on 6/29/2012; and
Paid \$1,875.00 (TD Bank) on 7/31/2012.

Again, Jack is not able to see any payments being properly credited to the mortgage accounts even though request to the online access or copies of the statement of accounts have been made numerous times. I will provide the entire history of payments as soon as received from Bank of America.

Has there been any progress on the information requested in the May 15, 2012 letter?

Thank you and look forward to quick resolution.

Stephanie Blanton Munsey
SC Bar #11122
803-603-8775
sbmunsey@gmail.com
[Quoted text hidden]

2 attachments

Otto Letter 051512.pdf
591K

June July 2012 Payments.pdf
220K

19/12

Bank of America | Online Banking | Accounts | Account Details | Account Activity



Online Banking

Regular Checking - 5067 Transaction Details

Posting date: 07/12/2012

Amount: -5,306.00

Type: Bill pay

Description: capital one Bill Payment

19/12

Annotate Your Screenshot

TRANSACTION HISTORY					
07/12/2012	capital one Bill Payment	[-]	[C]	5,306.00	3,058.06
	Edit description				
Type:	Bill pay				
Description:	capital one Bill Payment				
Print transaction details Inquire about this transaction					

07/11/2012	1-1420879451 : Internal Transfer	+	[C]	12.03	6,364.06
------------	----------------------------------	---	-----	-------	----------

6/9/12

Bank of America | Online Banking | Accounts | Account Details | Account Activity

Bank of America 

Online Banking

Regular Checking - 5067 Transaction Details

Posting date: 06/01/2012

Amount: -5,306.00

Type: Bill pay

Description: capital one Bill Payment

<https://safe.bankofamerica.com/myaccounts/details/deposit/previous-page.go?address=dd4ea3b59ac6457...>

1/1

19/12

Annotate Your Screenshot

06/01/2012 capital one Bill Payment [C] \$5,306.00 \$5,457.13

[Edit description](#)

Type: Bill pay
Description: capital one Bill Payment

[Print transaction details](#) | [Inquire about this transaction](#)

06/01/2012 Counter Credit [C] 4,800.00 \$0,773.13

rome-extension://b1chddbbhepgpmgldcjb1b1ofmce/edit.html

19/12

Bank of America | Online Banking | Accounts | Account Details | Account Activity

Bank of America

Online Banking

Business Economy Chk - 8508 Transaction Details

Check number: 00000001078

Posting date: 06/29/2012

Amount: -1,875.00

Type: Check

Description: Check

SOUTHEASTERN STYLE SOLUTIONS LLC 104 N DANIEL MORAN AVE STE 220 SPARTANBURG SC 29303-3233		1078 11-78300000 1128
TO Bank		\$ 1875.00
Eighteen Hundred Seventy Five and 00/100		
Bank of America		
ATM AT BRIDGEVIEW		
1875		
⑆053000196⑆ 237020818508⑈ 1078		
917301051084 093243 20120629 000000237020818508		For Deposit Only
TRN_DEBIT KEDWARD4 187500		
Tryon 0917 94004 9173 4 0020		

https://safe.bankofamerica.com/myaccount/details/deposit/previous-page.go?adxa=2f634c3b335b26b...

1/1

9/12

Bank of America | Online Banking | Accounts | Account Details | Account Activity

Bank of America

Online Banking

Business Economy Chk - 8508 Transaction Details

Check number: 00000001092

Posting date: 07/31/2012

Amount: -1,875.00

Type: Check

Description: Check

SOUTHEASTERN TITLE SOLUTIONS LLC
104 H DANIEL MORGAN AVE STE 210
SPARTANBURG SC 29306-2343

1092
H HAZARD
BRI

7/31/12
FD Bank
Eight thousand five hundred and no/100
\$ 1875.00
Bank of America
ACH N/A 0000000000
1841 FAVARD - HAZARD
⑆053000196⑆ 237020818508⑆1092

917303082381 091455 20120731 000000237020818508
TRN_DEBIT KEDWARD4 187500.00
Tryon 0917 940049173 4 0013

Deposit Only



stephanie munsey< sbmunsey@gmail.com>

1841 Fairview Farms Road (Otto/ Munsey)

stephanie munsey< sbmunsey@gmail.com>
To: kanthony@anthonylaw.com

Mon, Aug 20, 2012 at 11:19 AM

Ken:

Please find attach print outs from Bank of America for payments for the first mortgage from January 2012 to current with all payments cleared except for one payment made on August 17, 2012 that remains pending. According to Jack's records, all payments to the first and second mortgages have been made, placing the accounts current. However, as explained previously, Jack is unable to verify that the payments have been properly applied to the accounts. Once again, statements of account for the mortgages are respectfully requested. In addition, the information demanded in the May 15, 2012 letter is respectfully requested. Since the Answer is due this week, please contact me at 803-603-8775 for discussion, since it was our belief during our conversation on August 3, 2012 that this matter could be resolved quickly. Thank you.

Stephanie Blanton Munsey
SC Bar #11122
803-603-8775
sbmunsey@gmail.com

(Quoted text hidden)

3 attachments

Otto Letter 051512.pdf
591K

June July 2012 Payments.pdf
220K

Fairview Farms payments 2012.pdf
258K

Date	Amount	status
1/13/2012	\$ 5,800.00	cleared
2/23/2012	\$ 5,300.00	cleared
3/13/2012	\$ 5,300.00	cleared
3/14/2012	\$ 5,301.00	cleared
4/11/2012	\$ 5,300.02	cleared
6/1/2012	\$ 5,306.00	cleared
7/12/2012	\$ 5,306.00	cleared
8/17/2012	\$ 5,208.00	cleared
8/17/2012	\$ 5,209.00	pending

2/20/12

Bank of America | Online Banking | Accounts | Account Details | Account Activity

Bank of America



All Transactions

Date	Description	Status	\$ Amount
Showing results for "capital one", All Types, All available dates (12 months)		[Show all transactions]	
	CAPITAL ONE BILL PAYMENT	P	-5,209.00
08/17/2012	capital one Bill Payment	C	-5,208.00
07/23/2012	TRIANGLE STOP 07/22 #000234786 PURCHASE 1484 OZONE ROAD SALUDA NC	C	-10.05
	Get In the Zone - AutoZone - Shop in-store or online & earn 5% cash back!		
07/23/2012	CHECKCARD 0721 CPR CELL PHONE REPAIR GREENVILLE SC 24755422203262034186779	C	-68.89
07/19/2012	CHECKCARD 0717 STONE SOUP MARKET & CA LANDRUM SC 24254772200463811860183	C	-115.75
07/12/2012	capital one Bill Payment	C	-5,306.00
06/01/2012	capital one Bill Payment	C	-5,306.00

Bank of America



Online Banking

Regular Checking - 5067 Transaction Details

<https://safe.bankofamerica.com/myaccounts/details/deposit/search.go?adx=dd4ea3559ac64576ff4b7...>

1/1



BANK OF AMERICA, N.A. (THE "BANK")

Transaction
History

JACKSON MUNSEY

REGULAR CHECKING

**** 4332

Last Posting Date 08/17/2012

Date/Time Printed 8/20/2012 8:28 AM EST

Since Last Statement Summary

Last Statement Date 07/27/2012

Balance Last Statement (\$)

Deposits/Credits (+)	# 2	\$1,187.97	Holds (-)
Withdrawals/Debits (-)	# 2	\$600.00	Pending Credits (+)

Available Balance (\$)

\$0.00

Some of the information was not available when this page was printed. Please ask your Bank of America banker to assist you
 Balance Last Statement, Deposits/Credits, Withdrawals/Debits may not total to Available Balance.

Date	Description	Type	Amount	Available Balance
04/11/2012	CAPITAL ONE Bill Payment	Bill Pay	\$5,300.00	
04/03/2012	Counter Credit	Deposit	\$6,000.00	
Statement Period as of 03/29/2012				
03/14/2012	CAPITAL ONE CREDIT CARDS Bill Payment	Bill Pay	\$5,301.00	
03/13/2012	CAPITAL ONE CREDIT CARDS Bill Payment	Bill Pay	\$5,300.00	
03/02/2012	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 03-01) ELECTRONIC TRANSACTION	Credit	\$5,300.00	
03/01/2012	CAPITAL ONE Bill Payment	Bill Pay	\$5,300.00	

For additional information or service, please contact the Customer Service Center at 1-800-432-1000

* = Item(s) included in Previous Statement(s).

**** 4332

00-14-9036M 11-2010
NFL

Page 1

Date	Description	Type	Amount	Available Balance
02/29/2012	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 02-28) ELECTRONIC TRANSACTION	Credit	\$5,300.00	
02/28/2012	CAPITAL ONE Bill Payment	Bill Pay	\$5,300.00	

Statement Period as of 02/28/2012

02/23/2012	CAPITAL ONE Bill Payment	Bill Pay	\$5,300.00	
02/22/2012	Deposit	Deposit	\$6,000.00	

Statement Period as of 01/28/2012

01/27/2012	Counter Credit	Deposit	\$5,800.00	
01/26/2012	CAPITAL ONE Bill Payment	Bill Pay	\$5,800.00	

Statement Period as of 12/29/2011

12/07/2011	Counter Credit	Deposit	\$5,600.00	
12/02/2011	CAPITAL ONE Bill Payment	Bill Pay	\$5,300.00	
12/01/2011	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 11-30) ELECTRONIC TRANSACTION	Credit	\$5,300.00	
11/30/2011	CAPITAL ONE Bill Payment	Bill Pay	\$5,300.00	
11/29/2011	RETURN OF POSTED CHECK / ITEM (RECEIVED ON 11-28) ELECTRONIC TRANSACTION	Credit	\$5,300.00	

Statement Period as of 11/29/2011

For additional information or service, please contact the Customer Service Center at 1-800-432-1000

* Item(s) Included in Previous Statement(s).

NFL

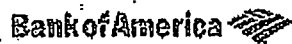
**** 4332

Page 2

360

7/20/12

Bank of America | Online Banking | Accounts | Account Details | Account Activity



Online Banking

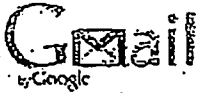
Regular Checking - 5067 Transaction Details

Posting date: 08/17/2012

Amount: -5,208.00

Type: Bill pay

Description: capital one Bill Payment



stephanie munsey <sbmunsey@gmail.com>

1841 Fairview Farms Road (Otto/ Munsey)

SBM Gmail <sbmunsey@gmail.com>
To: Jack Munsey <jack.munsey@settlementsolutions.com>

Tue, Sep 18, 2012 at 10:51 AM

Stephanie Blanton Munsey, Esq.
803-603-8775

Begin forwarded message:

From: "Cindy Hogan" <chogan@anthonylaw.com>
Date: September 18, 2012 10:38:09 AM EDT
To: <sbmunsey@gmail.com>
Cc: "Kenneth Anthony" <kanthony@anthonylaw.com>
{Quoted text hidden}

{Quoted text hidden}

2 attachments

 Letter to Powers.pdf
133K

 filed Answer of Otto.PDF
402K

<https://mail.google.com/mail/u/0/?ui=2&ik=c81a5378f0&view=pt&q=kanthony%40anth...> 12/12/2012

KENNETH C. ANTHONY
LAW FIRM, P.A.

September 7, 2012

Mary R. Powers, Esq.
ROGERS TOWNSEND & THOMAS, PC
Attorneys for Plaintiff
P.O. Box 100200
Columbia, SC 29202

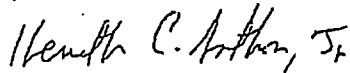
Re: U.S. Bank, NA v. Alyce F. Otto, et al
Case No. 2012-CP-42-3549

Dear Mary:

Enclosed you will find an Answer and Counterclaim in this case. As your Complaint sets forth, there is an outstanding Contract for Deed on this property. The purchaser under the Contract had been making payments directly to your client. Inexplicably, your client would deposit these checks and then turn around and write a check back out to my client, the owner of the fee simple. As a result, we are holding a substantial amount of money, which we would like to apply to a reinstatement. If you can give me a reinstatement figure, I believe we can accomplish that. Because this problem was created by your client returning the funds, we would not expect to pay late fees, costs or attorneys fees. We would also like to know that we have a system going forward that will not cause this to recur.

I look forward to hearing from you.

Very truly yours,



Kenneth C. Anthony, Jr.

KCAjfc:cnh
Enclosure

cc: Alyce P. Otto
Stephanie Munsey, Esq.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
CASE NO. 2012-CP-42-3549

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

Plaintiff,

v.

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

Defendants.

ANSWER OF ALYCE F. OTTO, Individually
and ALYCE F. OTTO, Trustee
Under Declaration of Trust of Alyce F. Otto
dated the 17th day of November, 2009

Defendants Alyce F. Otto, Individually and Alyce F. Otto, Trustee Under Declaration of
Trust of Alyce F. Otto dated the 17th of November, 2009, answering the Complaint herein, would
respectfully allege:

FOR A FIRST DEFENSE

1. They deny each and every allegation of the Complaint not hereinafter specifically
admitted, qualified or explained and demand strict proof thereof.

2. They admit the allegations contained in Paragraphs 1 and 2 of the Complaint.

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CLERK OF COURT
SPARTANBURG
2012 SEP 10 PM 4:31
HODE BLACKLEY

3. They lack sufficient information to form a belief as to the allegations contained in Paragraphs 3 and 4 of the Complaint and therefore deny same.

4. They admit the allegations contained in Paragraphs 5 through 11 of the Complaint.

5. They deny the allegations contained in Paragraph 12 of the Complaint.

6. They admit the allegations contained in Paragraph 13 of the Complaint.

7. They admit so much of Paragraph 14 of the Complaint as alleges that the Plaintiff has apparently employed counsel, but deny that same is necessary or that the Defendant should be responsible for any such cost.

8. They deny the allegations contained in Paragraph 15 of the Complaint.

9. They admit so much of Paragraph 16 of the Complaint as alleges that the Plaintiff requests the mortgage be foreclosed, but deny that such is proper.

10. They admit the allegations contained in Paragraph 17 A of the Complaint.

11. They deny the allegations contained in Paragraphs 17 B and C of the Complaint.

12. They admit the allegations contained in Paragraphs 17 D, E, and F of the Complaint.

13. They deny the allegations contained in Paragraph 17 G of the Complaint.

FOR A SECOND DEFENSE AND BY WAY OF COUNTERCLAIM

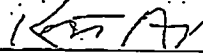
14. A number of payments have been made on this loan which, inexplicably have been returned to these Defendants and not applied against the loan.

15. Defendants have made numerous attempts to resolve this discrepancy with the Plaintiff, to no avail.

16. Defendants are entitled to have payments credited against this loan and the loan reinstated, with no penalties, late fees, interest or attorneys fees.

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2012 SEP 10 PM 4:31
HONORABLE CLERK

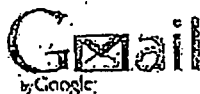
WHEREFORE, these Defendants, answering the Complaint herein, pray that same be dismissed and be awarded the relief sought in their Counterclaim.



Kenneth C. Anthony, Jr., Attorney for
Defendants Alyce F. Otto, Individually and Alyce F.
Otto, Trustee Under Declaration of Trust of Alyce
F. Otto dated the 17th of November, 2009
P.O. Box 3565 (29304) 250 Magnolia St. (29306)
Spartanburg, South Carolina
(864) 582-2355 phone (864) 583-9772 fax
kanthonyv@anthonylaw.com

September 7, 2012
Spartanburg, SC

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CLERK OF COURT
2012 SEP 10 PM 4:31
M. MOYE BLANCHLEY



stephanie munsey<sbmunsey@gmail.com>

1841 Fairview Farms Road (Otto/ Munsey)

stephanie munsey<sbmunsey@gmail.com>
To: Kenneth Anthony <kanthony@anthonylaw.com>

Wed, Sep 19, 2012 at 9:50 AM

Thank you for agreeing to hold the funds. We are leaving town for my sister's wedding in Massachusetts tomorrow and will back on Monday evening. I will have the accounting prepared and have the funds wired to your escrow next week upon our return.

Stephanie Blanton Munsey, Esq.
SC Bar #11122
803-603-8775

On Wed, Sep 19, 2012 at 8:46 AM, Kenneth Anthony <kanthony@anthonylaw.com> wrote:

I will be glad to hold the funds. Please forward whatever you are holding with an accounting explaining the amount. Thanks.

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Tuesday, September 18, 2012 9:14 PM

To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Thank you for the copy of the Answer and letter; I will copy you on any Answer that is filed as well. Your assistance with the 1098s is greatly appreciated. As agreed, there is no issue with having a third party escrow hold the funds due under the third Note payable to Patty; moreover, there is no objection of that being your law firm if you are so Incline. However, the Agreement does allow for an off-set of the third Note for any encumbrances placed against the property by Patty. Therefore, all monies paid to the third Note should be set aside for this purpose with no funds being disbursed to Patty directly until all encumbrances are satisfied and released of record. Please let me know if this is agreeable.

Stephanie Blanton Munsey, Esq.
SC Bar # 11222
(803) 603-8775

On Tue, Sep 18, 2012 at 10:32 AM, Kenneth Anthony <kanthony@anthonylaw.com> wrote:

Cindy will send you the Answer and letter; thought we sent earlier. I'm working on the 1098s. we also need to set up the account somewhere to hold the funds due Patty.

... 01-6038775...&kanthony%40anth 12/12/2012

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Tuesday, September 18, 2012 10:27 AM
To: Kenneth Anthony
Cc: Cindy Hogan

Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Ken:

Good morning. I am writing to advise you that funds were wired into your account yesterday afternoon in the amount of \$5,200.00 for payment of the September mortgage for the Chase first mortgage on the above-referenced property. The second mortgage will be paid to TD Bank prior to its due date as usual.

I understand from your last transmittal that you have written to lender's counsel for Chase, but I have yet to receive a copy of same. If such has been completed, please forward to my attention.

Has there been any progress in regards to the 1098s for the first and second mortgages. As you are aware the lapse of the IRS extension is rapidly approaching, any assistance you are able to provide is greatly appreciated.

Thank you for attention.

Stephanie Blanton Munsey, Esq.

SC Bar #11122

803-603-8775 mobile number

On Tue, Sep 11, 2012 at 3:51 PM, Kenneth Anthony <kanthony@anthonylaw.com> wrote:

I have written lender's counsel. Copy coming to you. Cindy will send you wiring instructions.

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Tuesday, September 11, 2012 1:25 PM
To: Kenneth Anthony

Subject: Fwd: 1841 Fairview Farms Road (Otto/ Munsey)

Ken:

<https://mail.google.com/mail/u/0/?ui=2&ik=c81e5378f0&view=pt&q=kanthony%40anthonylaw.com> 12/12/2012

Last week I posed the below question regarding September's and subsequent mortgage payments until the loan is returned to good standing. Please let me now how you would prefer payment via check made payable to your law firm or wire transfer.

Also, have you been able to make any contact with lender or lender's counsel as of yet?

Thank you.

Stephanie Blanton Munsey, Esq.

803-603-8775 (mobile)

----- Forwarded message -----
From: stephanie munsey <sbmunsey@gmail.com>
Date: Thu, Sep 6, 2012 at 9:00 AM
Subject: Fwd: 1841 Fairview Farms Road (Otto/ Munsey)
To: Kenneth Anthony <kanthony@anthonylaw.com>

Ken:

Thank you for meeting with me yesterday to work through these issues. One item we did not discuss was September's payment to Chase. Since you will be maintaining the funds that have been returned from Chase in your escrow account, please confirm that this month and subsequent mortgage payments will be made to your escrow account as well until the loan is placed back into good standing. Of course, with any additional interest and late fees, if not waived by the bank, also to be absorbed by Jack. If this is acceptable, do you prefer a wire transfer or physical check? If the wire transfer, please provide wiring instructions. Thank you.

Stephanie Blanton Munsey, Esq.

803-603-8775

----- Forwarded message -----
From: SBM-Gmail <sbmunsey@gmail.com>
Date: Tue, Sep 4, 2012 at 5:59 PM
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

To: Kenneth Anthony <kanthony@anthonylaw.com>

Yes. Thank you for the flexibility.

Stephanie Blanton Munsey, Esq.

803-603-8775

On Sep 4, 2012, at 4:45 PM, "Kenneth Anthony" <kanthony@anthonylaw.com> wrote:

Will 10:30 work?

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Tuesday, September 04, 2012 4:32 PM
To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Ken:

Is there any chance that you would be able to meet tomorrow morning rather than 4pm? If not, I understand at this late notice, just trying to work schedules of others as well....thank you for the consideration.

Stephanie Blanton Munsey, Esq.
803-603-8775

On Thu, Aug 30, 2012 at 9:57 AM, SBM Gmail <sbmunsey@gmail.com> wrote:

That will be fine on both accounts. I will see you Wednesday, September 5th at 4pm at your office. Have a wonderful holiday weekend.

Stephanie Blanton Munsey, Esq.
803-603-8775

On Aug 30, 2012, at 8:46 AM, "Kenneth Anthony" <kanthony@anthonylaw.com> wrote:

How about Wednesday September 5 at 4? Suit you to come here?

From: SBM Gmail [mailto:sbmunsey@gmail.com]
Sent: Tuesday, August 28, 2012 5:05 PM
To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Tuesdays and Thursdays I am Columbia working with Companion Life Insurance Company. I am available Mondays Wednesdays and Fridays at your convenience.

Stephanie Blanton Munsey, Esq.

803-603-8775

On Aug 28, 2012, at 4:12 PM, "Kenneth Anthony"
<kanthony@anthonylaw.com> wrote:

I now have some information Patty has brought me. I would like to get together with you to review what we have. I could do next Tuesday afternoon before 4. Would this suit?

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Friday, August 24, 2012 9:01 AM
To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Okay. Thank you. Please let me know if there is anything else you need from Jack at this time.

On Fri, Aug 24, 2012 at 8:52 AM, Kenneth Anthony
<kanthony@anthonylaw.com> wrote:

she is coming the first of the week. I am not going to call time on you.

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Fri 8/24/2012 8:23 AM
To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Ken:

Good morning. I was checking in to see if Patty was able to provide any of the information that has been requested. Also, it is my understanding that you are agreeable to an extension since we are still working toward a resolution in this matter. If this is

still the case, please provide a consent to a thirty (30) day extension for filing an Answer in this action. Thank you very much.

Stephanie Blanton Munsey

SC Bar #11122

803-603-8775

sbmunsey@gmail.com

On Mon, Aug 20, 2012 at 11:56 AM, stephanie munsey <sbmunsey@gmail.com> wrote:

Whew!!! I had no idea what tm was....

I will review the information immediately upon receipt. Thank you.

On Mon, Aug 20, 2012 at 11:55 AM, Kenneth Anthony <kanthony@anthonylaw.com> wrote:

Sorry, that was supposed to go to one of my staff. Nothing you need to do. I just spoke with Patty and she is sending me some info I will forward.

From: stephanie munsey (mailto:sbmunsey@gmail.com)
Sent: Monday, August 20, 2012 11:52 AM

To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

I attached in pdf and I will try to convert but I do not know what tm is?

Stephanie

On Mon, Aug 20, 2012 at 11:38 AM, Kenneth Anthony <kanthony@anthonylaw.com> wrote:

Please save attachments in tm

From: stephanie munsey [mailto:sbmunsey@gmail.com]
Sent: Monday, August 20, 2012 11:19 AM
To: Kenneth Anthony
Subject: Re: 1841 Fairview Farms Road (Otto/ Munsey)

Ken:

Please find attach print outs from Bank of America for payments for the first mortgage from January 2012 to current with all payments cleared except for one payment made on August 17, 2012 that remains pending. According to Jack's records, all payments to the first and second mortgages have been made, placing the accounts current. However, as explained previously, Jack is unable to verify that the payments have been properly applied to the accounts. Once again, statements of account for the mortgages are respectfully requested. In addition, the information demanded in the May 15, 2012 letter is respectfully requested. Since the Answer is due this week, please contact me at 803-603-8775 for discussion, since it was our belief during our conversation on August 3, 2012 that this matter could be resolved quickly. Thank you.

Stephanie Blanton Munsey
SC Bar #11122
803-603-8775
sbmunsey@gmail.com

On Thu, Aug 9, 2012 at 12:02 PM, stephanie munsey
<sbmunsey@gmail.com> wrote:

Ken:

I wanted to give you an update on the bank statements. In May, Jack moved his Bank of America account from a Florida account where he was previously employed to a local account. BofA requires that the accounts be closed and reopened rather than transferred. Therefore, he no longer has online access to his accounts prior to June 1st. The past account information has been requested as of Tuesday with a 3 to 5 day turn around time, but have not yet received the information. In the

meantime, please find attached evidence of recent payments as follows:

1st Mortgage:

Paid \$5,306.00 (Capital One) on 6/01/2012; and

Paid \$5,305.00 (Capital One) on 7/12/2012

2nd Mortgage:

Paid \$1,875.00 (TD Bank) on 6/29/2012; and

Paid \$1,875.00 (TD Bank) on 7/31/2012.

Again, Jack is not able to see any payments being properly credited to the mortgage accounts even though request to the online access or copies of the statement of accounts have been made numerous times. I will provide the entire history of payments as soon as received from Bank of America.

Has there been any progress on the information requested in the May 15, 2012 letter?

Thank you and look forward to quick resolution.

Stephanie Blanton Munsey

SC Bar #11122

803-603-8775

sbmunsey@gmail.com

----- Forwarded message -----
From: stephanie munsey <sbmunsey@gmail.com>
Date: Fri, Aug 3, 2012 at 11:14 AM
Subject: 1841 Fairview Farms Road (Otto/ Munsey)
To: kanthony@anthonylaw.com

Ken:

Thank you for accepting my call today to briefly discuss the recent litigation filed by Patty. Please find attached a copy of the letter dated May 15, 2012, that Jack mailed to Patty outlining the issues that still require resolution. It is believed that this letter sets forth all of the information that is required by her, but do ask for copies of any demands made as alleged in the Complaint along with current statements of account of all three (3) notes. Jack is gathering the entire payment history from the bank and will have that information hopefully by Monday. Like you, it is believed that this matter can be resolved very quickly, and greatly appreciate the efforts to do so.

Additionally, Landrum being a small community, it is our understanding that Patty is openly discussing her actions against Jack with others and using derogatory inferences. Patty's privacy has been maintained during the course of this business relationship, and the same courtesy in turn is respectfully requested.

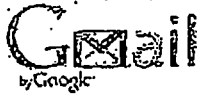
Thank you for time and look forward to a quick resolution to this matter. Please do not hesitate to contact me with any questions.

Stephanie Blanton Munsey, Esq.

SC Bar #11122

Phone: 803-603-8775

Email: sbmunsey@gmail.com



stephanie munsey<sbmunsey@gmail.com>

1841 Fairview Farms Rd (Otto/Munsey)

Cindy Hogan<chogan@anthonylaw.com>
To: SBM Gmail <sbmunsey@gmail.com>

Thu, Oct 11, 2012 at 11:01 AM

She is meeting with her accountant to obtain her 2011 1098 statements from the banks. The amort schedule for the Contract for Deed indicates 2011 interest was \$230.88 so that is what we plan to put on the 1098 for that one.

Cynthia M. Hogan, Paralegal
The Anthony Law Firm, P.A.
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

From: SBM Gmail [mailto:sbmunsey@gmail.com]
Sent: Thursday, October 11, 2012 10:49 AM
To: Cindy Hogan
Subject: Re: 1841 Fairview Farms Rd (Otto/Munsey)

Cindy:

Will you please verify if you have received the wire.

Also, as to the 1098s, the first 2 mortgages should be able to obtain from the lenders for an exact amount rather than our estimate.

Thank you.

Stephanie Blanton Munsey, Esq.
803-603-8775

On Oct 10, 2012, at 9:36 AM, "Cindy Hogan" <chogan@anthonylaw.com> wrote:

I checked with Arthur State Bank but they have not received a wire for \$830. As to the 1098, what amount of interest do you think you have paid?

Cynthia M. Hogan, Paralegal
The Anthony Law Firm, P.A.
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

<https://mail.google.com/mail/u/0/?ui=2&ik=c81a5378f0&view=pt&q=kanthony%40anth...> 12/12/2012

From: SBM Gmail [mailto:sbmunsey@gmail.com]
Sent: Tuesday, October 09, 2012 4:22 PM
To: Cindy Hogan
Subject: Fwd: 1841 Fairview Farms Rd (Otto/Munsey)

Thank you.

Stephanie Blanton Munsey, Esq.
803-603-8775

Begin forwarded message:

From: SBM Gmail <sbmunsey@gmail.com>
Date: October 9, 2012, 1:01:59 PM EDT
To: Kenneth Anthony <kanthony@anthonylaw.com>
Subject: Re: 1841 Fairview Farms Rd (Otto/Munsey)

Will you please confirm the wire of the 3rd mortgage offset and advise on the status on the 1098s. The issue with the 1098s are crucial. Thank you.

Stephanie Blanton Munsey, Esq.
803-603-8775

On Oct 7, 2012, at 4:05 PM, stephanie munsey <sbmunsey@gmail.com> wrote:

Ken:

This is transmittal is a further update of the email from last week. As to Item 4 below, please confirm receipt of the wire transfer from of \$830.00. Also, please find attached an accounting of funds transferred per your request.

As to Item 6 below, Patty dropped off information related to Greenspace which was greatly appreciated.

As to Item 8 below, the coggins were emailed to Madelon on Thursday and resent to sent on Saturday with an acknowledgment of receipt, noting that there is one horse that vet did not send the updated coggins and have asked him to send; this will be forwarded to Madelon immediately upon receipt. If you would like copies, please let me know.

At your earliest convenience, please provide an update of the other issues below noting the extreme urgency of Item 2 below related to the 1098s. Please understand that the interest deduction is quite significant and if not able to taken by October 15th then a check will have to be issued to the IRS which will result in financial hardship. Any and all efforts to expedite this issue is required and greatly appreciated.

If you have any other questions, please let me know. Please be aware that I will be in conferences all week in Columbia and will not have ready access to voicemail or email, but I have estimated drive time in the morning hours from 6:30am to 8:30am and in the afternoon hours from 4:30pm to 6:30pm. I will also have a lunch break, but am unaware of the time and length.

As always, thank you for your prompt attention and assistance with this matter.

Stephanie Blanton Munsey
Bar #11122
803-603-8775

----- Forwarded message -----

From: stephanie munsey <sbmunsey@gmail.com>
Date: Mon, Oct 1, 2012 at 2:03 PM
Subject: 1841 Fairview Farms Road (Otto/Munsey)
To: Kenneth Anthony <kanthony@anthonylaw.com>

Ken:

As to outstanding issues:

- 1) Has there been any reply from counsel for the lender of Chase?
 - 2) Has the 1098s been completed for 2011 interest payments?
(noting that only have until October 15th for filing based on the filed extension)
 - 3) Has the mortgage statements since March 1, 2011 for both Chase and TD Bank been obtained?
 - 4) The last payment of the third mortgage was May 2012, which coincides with the notice of off-set for the liens placed against the property. The monthly third mortgage is \$166 per month with five (5) months, including October 2012, for a total of \$830.00 with a current spreadsheet per your request will be provided and deposited with your escrow account by Friday, October 5, 2012.
 - 5) The Greenspace dues, including the 4th quarter, will be paid this month with the understanding of the restrictions of the trails until all dues are paid current.
 - 6) In the email chain commenced by Patty this weekend concerning the horses, Patty indicated that she would provide us a copy of the Greenspace Bylaws since Madelon Wallace did not and will not provide directly, noting that any question we pose to Madelon she states that we must go through Patty. We would greatly appreciate the copy through either of you.
 - 7) Has there been any further consideration given to whether a POA can be given related to interest in Greenspace? Since I have not seen the Bylaws or the Trust documents, I am unable to formulate an opinion as to whether this is a possibility. Most, if not all, the issues with Greenspace would be eliminated if there was direct communication with Madelon.
 - 8) As to the horse issue that was raised this weekend, Jeff Schutz, DVM, vetted all horses on the property on Saturday, September 29, 2012. I expected the coggins to be ready today, but Dr. Schutz said it would be Wednesday before he would be able to fax to me. The coggins will be provided to Patty and Madelon immediately upon receipt.
 - 9) Once again an apology is extended for the misunderstanding as to the number of horses on the property. The number is now in compliance with two (2) additional horses being relocated in the next few weeks once the alternative location is able to receive them. Additionally, in order to be certain and provide assurances that the remaining horses are being well maintained and are healthy, Spartanburg County Animal Control conducted an inspection of the property at our request today and found all in good condition.
- If there are any issues that I did not address, please let me know.
Thank you.

Gmail - 1841 Fairview Farms Rd (Otto/Munsey)

Page 4 of 4

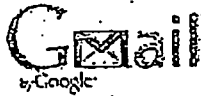
Stephanie Blanton Munsey, Esq.
Bar #11122
803-603-8775

<3rd Mortgage Offset thru Oct 2012.docx>

1841 Fairview Farms Road, Campobello, South Carolina

Third Mortgage given by Jackson L. Munsey, Jr. (subject to offset in accordance with Contract for Deed)

DATE	AMOUNT
June, 2012	\$166.00
July, 2012	\$166.00
August, 2012	\$166.00
September, 2012	\$166.00
October, 2012	\$166.00
TOTAL:	<u>\$830.00</u>



stephanie munsey <sbmunsey@gmail.com>

Still no 1098's

Jackson Munsey <jack.munsey@gmail.com>

Mon, Oct 15, 2012 at 5:14 PM

To: kanthony@anthonylaw.com, "patty@thehareandhound.com Patty Otto" <patty@thehareandhound.com>

Cc: sbmunsey@gmail.com

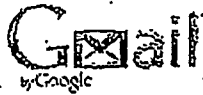
It is after 5 pm on Oct 15th. The 1098's were due January 31st. I can not file my return or if I do I will not be able to claim mortgage interest deduction. What do I have to do to get these documents filed?

Jack Munsey

803-450-0001

904-212-1282 efax

jack.munsey@gmail.com



stephanie munsey <sbmunsey@gmail.com>

1841 Fairview Farms Rd (Otto/Munsey)

Cindy Hogan <chogan@anthonylaw.com>
To: SBM Gmail <sbmunsey@gmail.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Mon, Oct 15, 2012 at 3:39 PM

Here is a copy. Want me to mail the "original" Copy B?

Cynthia M. Hogan, Paralegal
The Anthony Law Firm, P.A.
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

From: SBM Gmail [mailto:sbmunsey@gmail.com].
Sent: Monday, October 15, 2012 3:10 PM
[Quoted text hidden]

[Quoted text hidden]

 1098 Otto-Munsey Contract for Deed interest.pdf
69K

☐ CORRECTED (if checked)

RECIPIENT/LENDER'S name, address, and telephone number Alyce F. Otto, Trustee of the Declaration of Trust of Alyce F. Otto 101 E. Rutherford Street Landrum, SC 29356		* Caution: The amount shown may not be fully deductible by you. Units based on the loan amount and the cost and value of the secured property may apply. Also, you may only deduct interest to the extent it was incurred by you, actually paid by you, and not reimbursed by another person.	OMB No. 1545-0901 2011 Form 1098	Mortgage Interest Statement
RECIPIENT'S federal identification no. 407-76-7672	PAYER'S social security number 217-54-4073	1 Mortgage interest received from payer(s)/borrower(s) \$ 230.80	Copy B For Payer/Borrower The information in boxes 1, 2, 3, and 4 is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if the IRS determines that an underpayment of tax results because you overstated a deduction for this mortgage interest or for these points or because you did not report this refund of interest on your return.	
PAYER'S/BORROWER'S name Jackson L. Munsey, Jr. Street address (including apt. no.) 1841 Fairview Farms Road City, state, and ZIP code Campobello, SC 29322		2 Points paid on purchase of principal residence \$		
		3 Refund of overpaid interest \$		
		4 Mortgage insurance premiums \$		
Account number (see instructions)		5		

Form 1098 (keep for your records) Department of the Treasury • Internal Revenue Service

☐ CORRECTED (if checked)

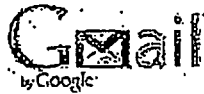
RECIPIENT/LENDER'S name, address, and telephone number		* Caution: The amount shown may not be fully deductible by you. Units based on the loan amount and the cost and value of the secured property may apply. Also, you may only deduct interest to the extent it was incurred by you, actually paid by you, and not reimbursed by another person.	OMB No. 1545-0901 2011 Form 1098	Mortgage Interest Statement
RECIPIENT'S federal identification no.	PAYER'S social security number	1 Mortgage interest received from payer(s)/borrower(s) \$	Copy B For Payer/Borrower The information in boxes 1, 2, 3, and 4 is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if the IRS determines that an underpayment of tax results because you overstated a deduction for this mortgage interest or for these points or because you did not report this refund of interest on your return.	
PAYER'S/BORROWER'S name		2 Points paid on purchase of principal residence \$		
Street address (including apt. no.)		3 Refund of overpaid interest \$		
City, state, and ZIP code		4 Mortgage insurance premiums \$		
Account number (see instructions)		5		

Form 1098 (keep for your records) Department of the Treasury • Internal Revenue Service

☐ CORRECTED (if checked)

RECIPIENT/LENDER'S name, address, and telephone number		* Caution: The amount shown may not be fully deductible by you. Units based on the loan amount and the cost and value of the secured property may apply. Also, you may only deduct interest to the extent it was incurred by you, actually paid by you, and not reimbursed by another person.	OMB No. 1545-0901 2011 Form 1098	Mortgage Interest Statement
RECIPIENT'S federal identification no.	PAYER'S social security number	1 Mortgage interest received from payer(s)/borrower(s) \$	Copy B For Payer/Borrower The information in boxes 1, 2, 3, and 4 is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if the IRS determines that an underpayment of tax results because you overstated a deduction for this mortgage interest or for these points or because you did not report this refund of interest on your return.	
PAYER'S/BORROWER'S name		2 Points paid on purchase of principal residence \$		
Street address (including apt. no.)		3 Refund of overpaid interest \$		
City, state, and ZIP code		4 Mortgage insurance premiums \$		
Account number (see instructions)		5		

Form 1098 (keep for your records) Department of the Treasury • Internal Revenue Service



stephanie munsey <sbmunsey@gmail.com>

Otto v Munsey

9 messages

Cindy Hogan <chogan@anthonylaw.com>
To: SBM Gmail <sbmunsey@gmail.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Wed, Oct 17, 2012 at 3:02 PM

Cynthia M. Hogan, Paralegal
The Anthony Law Firm, P.A.
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

2 attachments

 Otto-Capital One Reinstatement Letter.pdf
65K

 Letter to Stephanie Munsey.pdf
77K

SBM Gmail <sbmunsey@gmail.com>
To: Cindy Hogan <chogan@anthonylaw.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Wed, Oct 17, 2012 at 3:18 PM

Thank you. Will you please confirm the amount that you have in your escrow account (ie, the funds returned from the bank to Patty).

Stephanie Blanton Munsey, Esq.
803-603-8775

On Oct 17, 2012, at 3:02 PM, "Cindy Hogan" <chogan@anthonylaw.com> wrote:

Cynthia M. Hogan, Paralegal
The Anthony Law Firm, P.A.
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

<Otto-Capital One Reinstatement Letter.pdf>

<Letter to Stephanie Munsey.pdf>

Cindy Hogan <chogan@anthonylaw.com>
To: SBM Gmail <sbmunsey@gmail.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Wed, Oct 17, 2012 at 3:24 PM

We have two wires from you, one for \$5200 and one for \$844.10. What do these payments represent?

Cynthia M. Hogan, Paralegal
The Anthony Law Firm, P.A.
250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

From: SBM Gmail [mailto:sbmunsey@gmail.com]
Sent: Wednesday, October 17, 2012 3:19 PM
To: Cindy Hogan
Cc: Kenneth Anthony
Subject: Re: Otto v Munsey

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<Letter to Stephanie Munsey.pdf>

SBM Gmail <sbmunsey@gmail.com>
To: Cindy Hogan <chogan@anthonylaw.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Wed, Oct 17, 2012 at 3:55 PM

The payment of \$5200 is the 1st mortgage payment (chase) for September. The payment of \$844.10 is the payment for 3rd mortgage payment (contract for deed to Patty) which reflects the payments from June thru October as set forth on the spreadsheet that was sent.

I need to confirm the mortgage payments that were made but then returned payable to Patty. When we met Ken had 3 checks that has not been cashed that he was going to deposit into escrow. Also my understanding is that Patty had the other funds that were returned and she was going to deposit with your escrow account as well. I am not certain exactly how much was returned to Patty but all mortgage payments through September have been made. The issue of additional funds should only be related to the late fees and penalties. So we need to calculate the difference.

Thank you.

Stephanie Blanton Munsey, Esq.
803-603-8775

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(864) 583-9772 fax

<Otto-Capital One Reinstatement Letter.pdf>

<Letter to Stephanie Munsey.pdf>

stephanie munsey<sbmunsey@gmail.com>

Fri, Oct.19, 2012 at 10:41 AM

To: Cindy Hogan <chogan@anthonylaw.com>, Kenneth Anthony <kanthony@anthonylaw.com>

Have you been able to confirm the amount of the return payments (see previous email below)?

Thank you.

Stephanie

----- Forwarded message -----

From: SBM Gmail <sbmunsey@gmail.com>

Date: Wed, Oct 17, 2012 at 3:55 PM

Subject: Re: Otto v Munsey

To: Cindy Hogan <chogan@anthonylaw.com>

Cc: Kenneth Anthony <kanthony@anthonylaw.com>

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<Letter to Stephanie Munsey.pdf>

stephanie munsey< sbmunsey@gmail.com>
To: Cindy Hogan <chogan@anthonylaw.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Mon, Oct 22, 2012 at 2:22 PM

Ken:

Please advise how many payments were returned to Patty by obtaining a loan history statement in order to confirm the number of payments returned and the amount of payments Chase claims are due. It was our belief that six (6) or seven (7) payments were returned to Patty with copies of three (3) checks provided to me that were to be deposited directly into your escrow account and then an additional three (3) or four (4) payments that Patty deposited that were to be transferred into your escrow account. Also, we understand that payment of the September amount was paid to your escrow account, which obviously was not sent, and the month of October is now due so that would be eight (8) or nine (9) payments due. However, Chase claims ten (10) payments are due. We need this confirmed ASAP since reinstate of the loan is provided only through October 31, 2012. We believe that you should hold enough in escrow to cover the payment amount due.

Also, there is a \$7,907.95 amount on the reinstatement letter which states as a corp advance. Please confirm what this amount represents. If it is real property taxes, those were paid on August 27, 2012 in the amount of \$6,311.74. A copy of the paid receipt was provided to you, however, if you need another copy, please let me know and I will scan and forward to you.

Once we understand these major issues, then we will be able to calculate the remaining amount to be paid. Thank you for your prompt attention to this matter.

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(864) 583-9772 fax

stephanie munsey <sbmunsey@gmail.com>
To: Cindy Hogan <chogan@anthonylaw.com>
Cc: Kenneth Anthony <kanthony@anthonylaw.com>

Fri, Oct 26, 2012 at 3:59 PM

Please provide the requested information ASAP. Thank you.

On Mon, Oct 22, 2012 at 2:22 PM, stephanie munsey <sbmunsey@gmail.com> wrote:
Ken:

Please advise how many payments were returned to Patty by obtaining a loan history statement in order to confirm the number of payments returned and the amount of payments Chase claims are due. It was our belief that six (6) or seven (7) payments were returned to Patty with copies of three (3) checks provided to me that were to be deposited directly into your escrow account and then an additional three (3) or four (4) payments that Patty deposited that were to be transferred into your escrow account. Also, we understand that payment of the September amount was paid to your escrow account, which obviously was not sent, and the month of October is now due so that would be eight (8) or nine (9) payments due. However, Chase claims ten (10) payments are due. We need this confirmed ASAP since reinstatement of the loan is provided only through October 31, 2012. We believe that you should hold enough in escrow to cover the payment amount due.

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(864) 583-9772 fax

stephanie munsey <sbmunsey@gmail.com>
To: Kenneth Anthony <kanthony@anthonylaw.com>
Cc: Cindy Hogan <chogan@anthonylaw.com>

Mon, Oct 29, 2012 at 12:18 PM

Ken:

Funds are not able to be wired to your account until the information below is provided so a calculation can be obtained. I have been asking for the below information since October 17th within minutes of receipt of the reinstatement letter via email. Please provide this information ASAP. If you are unable to provide this information, please explain. We must work together to resolve this matter. Thank you.

Stephanie Blanton Munsey
803-603-8775

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(864) 583-9772 fax

stephanie munsey <sbmunsey@gmail.com>

Wed, Oct 31, 2012 at 10:09 AM

To: Kenneth Anthony <kanthony@anthonylaw.com>
Cc: Cindy Hogan <chogan@anthonylaw.com>

Please advise the amount of returned funds that you hold in escrow. Thank you.
Stephanie Blanton Munsey
803-603-8775

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250 Magnolia Street (29306)
P.O. Box 3565 (29304)
Spartanburg, South Carolina
(864) 699-6218 direct dial
(864) 583-9772 fax

KENNETH ANTHONY
LAW FIRM, P.A.

200 Magnolia Street
Spartanburg, SC 29302
Tel: 803.582.1111
Fax: 803.582.1112
www.kennethanthony.com

October 17, 2012

Via email to sbmunsey@gmail.com

Stephanie Munsey, Esq.
1841 Fairview Farms Road
Campobello, SC 29322

Re: Alyce F. Otto v. Jackson L. Munsey, Jr.

Dear Stephanie:

Enclosed is the reinstatement amount from Capital One. I presume we will want to wire these funds from my account, so I will need to obtain these from you.

Very truly yours,



Kenneth C. Anthony, Jr.

KCAjrcmh
Enclosure
cc: Patty Otto

2012-10-12 13:56

THE HARE & HOUND

8644574218 >>

8645839772

P 2/3

PG (2) of (3)



7933 Proctor Rd
Plano, TX 75024

10/12/12

RUDRICK G OTTO
ALYCE F OTTO
101 B RUTHERFORD ST
LANDRUM, SC 29356

RE: Loan # 0554185801
Property Address: 1841 FAIRVIEW FARMS
CAMPOBELLO, SC 29322

Dear Mortgagee,

* In response to your request for a pay plan option, the total needed to reinstate your loan and have current is \$62,581.47 this amount is good through 10/31/12

Payments:	10 @	\$5195.28	=	\$	51,952.80
Escrow Advance:				\$	0.00
Late Fees:				\$	2836.45
NSF Fees:				\$	0.00
Other Fees:				\$	258.43
Corp Advances:				\$	7,907.95
Unbilled Legal Fees:				\$	1331.00
Less Suspense				\$	1705.16
Total Amount Due:				\$	62,581.47 *

If you choose to send the payments via Western Union Quick Collect, the correct city code is Chevy, MD. Please reference the loan number and put it to my attention. Should you have any further questions concerning this matter, please feel free to contact us 1-877-230-8516

Sincerely,
Loss Mitigation Department
Mortgage Loan Servicing Division

Sada]

Date 2/8

2012-10-12 13:56

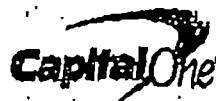
THE HARE & HOUND 8644574218 >> 8645839772

P313
00000000

Pg (3) of (3)

7333 Preston Rd.
P.O. Box 75826
Dallas, TX 75275
177-290-8516 X
177-419-4116 Fax

4437122



Fax

To: <u>Otto</u>	From: <u>Factor Express</u>	
Fax:	Pages:	
Phone:	Date:	
Re:	Co:	
☐ Urgent	☐ For Review	☐ Please Reply

Comments:

WIRE TRANSFER INSTRUCTIONS

ABA: 255071981-CHEVY CHASE MORTGAGE

ATTENTION: PAYMENT PROCESSING

ACCOUNT TO BE CREDITED: GL#2854214033185

BENEFICIARY: MORTGAGOR LAST NAME / LOAN NUMBER

BE ADVISED THERE IS A WIRE TRANSFER FEE OF 25.00 MUST BE INCLUDED WITH YOUR PAYMENT
WIRE TRANSFER MUST BE RECEIVED BY 2:00PM E.S.T.

SHOULD HAVE ANY QUESTIONS PLEASE CONTACT OUR OFFICES AT 1877-290-8516

Note: The documents accompanying this facsimile may include confidential or privileged information.
This information being transmitted is intended only for the use of the above-named recipient. If this facsimile
has been sent to you incorrectly please call immediately. Thank You.

(864) 457-4218



Pg ① of ③

**** Fax Cover Sheet ****

To: MR & MRS OTTO
Phone:
Fax:

Date: 10/12/12
Re:
CC:

From: Hector Espinoza
Phone:
Fax:

Comments: P/S see Attached

* Reinstatement quote and
WIRE INSTRUCTIONS

Toll Free 877-238-8518 / FAX (866) 247-6402



Mon, Oct 29, 2012 at 12:53 PM

Ken:

Stephanie Blanton Munsey
803-603-8775

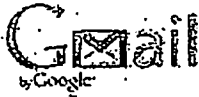
----- Forwarded message -----
From: Johnson, Kay <kjohnson@spartanburgcounty.org>
Date: Mon, Oct 29, 2012 at 12:24 PM
Subject:
To: sbmunsey@gmail.com

[illegible]

Kayo Johnson
Tax Collector's Office
Spartanburg SC 29304
kjohnson@spartanburgcounty.org
864-596-2597
864-562-4299

Gmail - Fwd: Otto v. Munsey

Page 2 of 2



stephanie munsey <sbmunsey@gmail.com>

Otto v Munsey

stephanie munsey <sbmunsey@gmail.com>

Wed, Oct 31, 2012 at 10:09 AM

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Cc: Cindy Hogan <chogan@anthonylaw.com>

Please advise the amount of returned funds that you hold in escrow. Thank you.

Stephanie Blanton Munsey

803-603-8775

[Quoted text hidden]



stephanie munsey <sbmunsey@gmail.com>

1841 Fairview Farms Road (Otto v. Munsey)

1 message

stephanie munsey <sbmunsey@gmail.com>
To: Kenneth Anthony <kanthony@anthonylaw.com>
Cc: Cindy Hogan <chogan@anthonylaw.com>

Fri, Nov 9, 2012 at 8:42 AM

Ken:

I am at a loss as to lack of response from you regarding my numerous inquiries (both via email and telephone messages) so we may resolve this matter. However, once again, I am requesting that you please advise as to the total funds that you currently hold in escrow for this matter. When we met, you provided me copies of three (3) returned checks that were to be deposited directly into your escrow account and with your statement that an additional three (3) or four (4) returned payments that Patty deposited were to be transferred into your escrow account. Additionally, Jack made the September payment directly to your escrow account and should still be held in escrow by your firm. Further payments for the months of October and now November have not been forwarded to your escrow account since you have been unable to confirm the total amount you currently hold in escrow for this account.

Moreover, please confirm how many payments were returned to Patty by obtaining a loan history statement so a confirmation the amount of payments Chase claims are due can be calculated. Also, please inquire with Chase the amount of \$7,907.95 listed on the Reinstatement Letter as Corp Advance. As earlier stated, if this represents real property taxes, those were paid on August 27, 2012 in the amount of \$6,311.74 by Jack. A copy of the paid receipt was provided to you when we met. Once there is an understanding of these major issues, then we will be able to calculate the remaining amount to be paid in order to reinstate to the loan which is the first priority. Unless a response is received from you by Wednesday, November 14, 2012, we will be required to file an Answer with Counterclaims in both litigations. This is not what is desired; a resolution to this matter is in the best interest of all involved and what we believe we were working toward.

Thank you for your prompt attention and assistance to resolution in this matter.

Stephanie Blanton Munsey, Esq.
Bar #11122
803-603-8775

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

C. A. NO.: 2012-CP-42-3549

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

Plaintiff,)

-vs-)

Alyce F. Otto, individually;)
Alyce F. Otto, Trustee Under)
Declaration of Trust of Alyce F.)
Otto, dated 11/17/09; TD Bank, NA;)
The United States of America,)
Acting by and through its agency,)
The Internal Revenue Service;)
Laura Kerhulas Giese, as co-)
Trustee of the Theodore Ernest)
Kerhulas Trust Under Declaration)
Of Trust dated 5/25/04; Mark)
Warner Kerhulas, as co-Trustee of)
The Theodore Ernest Kerhulas)
Trust Under Declaration of Trust)
Dated 5/25/04; Jackson L. Munsey,)
Jr.; and Citibank, NA,)

Defendants.)

And)

Jackson L. Munsey, Jr.)

Cross-Claim Plaintiff,)

-vs-)

Alyce F. Otto, Individually; and)
Alyce F. Otto, Trustee under)
Declaration of Trust of Alyce F.)
Otto, dated 11/17/09,)

Cross-Claim Defendants.)

MOTION TO ALTER OR
AMEND ORDER

2016 JUN -7 AM 9:23
M. HOPE BLACKLEY

YOU WILL PLEASE TAKE NOTICE that Defendant and Cross-Claim Plaintiff Jackson L. Munsey, Jr. ("Munsey"), by and through his undersigned attorney, hereby moves for an Order pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure to alter or amend the Order of the Court that followed from the hearing held on November 24, 2015, styled as Order As To Otto vs Munsey (the "Order"). The Order was dated December 14, 2015, and filed on December 15, 2015; however, Munsey has received no written notice of the entry of the Order. On January 4, 2016, Munsey's counsel was served with two different orders issued by the Court pursuant to the November 24th hearing, which prompted counsel to consult the Spartanburg County Clerk of Court regarding the Order at issue in the within Motion. On its own initiative, Munsey's counsel discovered that the Order had been entered and obtained a copy of same on January 4, 2016.

The grounds for this Motion are as follows: (1) at the hearing on November 24th, the Court issued a ruling from the bench as to Munsey's rights of equity in and to the subject property; (2) the Order does not contain the specific language regarding Munsey's equitable rights as issued from the bench; (3) Munsey wishes to obtain a specific ruling from the Court as to his equitable rights; and (4) the Order does not contain an "Exhibit A" itemizing the damages, which Exhibit is referenced in the body of the Order. The Court should amend the Order to reflect its ruling from the bench, to include a specific finding of fact that Munsey has no equitable interest in the subject property and therefore no right to notice of any surplus funds derived from the foreclosure sale. Munsey's counsel forwarded revisions to the proposed Order addressing the Court's findings to counsel for Otto on December 16, 2015; however, Munsey's counsel is uncertain whether the requested revisions were forwarded to the Court. Further, the

Court should amend the Order to include an amount of damages comprising the judgment awarded therein.

This Motion is based upon Rules 59(e) and 60(b)(1), South Carolina Rules of Civil Procedure, common and statutory laws, and the pleadings in this case, along with any affidavits, documents, evidence or memoranda which may properly be filed with the Court at or in advance of the hearing in this matter. Further, this Motion is timely made and consultation with opposing counsel would serve no useful purpose.

Respectfully submitted,



Erin Culbertson (SC Bar # 68271)
KEHL CULBERTSON ANDRIGHETTI, LLC
114 Manly St. (29601)
Post Office Box 1904
Greenville, SC 29602
864/370-8222 864/370-8227 (fax)
erin@palmettolawfirm.com

Counsel for Defendant and Cross-Claim Plaintiff
Jackson L. Munsey, Jr.

January 6, 2016
Greenville, SC

2016 JAN -7 AM 9:23
M. DOPE BLASALEY

Affidavit of Service



DOCKET NUMBER: 12-cv-42-3549

FILE NUMBER: 005071-00160

COURT OF COMMON PLEAS FOR SPARTANBURG COUNTY, SC

CASE STYLE:

U.S. BANK, NA AS TRUSTEE RELATING TO THE CHEVY CHASE FUNDING, LLC MORTGAGE BACKED
CERTIFICATES, SERIES 2004-B; et seq.

PLAINTIFF

vs.

DEFENDANT

RUDRICK & ALYCE OTTO; et al.

SERVICE OF PROCESS ON: JACKSON L. MUNSEY, JR.

METHOD OF SERVICE: A true and correct copy of the above-described papers were served on the below-named party in the following manner:

(x) (PERSONAL) By personally delivering a copy into the hands of the person to be served.

PLACE OF SERVICE: 366 N. Church Street
Spartanburg, SC 29303

Is the place of service the dwelling house or usual place of abode for the party being served? () Yes (x) No

DATE OF SERVICE: 08/31/2012 TIME OF SERVICE: 1:35 PM

TYPE OF DOCUMENTS: (x) SUMMONS & COMPLAINT (x) LIS PENDENS
(x) OTHER: NOTICE OF FORECLOSURE INTERVENTION

DESCRIPTION OF PARTY RECEIVING DOCUMENTS: The person receiving the documents is described as follows:

Sex MALE; Race WHITE; Facial Hair none;
Age(prox.) 51-55; Height(prox.) 6'-0"; Weight(prox.) 215

MARITAL STATUS: () Single (x) Married () Separated () Unknown

MILITARY STATUS: PER MY INVESTIGATION, SAID PERSON
() WAS (x) WAS NOT ENGAGED IN THE U.S. MILITARY AT THE TIME OF SERVICE () UNKNOWN
MILITARY BRANCH, IF APPLICABLE:

IS THE SUBJECT PROPERTY () YES (x) NO () MOBILE HOME VIN NOT VISIBLE
A MOBILE HOME? VIN #:

COMMENTS: Defendant lives at 1841 Fairview Farms, Campobell, SC but was served at a neutral location.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 SEP -9 PM 1:29
M. HOPE BLACKLEY

Signature of Process Server: The undersigned declares, under penalty of perjury, that the foregoing is true and correct and that the deponent is over the age of 18 and is not a party to nor interested in this action.

NAME: Jeff Cooke

Signature of Process Server

9/4/2012
Date

STATE OF S.C.
COUNTY OF GREENVILLE

Sworn and subscribed before me this 4th day of SEPTEMBER, in the year of 2012.
Personally known to me or Identified by the following document:
Type: Number/Reference:

Notary Public for South Carolina
Notary Public (Legal Signature)
Commission Expiration 12/03/17

K-2

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

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

Plaintiff,

v.

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

Defendant(s).

(005071-00160)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 12-CP-42-3549

CERTIFICATE OF DEFAULT AND NON-MILITARY
SERVICE

Deficiency Judgment Waived

The undersigned attorney for Plaintiff asserts that more than thirty (30) days have elapsed since the service of the Summons and Complaint upon the Defendant(s). The following Defendant(s) has/have not answered, plead, or otherwise defended this action, pursuant to Rule 55(a), SCRCP: TD Bank, NA, Jackson L. Munsey, Jr., and Citibank, NA. Therefore, the Defendant(s) TD Bank, NA, Jackson L. Munsey, Jr., and Citibank, NA, are in default.

According to Plaintiff's business records, affidavit(s) of service, search(es) of the Department of Defense or any other obtained information, the Defendant(s) Alyce F. Otto, individually, Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th day of November 2009, Laura Kerhulas Giese, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004, Mark Warner Kerhulas, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004, and Jackson L. Munsey, Jr., are not in the Military Service of the United States as contemplated by the provisions of the Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. seq.

I certify under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

Executed on 10/12/12

Rogers Townsend & Thomas, PC
ATTORNEYS FOR PLAINTIFF

Samuel C. Waters (SC Bar #5958)
Reginald P. Cooley (SC Bar #69453)
Ellie C. Floyd (SC Bar #68635)
Eve Morelock Surrency (SC Bar #5300)
Robert P. Davis (SC Bar #74030)
Vance L. Brubham, III (SC Bar #71250)
Andrew W. Montgomery (SC Bar #79893)

220 Executive Center Drive
Columbia, SC 29210
(005071-00160)

Cheryl H. Fisher (SC Bar #15213)
Jennifer W. Rubin (SC Bar #16727)
Michael P. Morris (SC Bar #73560)
Mary R. Powers (SC Bar #16534)
William S. Koehler (SC Bar #74935)
Jaclynn B. Goings (SC Bar #77501)
Andrew A. Powell (SC Bar #100210)

Post Office Box 100208 (29202)
(803) 744-4444

Columbia, South Carolina

FILED
CLERK OF COURT
2012 OCT 15 AM 11:10

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Alyce F. Otto, Trustee,

Plaintiff,

vs.

Jackson L. Munsey, Jr.,

Defendant.

AFFIDAVIT OF DEFAULT
Case No.: 2012-CP-42-2874

PERSONALLY appeared before me Kenneth C. Anthony, Jr., who, being duly sworn, deposes and says that he is the attorney for the Plaintiff in the above-styled cause of action; that the Summons and Complaint in this action were duly served on the Defendant Jackson L. Munsey, Jr. on the 27th day of July, 2012; and that more than thirty (30) days have elapsed since the service of said Summons and Complaint and that no Answer, Demurrer, Notice of Appearance or other pleading has been served or received in response thereto; that said Defendant is now in default; that said Defendant is not member of the Armed Services of the United States as is contemplated under the Soldiers and Sailors Relief Act, as amended.

SWORN to before me this
May 7, 2013,

Notary Public for SC

My Commission Expires: 1-11-20

THE ANTHONY LAW FIRM, P.A.

Kenneth C. Anthony, Jr.

Attorney for Plaintiff

250 Magnolia Street (29306)

Post Office Box 3565 (29304)

Spartanburg, South Carolina

(864) 582-2355 phone

(864) 583-9772 fax

kanthony@anthonylaw.com

M. HOPE BLACKLEY

2013 MAY -8 AM 11:48

FILED
CLERK OF COURT
SPARTANBURG COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

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

Plaintiff,

vs.

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

Defendants.

AND

Jackson L. Munsey, Jr.

vs.

Alyce F. Otto, Individually; and Alyce F.
Otto, Trustee under Declaration of Trust of
Alyce F. Otto, dated 11/17/09

IN THE COURT OF COMMON PLEAS
OF THE SEVENTH JUDICIAL CIRCUIT

Docket No.: 2012-CP-42-3549
AND 2012-CP-42-2874

AFFIDAVIT OF UNDERTAKING OF
JACKSON L. MUNSEY

CLERK
SPARTANBURG
2016 JAN 29 AM 9:42
M. HOPE BLACKLEY

Personally appeared before me Jackson L. Munsey, who, first being duly sworn, deposes

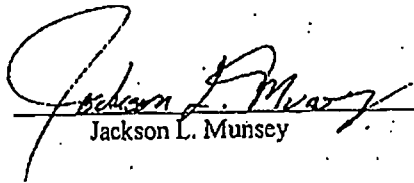
and says as follows:

1. I am a defendant in the above-captioned action.
2. This undertaking is made for the purpose of staying the judicial sale of the property
subject of the above-captioned action during the pendency of appellate proceedings

(including proceedings involving rehearing and certiorari, if applicable) arising out of the Judgment of Foreclosure and Sale filed December 22, 2015.

3. During my possession of the property subject of this action during such appellate proceedings and until the judicial sale thereof in this action, if any, I will not commit or suffer to be committed any waste on or of such property.
4. If judgment in this action directing the sale of the said property be ultimately affirmed and the said property be sold for less than the judgment debt and costs in this action, then I shall pay for any waste committed or suffered to be committed thereon and shall pay a reasonable rental value for the use and occupation of the said property from the time of the execution of this undertaking to the time of the sale, but not exceeding the sum fixed by the court as \$243,000.00 pursuant to the Order on Posting Bond Staying the Foreclosure Sale, filed January 13, 2016, or the amount of such deficiency, whichever is less, which sum shall be duly entered as a payment on the judgment.
5. As security for this undertaking I am depositing \$243,000.00 with the Court pursuant to S.C. Code § 15-1-250.

FURTHER AFFIANT SAYETH NOT.


Jackson L. Munsey

SWORN to and subscribed before me this
28th day of January, 2016.

 (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: _____

Carolyn B. Couch
NOTARY PUBLIC
State of South Carolina
My Commission Expires 7/24/2024

2

CLERK
2016 JAN 29 AM 9:42
M. HOPE BLACKEY





ROGERS TOWNSEND
ATTORNEYS AT LAW

ROGERS TOWNSEND & THOMAS, PC
DEFAULT SERVICES DEPARTMENT

POST OFFICE BOX 100200 (29202)
220 EXECUTIVE CENTER DRIVE
COLUMBIA, SOUTH CAROLINA 29210
P 803.744.4444 F 803.343.7019
WWW.RTT-LAW.COM

January 14, 2013

M. Hope Blackley
Clerk of Court for County of Spartanburg
P.O. Box 3483
Spartanburg, SC 29304-3483

Re: U.S. Bank, NA as trustee relating to the Chevy Chase Funding, LLC Mortgage Backed
Certificates, Series 2004-B vs. Rudrick & Alyce Otto
Case No. 12-CP-42-3549; Spartanburg County
Our File No. 005071-00160

Dear Sir/Madam:

Our office received an Answer in reference to the above case from Jackson L. Munsey, Jr. Mr. Munsey was served with the Summon and Complaint on August 31, 2012. Pursuant to Rule 12(a) of the SCRPC, "A defendant shall serve his answer within 30 days after the service of the complaint upon him." This would mean that this Mr. Munsey would have been required to file and serve his Answer by September 30, 2012. Mr. Munsey did not serve Plaintiff with his Answer until December 21, 2012 (please see attached Exhibit A). Mr. Munsey did not request an additional extension of time in which to file an Answer. This Defendant is therefore in default. At this time, we must notify you that the Plaintiff is not prepared to accept this late Answer.

By copy of this letter, we are notifying Mr. Munsey of his default as set forth above and, accordingly, Plaintiff will not be responding to the Answer unless directed to do so by the court.

Sincerely yours,

Jennifer W. Rubin
Robert P. Davis
Vance L. Brabham
Attorneys for Plaintiff

DSS/kh
Enclosure

cc: Erin Culbertson, Esq.
114 Manly Street
Greenville, SC 29601

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

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

Plaintiff,

vs.

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

Defendant(s).

(505071-00160 EL1)

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2012-CP-42-3549

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANT
JACKSON L. MUNSEY, JR.'S MOTION
TO SET ASIDE DEFAULT AND LEAVE
TO FILE ANSWER OUTSIDE OF TIME**

Plaintiff U.S. Bank, NA, as trustee relating to the Chevy Chase Funding, LLC Mortgage Backed Certificates, Series 2004-B ("Plaintiff") hereby responds and objects to Defendant Jackson L. Munsey, Jr.'s ("Mr. Munsey's") Motion to Set Aside Default and Leave to File Answer Outside of Time ("Motion to Set Aside") and asks the Court to deny said motion on the following grounds:

I. INTRODUCTION

Mr. Munsey acknowledges being served the Summons and Complaint on August 31, 2012. (See Mr. Munsey's Motion to Set Aside, Munsey Aff., ¶ 4). No notice, appearance, answer or other pleading was served upon Plaintiff or its counsel by Mr. Munsey or any attorney

on his behalf by the October 1, 2012 deadline pursuant to South Carolina Rule of Civil Procedure 12(a).

As a result of Mr. Munsey failing to timely file a response, Plaintiff filed a Certificate of Default on October 15, 2012. (See Certificate of Default and Non-Military Service, filed on October 15, 2012). Mr. Munsey did not object or otherwise respond to Certificate of Default for more than two months after it was filed.

Thereafter, on December 21, 2012, despite being in default, Mr. Munsey filed an Answer, Counterclaims, and Cross-Claims against Defendant Alyce F. Otto (the "Answer"). Plaintiff, in response, rejected the Answer by letter on January 14, 2013, noting the Answer was not received in a timely manner and no extension of time was requested by Mr. Munsey or his counsel. This letter was filed with the Clerk of Court on January 25, 2013. (A true and correct copy of the January 14, 2013 Letter is attached hereto as Exhibit A).

Two weeks thereafter, on January 29, 2013, Mr. Munsey moved to set aside the default pursuant to Rule 55(c) of the South Carolina Rules of Civil Procedure.

In sum, Mr. Munsey was properly served on August 31, 2012, but failed to respond to the Complaint for approximately four (4) months, well after he was declared in default. Precedent makes clear that Mr. Munsey cannot show "good cause" for his untimely response, and therefore, his Motion to Set Aside Default and Leave to File Answer Outside of Time is due to be denied.

II. STANDARD OF REVIEW

Rule 55(c) of the South Carolina Rules of Civil Procedure provides that the court may set aside an entry of default "for good cause shown." South Carolina Courts have used three factors to determine whether "good cause" has been shown to set aside the default: (1) the timing of motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of

prejudice to the party not in default if relief is granted. *Wham v. Shearson Lehman Brothers*, 298 S.C. 462, 465, 381 S.E. 2d 499 (S.C. Ct. App. 1989). However, a court need only consider the *Wham* factors “[o]nce a party has put forth a satisfactory explanation for the default.” *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 607-08, 681 S.E.2d 885, 888 (S.C. 2009). See also *Dixon v. Besco Eng’g, Inc.*, 320 S.C. 174, 179, 463 S.E.2d 636, 639 (S.C. Ct. App., 1995) (holding the trial court is not required to make specific findings of fact on the record for each *Wham* factor if the record contains sufficient evidentiary support for the finding of lack of good cause). Regardless of how these factors are applied, “[a] motion under Rule 55(c) is addressed to the sound discretion of the trial court.” *Sundown Operating*, 383 S.C. at 607-08, 681 S.E.2d at 888.

III. ARGUMENT

It is undisputed that Mr. Munsey was served with the Summons and Complaint on August 31, 2012 and that he failed to timely respond. (See Mr. Munsey's Motion to Set Aside, Munsey Aff., ¶ 4).

Mr. Munsey seeks to show “good cause” to set aside the default by arguing that he believed that co-defendant Alyce F. Otto’s attorney was attempting to resolve the matter with Plaintiff. (*Id.*, ¶ 5). Established authority, however, makes clear that such “belief” is not sufficient to establish “good cause.”

In particular, an analogous situation was recently considered by the Court of Appeals of South Carolina in *Regions Bank v. Owens*, Appellate Case No. 2011-193586, 2013 WL 1450961 (S.C. Ct. App., Apr. 10, 2013), a copy of which is attached as Exhibit B. In *Owens*, the South Carolina Court of Appeals held that no good cause was shown where a defendant in default stated that his failure to respond was due to his belief that a co-defendant would answer the complaint on his behalf. More precisely, in *Owens*, the defendant argued that his co-defendant

"misled him into believing [co-defendant] had hired an attorney to answer the complaint on [defendant's] behalf" and that "he reasonably relied on [co-defendant's] representations because [co-defendant] had his power of attorney, which allowed him to act on [defendant's] behalf regarding the property." *Id.* at *3. The defendant further argued that he "immediately hired an attorney when he learned [co-defendant] did not file an answer on his behalf." *Id.*

The South Carolina Court of Appeals, however, denied defendant's motion to set aside the default, finding the defendant presented no evidence that he took any steps to protect himself by contacting either co-defendant or co-defendant's counsel to confirm an answer would be filed on his behalf. *Id.*, at *4 (citing *Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (S.C. Ct. App. 2001) (holding "a party has a duty to monitor the progress of his case. Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.")).

Similar to the *Owens* matter, Mr. Munsey made no effort to protect himself or inquire as to the status of the foreclosure for over four months. Not only that, but Mr. Munsey's rationale for his conduct is less defensible than that of the conduct at issue in *Owens*. Here, Mr. Munsey thought co-defendant Alyce F. Otto's attorney was attempting to negotiate a settlement. Mr. Munsey does not even allege that Alyce F. Otto's attorney ever advised he would file an answer on Mr. Munsey's behalf or protect his interest in the matter, as was the case in *Owens*.

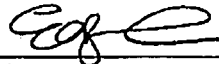
As noted by the *Owens* Court, "[i]f reliance on one's own attorney is insufficient to show 'good cause,' then reliance on another defendant and *his* attorney is equally insufficient." *Id.* (citing *Pilgrim v. Miller*, 350 S.C. 637, 567 S.E.2d 527 (S.C. Ct. App. 2002) (vacated on other grounds by *Bage, LLC v. Se. Roofing Co. of Spartanburg, Inc.*, 383 S.C. 489, 490, 681 S.E.2d 867 (2009) (noting the parties in *Pilgrim* settled while the petition for certiorari was pending before our supreme court; therefore, the decision was vacated))).

Consequently, based on the *Owens* case, Mr. Munsey cannot use the alleged statements of co-defendant Alyce F. Otto's counsel regarding possible settlement to show "good cause" as to why the default should be set aside. Therefore, Mr. Munsey has failed to provide any satisfactory explanation for his default and the Court need not consider the *Wham* factors.

IV. CONCLUSION

For these reasons, Plaintiff requests that this Honorable Court deny defendant Jackson L. Munsey, Jr.'s Motion to Set Aside Default and Leave to File Answer Outside of Time as Mr. Munsey has failed to show that there is the requisite good cause.

Respectfully submitted,


Erica Lybrand (SC Bar #79052)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive – Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900

Edward D. Cotter (SC Bar #72430)
BURR & FORMAN, LLP
420 20th Street North
Suite 3400
Birmingham, AL 35203
(205) 458-5130

ATTORNEYS FOR THE PLAINTIFF

May 1, 2013

RECEIVED

DEC 05 2016

SC Court of Appeals

Certificate of Counsel

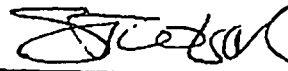
RECEIVED

DEC 05 2016

SC Court of Appeals

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.

November 22, 2016



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

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

DAVID R. PRICE, JR., P.A.

318 West Stone Avenue (29609)

Post Office Box 2446

Greenville, South Carolina 29602-2446

(864) 271-2636 office

(864) 271-2637 fax

Attorneys for the Appellant