

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS
CASE NO.: 2011-CP-32-03945

Wells Fargo Bank, NA Ultimate Successor
to First Union National Bank,

**SPECIAL REFEREE'S ORDER AND JUDGMENT OF
FORECLOSURE AND SALE**

Plaintiff,

DEFICIENCY WAIVED

v.

Albert J. Sanders Jr.; A J S Properties, LLC;
Branch Banking and Trust Company
ultimate successor to Southern National
Bank of South Carolina; First Palmetto
Savings Bank, FSB,

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Defendants.

SC Court of Appeals

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

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

FINDINGS OF FACT:

1. The Lis Pendens was filed on October 19, 2011.
2. The Summons and Complaint were filed on October 19, 2011.
3. Service was made upon the Defendants named in this Report as is shown by the proofs of service filed herein.
4. The Defendants First Palmetto Savings Bank, FSB and Albert J. Sanders, Jr. answered in this action and all Defendants were notified of the time and date of the hearing.

5. For value received, Albert J. Sanders (a/k/a Albert J. Sanders, Jr.) made, executed and delivered a note, dated January 23, 2002, promising thereby to pay to the order of First Union National Bank the sum of \$94,700.00 with interest at the rate of 7.59% per annum (hereinafter "Note"). Other terms and conditions are stated in the note, which is of record herein.

6. To better secure the payment of the Note described above, the said Albert J. Sanders, Jr. (a/k/a Albert J. Sanders) and Patricia S. Sanders made, executed and delivered a mortgage to First Union National Bank, in writing, dated January 23, 2002, covering real property in Lexington County, which is the same as that described in the Complaint. The Mortgage was recorded on January 28, 2002, and is of record in the Lexington County Registry in Book 6955 at page 251.

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

8. Thereafter the Mortgage was transferred to the Plaintiff herein corporate merger.

9. As required by South Carolina Supreme Court Administrative Order 2009-05-22-01 (hereinafter, "the Administrative Order"), Plaintiff states that this loan is owned or guaranteed by Fannie Mae, or it is owned or guaranteed by FHLMC, or the Servicer has signed an agreement to participate in the Home Affordable Modification Program (hereinafter, "the HAMP"); however, Plaintiff alleges upon information and belief, that the loan is not subject to modification under the HAMP as contemplated under the Administrative Order because the Borrower(s) failed to respond to the HAMP inquiries or failed to provide the necessary supporting documentation. Furthermore, Plaintiff complied with Administrative Order 2011-05-02-1 issued by the South Carolina Supreme Court.

10. The titleholder of record of the Property as of the filing of the Lis Pendens in this action was/were Albert J. Sanders, Jr. (a/k/a Albert J. Sanders).

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

12. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice); the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$10,145.00 is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal due as of today's date:	03/15/18	\$87,596.78
Deferred Principal Balance:		\$ 0.00
Accrued interest from:	05/07/09 to: 03/15/18	\$ 58,498.57
Accruing at:	7.59% per annum	
Advancements to Escrow		\$ 1,649.50
Late charges:		\$ 80.00
Costs of collection prior to hearing:		\$ 1,185.00
Attorney's fees:		\$ 10,145.00

Total Debt secured by Note and Mortgage, including interest to date is \$159,154.85. Interest for the period from the date shown above through the date of this judgment, at above stated rate, to be added to the above stated "Total Debt" to comprise the amount of the Judgment debt entered herein, and interest after the date of Judgment at the rate of 7.59% per annum, the Note's current rate, pursuant to the terms of the Note and Mortgage on the judgment debt should be added to such judgment debt to comprise the amount of the Plaintiff's debt secured by the Mortgage through the date to which such interest is computed.

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

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

A. The Defendants, South Carolina Federal Savings Bank, has or may claim to have some interest in the Property by virtue of a mortgage given by Albert J. Sanders, Jr. and Patricia S. Sanders, in the original principal amount of \$25,108.02, which mortgage was recorded/filed in the Lexington County Records on 06/19/1991 in Book 1863 at Page 295. Upon information and belief, said lien has been paid in full but never satisfied of record and is hereby removed from the title to the Property upon the entry of a judicial order.

B. The Defendant(s), Branch Banking and Trust Company ultimate successor to Southern National Bank of South Carolina, has or may claim to have some interest in the Property by virtue of a mortgage given by Albert J. Sanders, Jr. and Patricia S. Sanders, in the original principal amount of \$19,000.00, which mortgage was recorded/filed in the Lexington County

Records on 03/06/1992 in Book 2077 at Page 176. Based upon the evidence presented, said lien has been paid in full but never satisfied of record and is hereby removed from the title to the Property upon the entry of a judicial order.

C. The Defendant, AJS Properties of SC, LLC, has or may claim to have some interest in the Property by virtue of a mortgage given by Sanders Home Place, LLC, in the original principal amount of \$80,000.00, which mortgage was recorded/filed or assigned to Defendant in the Lexington County Records on 09/27/2010 in Book 14470 at Page 325. Said lien is junior and subordinate to Plaintiff's mortgage and is hereby removed from the title to the Property upon the completion of a properly held foreclosure sale of the Property.

D. The Defendant, First Palmetto Savings Bank, FSB, has or may claim to have some interest in the Property by virtue of foreclosure judgment against Albert J. Sanders, Jr. filed in the Lexington County Records on 10/05/2011 in 2011-CP-32-00904. Said lien is junior and subordinate to Plaintiff's Mortgage and is hereby removed from the title to the Property upon the completion of a properly held foreclosure sale of the Property.

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

1. The Plaintiff should have judgment of foreclosure of its Mortgage; and the Property should be ordered sold at public auction after due advertisement.
2. That there is due to the Plaintiff on its Note and Mortgage the sum of \$159,154.85, representing the Total Debt due to the Plaintiff as outlined above, together with interest thereon at the rate provided in the Note to the date hereof.
3. That the amount due in the preceding paragraph (the "Total Debt") and later accrued interest and costs shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter at the rate of 7.59% per annum, the current interest rate of the Note.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That the Defendants liable for the aforesaid Mortgage debt shall, prior to the date and time of the sale of the Property, hereinafter described, pay to the Plaintiff, or the Plaintiff's

attorney, the amount of the Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

2. That on default of payment prior to the date and time of the sale, the Property, hereinafter described, shall be sold by the undersigned Special Referee at public auction, at the Lexington County Judicial Center, City of Chapin, County and State aforesaid, on some convenient sales day hereafter, on the following terms, that is to say:

- A. FOR CASH: The undersigned Special Referee shall require a deposit of 5% on the amount of the bid (in cash or equivalent) the same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within thirty (30) days the same to be forfeited and applied to the costs and then to the Plaintiff's debt.

- B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.59% per annum, which is the Note's current interest rate.

- C. The sale shall be subject to taxes and assessments, existing easements and restrictions of record, and any other senior encumbrances.

- D. Purchaser to pay for the deed and the cost of recording the deed.

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

4. That a personal or deficiency Judgment being Waived, the bidding will not remain open for thirty (30) days and bidding will be final on the date of the sale, and compliance with the bid may be made immediately.

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5. That the undersigned Special Referee will, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he/she will execute to the purchaser, or purchasers, a deed to the Property sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. If such sale is made to anyone other than the Plaintiff or its assignee, should the successful bidder, or his/her assignee, fail to comply with the terms thereof within thirty (30) days after the date of sale, then the undersigned Special Referee may re-advertise the Property for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so on from time to time thereafter until a full compliance shall be secured.
6. In the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.
7. That the undersigned Special Referee shall apply the proceeds of the sale as follows:
 - FIRST: To the payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court; and
 - NEXT: To the payment of the amount to the Plaintiff, or the Plaintiffs Attorney, of the amount of the Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same; and
 - NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRCF.
8. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whomsoever claiming under him, them or it, be forever

barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

9. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Lexington County Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.
10. It is further ORDERED, ADJUDGED AND DECREED that if the named defendant(s) continues in possession of the property after a deed has been issued to the purchaser, then the Sheriff of Lexington County is directed to eject and remove named defendant(s) from the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet, and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

If the person(s) occupying the property after the deed has been issued to the purchaser is other than the named defendant(s), the purchaser shall server the occupants with a Summons and Rule to Show Cause to determine why the occupant(s) should not be removed from the property.

11. That it is further ORDERED ADJUDGED AND DECREED that after the Order Confirming Sale and Disbursements has been issued and filed, the undersigned Special Referee shall direct the Register of Deeds to release of record the lien(s) being foreclosed, which lien(s) are described in the Findings of Fact herein above.

12. That it is further ORDERED ADJUDGED AND DECREED that the following is a description of the Property herein ordered to be sold:

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF LEXINGTON, NEAR THE TOWN OF SOUTH CONGAREE, IN THE STATE OF SOUTH CAROLINA, THE SAME BEING SHOWN AS LOT NO. FOUR (4) ON A PLAT PREPARED FOR IMPERIAL BUILDERS, INC., BY BENJAMIN H. WHESTONE, DATED APRIL 18, 1970 AND RECORDED IN THE OFFICE OF THE RMC FOR LEXINGTON COUNTY IN PLAT BOOK 84-G AT PAGE 103. SAID LOT IS ALSO SHOWN ON A PLAT PREPARED FOR ALBERT J. SANDERS, JR., AND PATRICIA S. SANDERS BY ROBERT E. COLLINGTON, JR., DATED JULY 17, 1979 TO BE RECORDED AND ACCORDING TO SAID PLAT, HAVING THE FOLLOWING MEASUREMENTS AND BOUNDARIES, TO-WIT: BOUNDED IN NORTH BY RIGHT OF WAY OF SOUTHERN RAILROAD WHEREON IT MEASURES 105.0 FEET; ON THE WEST BY LAKE PRINCETON HOLDING CO. LANDS WHEREON IT MEASURES 387.0 FEET; ON THE SOUTH BY EAST CHATEAU DRIVE WHEREON IF FRONTS AND MEASURES 104.0 FEET; ON THE EAST BY UNDESIGNATED; LANDS WHEREON IT MEASURES 396.81 FEET.

DERIVATION: THIS BEING THE SAME PROPERTY CONVEYED TO ALBERT J. SANDERS, JR. AND PATRICIA S. SANDERS BY DEED OF LAKE PRINCETON HOLDING CO. DATED JULY 18, 1979, AND RECORDED IN THE OFFICE OF THE RMC FOR LEXINGTON COUNTY ON JULY 20, 1979 IN DEED BOOK 350 AT PAGE 63. THEREAFTER THE PROPERTY WAS CONVEYED TO SANDERS HOME PLACE, LLC BY DEED OF ALBERT J. SANDERS, JR. AND PATRICIA S. SANDERS DATED JANUARY 6, 2009 AND RECORDED JANUARY 6, 2009 IN BOOK 13318 AT PAGE 248 IN THE LEXINGTON COUNTY REGISTRY. THEREAFTER SANDERS HOME PLACE, LLC CONVEYED THE PROPERTY TO ALBERT J. SANDERS, JR. BY DEED DATED DECEMBER 30, 2010 AND RECORDED DECEMBER 30, 2010 IN BOOK 14654 AT PAGE 288 IN THE LEXINGTON COUNTY REGISTRY. THEREAFTER THE PROPERTY WAS CONVEYED FROM ALBERT J. SANDERS, JR. TO ALBERT SANDERS BY DEED DATED JULY 5, 2011 AND RECORDED JULY 7, 2011 IN BOOK 14946 AT PAGE 129.

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CURRENT ADDRESS OF PROPERTY: 131 E. Château Drive West, West Columbia, SC 29170

TMS: 007821-01-013

AND IT IS SO ORDERED.



The Honorable Lisa Lee Smith
Special Referee for Lexington County

Date: May 8, 2018

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-32-03945

Wells Fargo Bank, NA Ultimate Successor to First Union National Bank

Albert J. Sanders Jr.; A J S Properties, LLC; Branch Banking and Trust Company ultimate successor to Southern National Bank of South Carolina; First Palmetto Savings Bank, FSB

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Brock & Scott, PLLC
Westpark Center
3800 Fernandina Road Suite 110
Columbia, SC 29210

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
- STAYED DUE TO BANKRUPTCY
- 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 JUDGMENT INDEX

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

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

If applicable, describe the property, including tax map information and address, referenced in the order:
 All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the County of Lexington, near the Town of South Congaree, in the State of South Carolina, the same being shown as Lot No. Four (4) on a plat prepared for Imperial Builders, Inc., by Benjamin H. Whestone, dated April 18, 1970 and recorded in the Office of the RMC for Lexington County in Plat Book 84-G at Page 103. Said lot is also shown on a plat prepared for Albert J. Sanders, Jr., and Patricia S. Sanders by Robert E. Collington, Jr., dated July 17, 1979 to be recorded and according to said plat, having the following measurements and boundaries, to-wit: Bounded in North by right of way of Southern Railroad whereon it measures 105.0 feet; on the West by Lake Princeton Holding Co. lands whereon it measures 387.0 feet; on the South by East Chateau Drive whereon if fronts and measures 104.0 feet; on the East by undesignated; lands whereon it measures 396.81 feet.

ELECTRONICALLY FILED - 2018 May 15 10:33 AM - LEXINGTON - COMMON PLEAS - CASE#2011CP3203945

Derivation: This being the same property conveyed to Albert J. Sanders, Jr. and Patricia S. Sanders by deed of Lake Princeton Holding Co. dated July 18, 1979, and recorded in the Office of the RMC for Lexington County on July 20, 1979 in Deed Book 350 at Page 63. Thereafter the property was conveyed to Sanders Home Place, LLC by deed of Albert J. Sanders, Jr. and Patricia S. Sanders dated January 6, 2009 and recorded January 6, 2009 in Book 13318 at Page 248 in the Lexington County Registry. Thereafter Sanders Home Place, LLC conveyed the property to Albert J. Sanders, Jr. by deed dated December 30, 2010 and recorded December 30, 2010 in Book 14654 at Page 288 in the Lexington County Registry. Thereafter the property was conveyed from Albert J. Sanders, Jr. to Albert Sanders by deed dated July 5, 2011 and recorded July 7, 2011 in Book 14946 at Page 129.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details. E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Eric Lee Smith
Circuit Court Judge *Special Referee* Judge Code 5-8-18 Date

For Clerk of Court Office Use Only

This judgment was entered on the ____ day of _____, 2018 and a copy mailed first class or placed in the appropriate attorney's box on this ____ day of _____, 2018 to attorneys of record or to parties (when appearing pro se) as follows:

H. Thomas Morgan
DuBose-Robinson, PC
Attorney First Palmetto Savings Bank, FSB
935 Broad Street
Camden, SC 29020

James W. Poag Jr.
Attorney for Albert J. Sanders, Jr.
PO Box 6422
West Columbia, SC 29171

Chad W. Burgess
Brock & Scott, PLLC
Westpark Center
3800 Fernandina Road Suite 110
Columbia, SC 29210

ATTORNEY(S) FOR THE DEFENDANT(S)

ATTORNEY(S) FOR THE PLAINTIFF(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

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

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