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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

RECEIVED
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SC Court of Appeals

Appellate Case No.: 2018-000260

Seabrook Island Property Owners Association,.....Respondent,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley
a/k/a Deborah L. Kelley; Mortgage Electronic Registration
Systems, Inc., its successors and assigns as nominee for
Chase Mortgage Company, its successors and assigns, a
Delaware Corporation; and Spinnaker Beach House Owners Association,.....Defendants,

Of whom Charles Kelley a/k/a Charles E. Kelley and
Deborah Kelley a/k/a Deborah L. Kelley are the.....Appellants,

And of which Mortgage Electronic Registration Systems, Inc.,
its successors and assigns as nominee for Chase Mortgage Company,
its successors and assigns, a Delaware Corporation; and Spinnaker
Beach House Owners Association are also.....Respondents.

And of which 749 Spinnaker, LLC Intervening Party is also Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

ORDER OF REFERENCE

FILED
2017 MAR -9 AM 11:09
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Pursuant to Rules 53(b) of the South Carolina Rules of Civil Procedure, the above-entitled case is an action for foreclosure and may be referred to a Master in Equity or Special Referee in the above-entitled county by order of a circuit court judge or the clerk of court.

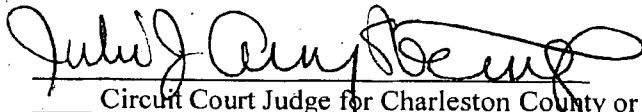
IT IS HEREBY ORDERED, that this action is referred to the Honorable Mikell Scarborough, as Master in Equity to take testimony and to direct entry of final judgment in this action under Rule 53(b), SCRPC, and all matters arising from or reasonably related to such action. The Master in Equity shall retain jurisdiction to perform all necessary acts incident to this foreclosure action including issuance of a writ of assistance or issuance of any rule to show cause including but not limited to any rule to show cause why a party should not be bound by the judgment of foreclosure. Further, the Master in Equity shall retain jurisdiction to hear any action contesting the validity of the foreclosure action or sale or any motions pursuant to the South Carolina Rules of Civil Procedure including but not limited to Rule 60(b). Judicial sales will be conducted pursuant to S.C. Code Section 15-39-680 or on any other convenient sale's date as may be determined by the Master in Equity/Special Referee.

The hearing shall be held in the Office of the Honorable Mikell Scarborough, as Master in Equity for Charleston County, located at:

Charleston County Courthouse
100 Broad Street, Suite 266
Charleston, SC 29401

Charleston, South Carolina

3/7, 2017.


Circuit Court Judge for Charleston County or
Clerk of Court for Charleston County

Date 2/24/17 PAID
Amount \$125.00
MIKELL R. SCARBOROUGH
MASTER IN EQUITY
By: 

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. 2016-CP-10-6750

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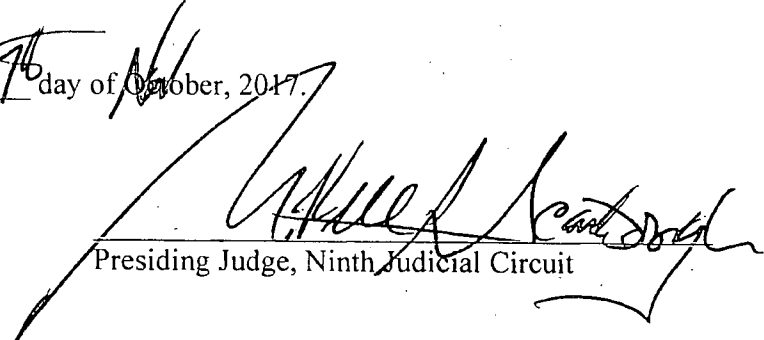
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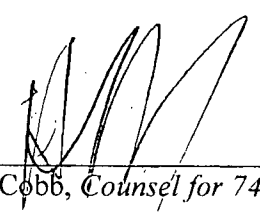
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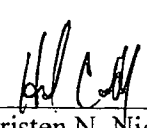
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2017 NOV 29 AM 11:27
JULIE J. ANDERSON
CLERK OF COURT
BY

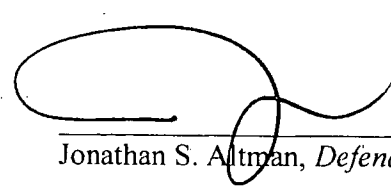


AND IT IS SO ORDERED this 27th day of October, 2017.


Presiding Judge, Ninth Judicial Circuit


Hal E. Cobb, Counsel for 749 Spinnaker, LLC

 as approved to sign by Kristen N. Nichols
Kristen N. Nichols, Plaintiff Seabrook Island Property Owners Ass'n.


Jonathan S. Altman, Defendant Charles E. and Deborah L. Kelley

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS

)

) Civil Action No. 2016-CP-10-6750

Seabrook Island Property Owners
Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee
for Chase Mortgage Company, its
successors and assigns, a Delaware
Corporation; and Spinnaker Beach House
Owners Association,

Defendants.

**Order on Defendants' Charles Kelley a/k/a
Charles E. Kelley and
Deborah Kelley a/k/a Deborah L. Kelley
Motion to Set Aside Entry of Default and
Vacate Judgment of Foreclosure Sale and
Master's Deed**

FILED
DEC 15 PM 2:31
CLERK OF COURT

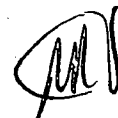
This matter is before the Court upon motion of the Defendants, Charles Kelley and Deborah Kelley (the "Kelley Defendants") to Set Aside Entry of Default and Vacate Judgment of Foreclosure Sale and Master's Deed. A hearing was held on November 27, 2017. Present at the hearing were counsel for Plaintiff, counsel for the Kelley Defendants, and counsel for the third party bidder, 749 Spinnaker, LLC. For the reasons set forth below, the Court denies the Kelley Defendants' motion.

FACTS

Plaintiff filed the Lis Pendens, Summons and Complaint for the foreclosure of a lien on property located at 749 Spinnaker Beachhouse ("Subject Property"), with the Clerk of Court for Charleston County on December 19, 2016. The Kelley Defendants were personally served at their residence, located at 101 Alder Street, Punxsutawney, PA, (the "Alder Street Address") on December 22, 2016. The Affidavits of Service for the Kelley Defendants were filed on January

5, 2017; however, said Affidavits contained a scrivener's error in that the affiant failed to indicate that the Complaint was served along with the Certificate of Exemption from ADR, Lis Pendens, and Summons. Upon realization of this error, Plaintiff, by and through counsel, contacted the process server to verify that all of the pleadings, including the Complaint, were received and served on the Kelley Defendants. The process server submitted Amended Affidavits of Service, which were filed with the Clerk of Court for Charleston County on October 4, 2017, wherein he explained the scrivener's error and verified that the Complaint was properly served on Kelley Defendants. The Kelley Defendants failed to contact the Plaintiff, counsel for the Plaintiff, and/or formally respond to the pleadings, and as a result, they were placed in default by order of the Court on March 9, 2017.

In addition to the Summons and Complaint, the Kelley Defendants received a letter from counsel for the Plaintiff, dated August 24, 2016, sent both certified and regular mail and addressed to them at the Alder Street Address, that they had a balance due and owing the Plaintiff, and that a lien would be filed if they failed to satisfy the arrearage within the time specified. They did not respond to the letter or exercise their right to cure. The Kelley Defendants were mailed a copy of the Notice of Hearing at the Alder Street Address on March 21, 2017, and a copy of the Certificate of Service was filed with the Court on March 23, 2017. They did not respond and were not present at the hearing on April 19, 2017. The Kelley Defendants were mailed a copy of the Notice of Sale and filed Judgment of Foreclosure and Sale on May 10, 2017, and copy of the Certificate of Service was filed with the Court on May 12, 2017. The Subject Property was advertised for sale in The Post and Courier on May 30, 2017; June 6, 2017; and June 13, 2017, as indicated by the Affidavit of Publication filed with the Clerk of Court on Jun 21, 2017. The Subject Property was sold on July 20, 2017 to 749 Spinnaker,

A handwritten signature in black ink, appearing to be 'JMS' or similar, located in the bottom right corner of the page.

LLC, the Master's Order of Sale and Disbursements was filed with the Clerk of Court on August 23, 2017, and the Master's Deed was recorded on September 5, 2017, in Book 0664 at page 088 in the Office of the RMC/ROD for Charleston County. The Kelley Defendants did not attempt to contact Plaintiff or counsel for Plaintiff regarding the sale of the subject property, yet they do not dispute that the Alder Street address is their home address where they reside and receive their mail.

STANDARD OF REVIEW

The determination of whether to set aside an entry of judgment and vacate a foreclosure sale is a matter within the discretion of the trial court. *Wells Fargo Bank, N.A v. Turner*, 378 S.C. 147, 150; 662 S.E.2d 424, 425 (Ct. App. 2008).

DISCUSSION

The Kelley Defendant bring their motion pursuant to Rule 60(b) alleging Plaintiff failed to effect proper service per Rule 4(b) of the South Carolina Rules of Civil Procedure, which requires that the summons and complaint be served together. It is undisputed that the Affidavits of Service for the Kelley Defendants, which were filed on January 5, 2017, contained a scrivener's error in that the affiant failed to indicate that the Complaint was served along with the Certificate of Exemption from ADR, Lis Pendens, and Summons. It is also undisputed that upon discovery of the scrivener's error, the process server submitted Amended Affidavits of Service, wherein he explained the scrivener's error and verified that the Complaint was properly served on Kelley Defendants in compliance with Rule 4 SCRPC. As a result of the Kelley Defendant failure to respond or otherwise appear in the action after receipt of the Summons and Complaint, they were placed in default, and the Subject property was foreclosed and sold to the third-party bidder, 749 Spinnaker, LLC. Although the original Affidavit contained a scrivener's error, it's



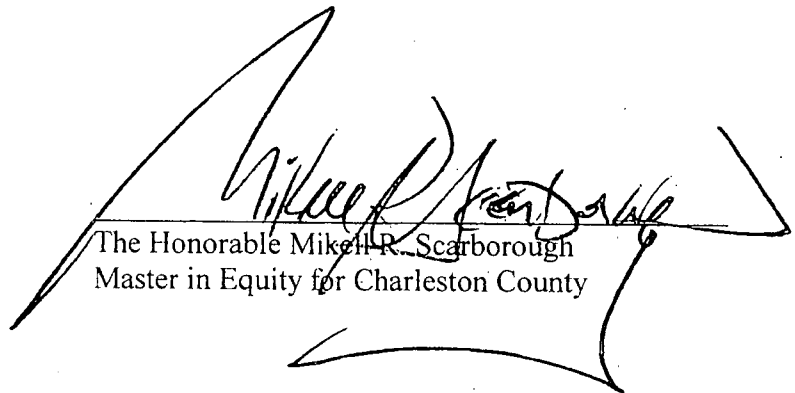
correction filed with this Court is sufficient evidence that SIPOA complied with SCRCR Rule 4. The Kelley Defendants have failed to provide any evidence contradicting the service of process other than affidavits where they admit being served with all documents, but "believe" that the Complaint was omitted.

CONCLUSION

Based on the foregoing facts, the service of the Summons and Complaint was proper, the Entry of Default as to the Kelley Defendants was proper, and the entry of the foreclosure order and subsequent foreclosure sale were properly executed pursuant to South Carolina law. Thus, the Kelley Defendants' Motion to Set Aside Default and Vacate the Judgment of Foreclosure Sale and Master's Deed is denied, and

IT IS SO ORDERED!

Charleston, South Carolina
12/13, 2017


The Honorable Michael R. Scarborough
Master in Equity for Charleston County

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-10-6750

Seabrook Island Property Owners Association

Charles Kelley, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Master in Equity

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: The Defendants' Motion to Reconsider is respectfully DENIED. The court finds under Rule 4, SCRCP, the defendants were served with the summons and complaint. Intervenor may file a claim for surplus funds.

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)
N/A		\$
		\$
		\$

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

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.

Circuit Court Judge

2062

Judge Code

2/12/18

Date

SCRCP Form 4C (10/2011)

Page 1 of 2

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

Kristen N. Nichols, Esquire
Attorney for the Plaintiff

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

JUDGMENT OF FORECLOSURE
AND SALE

DEFICIENCY JUDGMENT DEMANDED

FILED
2017 MAY -5 AM 10:03
JULIE J. ARMSTRONG
CLERK OF COURT

A foreclosure hearing was held on Wednesday, April 19, 2017, at 10:00 a.m. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on December 19, 2016.
2. The Summons and Verified Complaint were filed on December 19, 2016.
3. Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.
4. Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.
5. Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.
6. The South Carolina Supreme Court Administrative Order 2011-05-02-01, dated May 2, 2011 does not apply to this foreclosure, in that the Plaintiff does not offer any form of foreclosure intervention because it is an HOA or POA.

7. The subject matter of this action is real and personal property located in Charleston County, South Carolina, and owned by Charles E. Kelley and Deborah L. Kelley, by virtue of a deed recorded on May 26, 2000, in Book F348, at Page 424.

8. The Plaintiff in this action filed a Notice of Lien for delinquent assessments, late fees, interest and costs by Seabrook Island Property Owners Association, recorded August 30, 2016, in Lien Book 0579 at Page 617.

9. This is an action for the foreclosure of a Lien for unpaid and past due Association Assessments. The obligation to pay Assessments is codified and established under the Governing Documents for Seabrook Island Property Owners Association, being recorded in the RMC Office for Charleston County, and any amendments thereto. The Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being the owner of 749 Spinnaker Beachhouse, Johns Island, South Carolina, is subject to the Governing Documents, together with all amendments thereto. As such, Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, is required to pay all assessments, together with attorney's fees and costs of collection.

10. This property is subject to the covenants, terms and conditions of The Governing Documents and has been subject to all special and regular assessments as prescribed by the Plaintiff. As of April 19, 2017, the past due assessments and related charges, in the amount of Five Thousand Sixty Dollars and 62/100 (\$5,060.62) Dollars together with reasonable attorney's fees and costs of this action were due; and these payments have not been made.

11. The sum of \$1,640.00 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the governing documents of Plaintiff. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond

the normal time.

12. According to the accounting of Plaintiff, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing, with interest, advances made by Plaintiff, and other costs and expenses of the action, including attorney's fees, all secured by the Lien, are as follows:

A Annual Assessments (2016, 2017)	\$4,280.00
B Late Interest through April, 2017	\$459.62
C Late Fees.....	\$321.00
D. Attorney's Fees	\$1,640.00
E. Attorney's Costs	\$1,213.00

TOTAL AMOUNT DUE AS OF April 19, 2017\$7,913.62

13. The property should be sold by this Court, subject to taxes, existing easements, covenants, conditions and restrictions of record, and those found in The Governing Documents, and other senior encumbrances (if any).

14. Plaintiff is seeking the foreclosure of the lien and has expressly demanded the right to a deficiency judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley pursuant to S.C. Code Ann. § 29-3-660. The Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

15. The mortgage to Mortgage Electronic Registration Systems, Inc., it's successors and assigns, as nominee for Chase Mortgage Company, It's successors and assigns, a Delaware Corporation is senior in priority to the Plaintiff's lien and as such, the sale shall be subject to this mortgage.

16. The following Defendant may claim a lien upon or subordinate legal interest in the subject property, and in the event there is a surplus from the sale of the subject property, these Defendant may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant and such lien or legal interest is as follows

Spinnaker Beach House Owners Association, may claim some interest in the subject property by virtue of the following:

- a. A Notice of Lien filed on November 5, 2015 in the amount of \$1,822.44, in Book 0515 at Page 655; and

- b. A pending foreclosure filed on February 2, 2016, in case number 2016-CP-10-0537.

IT IS THEREFORE ORDERED:

17. There is due to Plaintiff under the terms of The Governing Documents the sum of \$7,913.62, as set out in the Complaint and Findings of Fact. All additional costs of this action shall also be included in the debt due from Defendants, George Bennett a/k/a George G. Bennett and Theresa Bennett, and interest on any bid amount shall run at the rate of 7.50% per annum until paid in full.

18. The Nine Thousand Nine Hundred Twenty and 90/100 (\$9,920.90) Dollars shall constitute the total judgment debt due Plaintiff and shall bear interest at the rate of 7.50% per annum, and the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being liable for the aforesaid debt, shall on or before the date of sale of the property hereinafter described, pay the Plaintiff, of Plaintiff's attorney, the amount of Plaintiff's debt aforesaid, together with any and all additional attorney's fees, costs and disbursement of this action.

19. Plaintiff shall have judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley in the amount set forth above. Such judgment shall be entered and docketed in the Clerk's office immediately and in the same manner as other judgments pursuant to §29-3-650 SC Code of Laws (1976 as amended). Upon sale of the subject property, the judgment shall be credited in the amount paid to Plaintiff from the proceeds of the sale. The Plaintiff may waive any rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale. §29-3-650 SC Code of Laws (1976 amended).

20. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. § 14-11-310. It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions, and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

21. On default of payment at or before the time of the sale of the Properties, the mortgaged Properties below described hereinafter shall be sold at public auction at the Charleston County

Courthouse, in the City of Charleston, and State of South Carolina on a sales day determined by the below signed Master in Equity, on the following terms:

- a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to the costs and expense of the action and then to the Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse either make the required deposit at time of bid or to comply with the other terms of the bid within 30 days, then the properties may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.
- b. ~~Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.50%.~~
- c. The sales shall be subject to taxes and assessments, existing easements and restrictions, any other senior encumbrances, and also all other matters of record except for the liens and interests extinguished through this action, specifically the mortgage to Mortgage Electronic Registration Systems, Inc., Its successors and assigns, as nominee for Chase Mortgage Company, Its successors and assigns, a Delaware Corporation.
- d. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.
- e. Purchaser to pay for deed preparation, costs of recording the deed and the satisfaction of mortgage, and transfer taxes on the deed.
- f. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity or Special Referee.

22. Personal or deficiency judgment having been demanded, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. § 15-39-720 (1976).

23. Plaintiff may waive any of its rights, including its right to a deficiency judgment, in accordance with Rule 71 of the South Carolina Rules of Civil Procedure prior to sale.

24. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the purchaser a deed to the properties sold. Plaintiff or any other party to this action may become a

purchaser at such sale. If, upon such sale being made, the purchaser should fail to comply with the terms thereof within 20 days after the date of sale, then the Master in Equity may advertise the said Properties for sale on the next or some other subsequent sales day at the risk of the highest bidder and so forth from time to time thereafter until a full compliance shall be secured.

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

26. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this sale and to any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest accrued thereon (including attorney's fees and costs) or so much thereof as the purchase money will pay on the same.

NEXT: Any surplus should be held pending further Order of this Court.

27. If a deficiency exists after the sale, an Order of Deficiency Judgment may be entered without further notice or hearing.

28. In the event the successful bidder is someone other than the Defendants in possession of the Properties, the Sheriff of this county is ordered and directed to eject and remove from the Property the occupant(s) of the Properties sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said Properties without delay, and to keep said successful bidder or his assigns in such peaceable possession.

29. In the event the successful bidder is someone other than the Defendant(s) in possession of the Properties, and the occupants have voluntarily vacated the Properties or have been ejected from the Properties leaving furniture, fixtures or other items not subject to Plaintiff's Lien, the Purchaser is authorized to remove from the Properties all furnishing, fixtures and other items not subject to Plaintiff's Lien. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the Properties by placing said personal property on the public street or highway or by any other means.

30. The Defendants named herein, and all persons whosoever claiming under Defendants, are forever barred and foreclosed or all right, title, interest, equity of redemption or lien in the said mortgaged property so sold, or any part thereof.

31. In accordance with Rule 77(d) S.C.R.C.P., the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure and Sale upon all parties not in default for failure to appear in this action.

32. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of this action, and the name of the grantee. The Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

33. The undersigned will retain jurisdiction to all necessary acts incident to this foreclosure, including but not limited to the issuance of a Writ of Assistance.

34. The following is a description of the Property herein ordered to be sold:

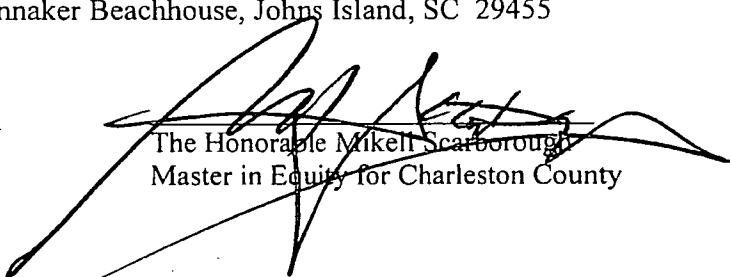
ALL that certain lot, piece, or parcel of land, with the buildings and improvements thereon, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and shown and designated as Lot 749, Spinnaker Beachhouses, Seabrook Island, Charleston County, S.C. , on a plat by E. M. Seabrook, Jr., C.E. and L. S., of Lots 734 through 754, inclusive, dated March 18, 1979, and recorded in the RMC Office for Charleston County in Plat Book AM, Page 111.

This being the same property conveyed to Charles E. Kelley and Deborah L. Kelley herein by deed of conveyance from Gary L. Smith and Sandra L. Smith dated May 24, 2000 and recorded in the R.M.C. Office for Charleston County, SC on May 26, 2000 in Book F348 at Page 424.

TMS No. 147-05-00-072

Property Address: 749 Spinnaker Beachhouse, Johns Island, SC 29455

April 5, 2017
Charleston, South Carolina


The Honorable Mikell Scarborough
Master in Equity for Charleston County

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

RECORD OF HEARING

FILED
2017 MAY -5 AM 10:00
JULIE J. ARMSTRONG
CLERK OF COURT

Pursuant to the Order of Reference granted in the above entitled action, a foreclosure hearing was held herein on April 19, 2017, at 10:00 AM, before The Honorable Mikell Scarborough, Master in Equity.

Plaintiff's attorney is Kristen N. Nichols of the firm of Turner Padget Graham & Laney P.A.

According to the Complaint filed by Plaintiff (the "Complaint"), the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, have failed to pay assessment fees pursuant to governing documents of Seabrook Island Property Owners Association.

The original Lis Pendens was filed on December 19, 2016.

Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.

Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.

Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.

Pursuant to South Carolina Supreme Court Administrative Order 2011-05-02-01, the attorney for the Plaintiff certified that that the property is an HOA or POA, and said order does not apply to

this foreclosure; therefore Plaintiff has complied with the certification requirements and proceeded with the prosecution of this action as permitted by the Order.

Plaintiff's attorney presented or will present copies of the following documents:

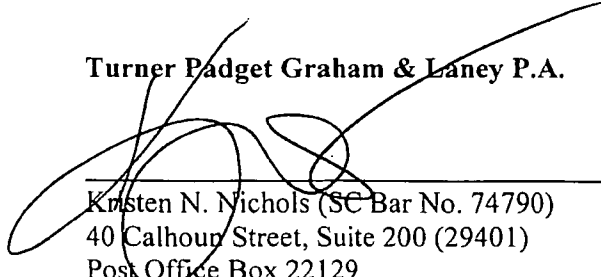
1. Affidavit of Attorney's Fees and Costs
2. Notice of Hearing and Certificate of Mailing
3. Promissory Note
4. Mortgage
5. Affidavit Verified Statement of Account

Plaintiff established the total debt amount secured by the Notice of Lien, recorded August 30, 2016, is \$5,060.62, exclusive of attorney's fees and costs. Plaintiff established that the assessments are due for failure to make the 2016 payment, and all subsequent payments, including late interest and fees.

Pursuant to South Carolina Code Sections 29-3-650 and 29-3-660, Plaintiff specifically demands and is entitled to a personal or deficiency judgment, unless heretofore or hereafter released, against Defendant, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, hereby obligated for the above-described debt, in the event the proceeds of the sale of the property are insufficient to pay in full the indebtedness, including costs of collection. Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

Plaintiff asks that the lien be foreclosed, that the property be sold at public auction in accordance with law, and that the sale be made subject to taxes and assessments, existing easements or restrictions, and any other senior encumbrances.

Turner Padget Graham & Laney P.A.



Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadget.com

Charleston, South Carolina
April 16, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF
ATTORNEY'S FEES AND COSTS**

(07941-00167 KNN)

The undersigned being duly sworn, deposes and says as follows:

1. I am an attorney with the law firm of Turner Padgett Graham & Laney P.A. and am over the age of 18.
2. I am the attorney for the Plaintiff in the above-referenced matter, and this firm has been representing the Plaintiff in this particular matter since August, 2016.
3. I was retained to collect an amount due from the Borrowers as evidenced by a Notice of Lien recorded August 30, 2016.
4. I, or one of my colleagues, along with highly trained and efficient non-attorney professionals, have been responsible for preparing correspondence regarding the enforcement of the Lien, Demand Letter, a Summons and Verified Complaint, Lis Pendens, Certificate of Compliance with Administrative Order, Affidavit of Default, Order of Reference, Record of Hearing, proposed Judgment of Foreclosure and Sale, Form 4, this Affidavit of Attorney's Fees and Costs, and other supporting correspondence and Affidavits in regard to the pleadings; and will further prepare other documents necessary to bring this matter to conclusion through judicial sale of the property.
5. Pursuant to the governing documents of Seabrook Island Property Owners Association, Plaintiff is entitled to recover all of its expenses and actual attorney's fees and costs in connection with Plaintiff's enforcement of the Lien. This foreclosure is being handled on an hourly basis of \$250.00 per hour for attorney time and \$125.00 per hour for non-attorney professionals.



6. Costs and expenses incurred in connection with this foreclosure action are in the amount of \$1,213.00, as shown below.

Notice of Lien (recording costs).....	\$10.00
Title Abstract.....	\$278.00
Filing Fee	\$150.00
Service.....	\$625.00
Reference Fee.....	\$125.00
Motion Fee (reference).....	\$25.00
TOTAL COSTS	\$1,213.00

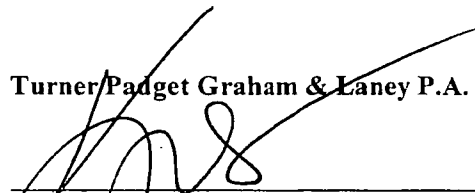
7. I, Kristen N. Nichols, the primary attorney, have practiced law for more than 10 years. I have handled an extensive number of mortgage foreclosure cases, including contested cases and cases involving resolution of title issues. I concentrate my practice in the areas of commercial and consumer foreclosure, bankruptcy and creditor's rights litigation.

8. In determining recoverable attorney's fees, I have found that courts generally award attorney's fees of \$1,640.00 or more for similar residential foreclosure cases in South Carolina. The fee I am requesting in this case is in line with those awards. This sum is contemplated in language contained in the mortgage previously offered into evidence in this action.

9. I believe that an attorney's fee, in the amount of \$1,640.00, and costs in the amount of \$1,213.00, are reasonable in connection with this debt collection, and that Plaintiff is entitled to these amounts pursuant to the provisions of the Loan Documents.

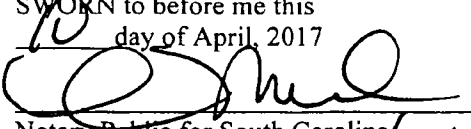
AND FURTHER THE AFFIANT SAITH NOT.

Turner Padgett Graham & Laney P.A.

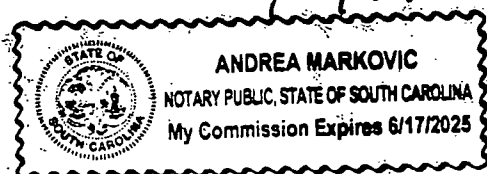


Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadgett.com

SWORN to before me this
10 day of April, 2017



Notary Public for South Carolina
My Commission Expires: 6/17/25



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF VERIFIED
STATEMENT OF ACCOUNT
Deficiency Judgment Demanded**

(07941-00167 KNN)

PERSONALLY APPEARED before me the undersigned Heather Paton, on behalf of the above-captioned Plaintiff, who, being duly sworn, deposes and says as follows:

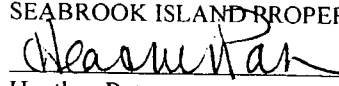
I am a duly authorized representative of the Plaintiff and am authorized to make this Affidavit on behalf of the said Plaintiff.

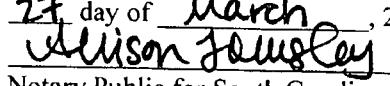
I am familiar with the account forming the basis for the within action, that all the matters alleged therein are true of my own knowledge or upon the business records of the Plaintiff, except for those allegations upon information and belief, and as to those, affiant believes them to be true.

The total outstanding account balance of the Defendants, past due and payable to the Plaintiff pursuant to the Note between the parties, exclusive of attorney's fees and costs of collection for this action, is stated below, said sum including all just credits given:

A.	Annual Assessments (2016, 2017)	\$4,280.00
B.	Late Interest through April 2017	\$459.62
C.	Late Fees	\$321.00
TOTAL AMOUNT DUE AS OF April 19, 2017		\$5,060.62

SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION


Heather Paton
Executive Director

SWORN to before me this
27 day of March, 2017

Notary Public for South Carolina
My Commission Expires: 9/11/2018

1





PGS:

3

After recording return to:
Kristen N. Nichols
Turner Padgett Graham & Laney
PO Box 22129
Charleston, SC 29413

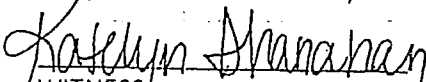
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

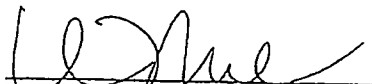
NOTICE OF LIEN

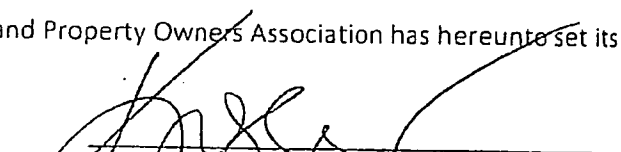
Claimant:	Seabrook Island Property Owners Association
Record Owner(s):	Charles Kelley and Deborah Kelley
Property Address:	749 Spinnaker Beachhouse
Subdivision and Lot:	Spinnaker Beachhouses Lot 749
Tax Map Number:	147-05-00-072
Amount Due as of July 31, 2016:	\$2,755.89

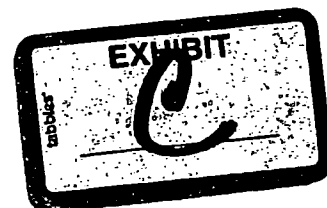
This Notice of Lien is made for assessments and other allowable charges levied against the property above and remaining unpaid as of the date of this Notice of Lien. This amount includes attorneys' fees, costs, charges, late fees, and interest applicable to such assessments. Additionally, this Notice of Lien is levied for all accruing, but unpaid, future assessments, both regular and special, any and all allowable interest, delinquent charges as applicable, costs, and attorneys' fees until the date of payment.

IN WITNESS WHEREOF, Seabrook Island Property Owners Association has hereunto set its hand and seal this 29th day of August, 2016.


WITNESS


WITNESS


Seabrook Island Property Owners Association
By: Kristen N. Nichols
Its: Attorney



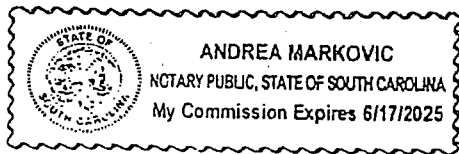
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me the undersigned, who states that she saw the within Seabrook island Property Owners Association by its Attorney, Kristen N. Nichols, sign, seal, and deliver the within Notice of Lien, and that she with the other witness witnessed the execution thereof.

Rakyn Shanahan
WITNESS

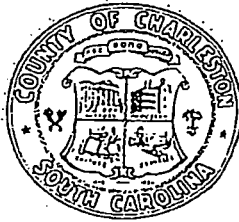
SWORN to before me this
29 day of August, 2016

[Signature]
Notary Public for the State of South Carolina
My Commission Expires: 6/17/25



RECORDER'S PAGE

NOTE: This page MUST remain
with the original document



Filed By:

TURNER PADGET GRAHAM & LANEY

PO BOX 22129
CHARLESTON SC 29413

RECORDED

Date: August 30, 2016

Time: 2:48:52 PM

Book

Page

DocType

0579

617

Notice/Ln

Charlie Lybrand, Register
Charleston County, SC

MAKER:

KELLEY CHARLES AL

of Sats: # of Pages: 3
of References:

Note:

RECIPIENT:

SEABROOK ISLD POA

Recording Fee	\$ 10.00
Extra Reference Cost	\$ -
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 10.00

Original Book:

Original Page:

DRAWER Drawer 1
CLERK KLH



0579
Book



617
Page



08/30/2016
Recorded Date



3
Pgs



Original Book



Original Page



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14:48:52
Recorded Time

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee for
Chase Mortgage Company, its successors and
assigns, a Delaware Corporation; and
Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

12/19/16
10:54am
IN THE COURT OF COMMON PLEAS
C/A # 2016-CP-10- 4750

LIS PENDENS

FILED
2016 DEC 19 AM 10:51
CLERK OF COURT
J. ARISTARONG

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the above-named Defendants for the foreclosure of an assessment Lien recorded in the Office of the Register of Deeds in Charleston County at Lien Book 0579 at Page 617.

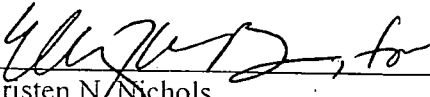
The premises covered and affected by the Assessment Lien were at the time of the making thereof and at the time of the filing of this Notice, described as follows:

ALL that certain lot, piece, or parcel of land, with the buildings and improvements thereon, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and shown and designated as Lot 749, Spinnaker Beachhouses, Seabrook Island, Charleston County, S.C. , on a plat by E. M. Seabrook, Jr., C.E. and L. S., of Lots 734 through 754, inclusive, dated March 18, 1979, and recorded in the RMC Office for Charleston County in Plat Book AM, Page 111.

This being the same property conveyed to Charles E. Kelley and Deborah L. Kelley herein by deed of conveyance from Gary L. Smith and Sandra L. Smith dated May 24, 2000 and recorded in the R.M.C. Office for Charleston County, SC on May 26, 2000 in Book F348 at Page 424.

TMS No. 147-05-00-072

TURNER, PADGET, GRAHAM & LANEY, P.A.



Kristen N. Nichols
Email: KNichols@turnerpadget.com
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, South Carolina 29413
Telephone: (843) 576-2836
Fax: (843) 577-1659
ATTORNEYS FOR THE PLAINTIFF

Charleston, South Carolina
12/14, 2016

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee for
Chase Mortgage Company, its successors and
assigns, a Delaware Corporation; and
Spinnaker Beach House Owners Association,

Defendants.

(07941-00163 KNN)

IN THE COURT OF COMMON PLEAS

C/A # 2016-CP-10- 0750

SUMMONS

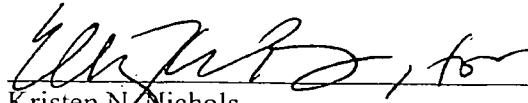
FILED
2016 DEC 19 AM 10:51
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their office, 40 Calhoun Street (29401), P.O. Box 22129, Charleston, SC 29413, within thirty (30) days after the service hereof, exclusive of the day of such service, except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master in equity/special referee, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, and that pursuant to S.C. Code Ann. §14-11-110, as amended, Plaintiff's attorney will submit written testimony on behalf of the Plaintiff at said reference hearing.

TURNER, PADGET, GRAHAM & LANEY, P.A.



Kristen N. Nichols

Email: KNichols@turnerpadget.com

40 Calhoun Street, Suite 200 (29401)

P.O. Box 22129

Charleston, South Carolina 29413

Telephone: (843) 576-2836

Fax: (843) 577-1659

ATTORNEYS FOR THE PLAINTIFF

Charleston, South Carolina

12/16, 2016

This firm collects debts for mortgage lenders and other creditors. Any information obtained will be used for that purpose. However, if you have previously received a discharge in bankruptcy, this message is not and should not be construed as an attempt to collect a debt, but only an enforcement of the lien against the property.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00163 KNN)

IN THE COURT OF COMMON PLEAS

C/A # 2016-CP-10- 6750

COMPLAINT
(FORECLOSURE)

(NON-JURY TRIAL DEMANDED)

(DEFICIENCY DEMANDED)

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2016 DEC 19 AM 10:51

FILED

The Plaintiff, Seabrook Island Property Owners Association, by and through its counsel, respectfully alleges and shows the following:

1. Plaintiff is an eleemosynary corporation organized and existing under the laws of the State of South Carolina.
2. Upon information and belief, the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, are citizens and residents of the State of Pennsylvania.
3. Upon information and belief, the Defendant, Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation, is a financial institution licensed to do business in the State of South Carolina.
4. Upon information and belief, the Defendant, Spinnaker Beach House Owners Association, is an eleemosynary corporation organized and existing under the laws of the State of South Carolina.
5. Upon information and belief, the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, are not subject to the provisions of the Soldiers' and Sailors' Relief Act of 1940, as Amended.

6. This court has subject matter over the property and the parties to this action.
7. Plaintiff demands a non-jury trial on all claims arising from or related to or involved in this action.
8. The subject matter of this action is real and personal property located in Charleston County, South Carolina, which property is more fully described as follows:

ALL that certain lot, piece, or parcel of land, with the buildings and improvements thereon, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and shown and designated as Lot 749, Spinnaker Beachhouses, Seabrook Island, Charleston County, S.C. , on a plat by E. M. Seabrook, Jr., C.E. and L. S., of Lots 734 through 754, inclusive, dated March 18, 1979, and recorded in the RMC Office for Charleston County in Plat Book AM, Page 111.

This being the same property conveyed to Charles E. Kelley and Deborah L. Kelley herein by deed of conveyance from Gary L. Smith and Sandra L. Smith dated May 24, 2000 and recorded in the R.M.C. Office for Charleston County, SC on May 26, 2000 in Book F348 at Page 424.

TMS No. 147-05-00-072

9. That the Plaintiff in this action filed a Notice of Lien for delinquent assessments by Seabrook Island Property Owners Association, recorded August 30, 2016, in Lien Book 0579 at Page 617. A copy is attached hereto, incorporated by reference herein and marked as Exhibit "A".
10. As of November 30, 2016, there was due and owing to the Plaintiff the sum of \$3,112.77 together with attorneys' fees and the costs of this action.
11. The Administrative Order of the Supreme Court of South Carolina dated May 2, 2011 (2011-05-02-01) does not apply to this foreclosure, in that the Plaintiff does not offer any form of foreclosure intervention because it is an HOA or POA.
12. The Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, are required under the governing documents of Seabrook Island Property Owners Association to pay certain fees and dues subject to the restrictions, covenants, reservations and charges contained in the Protective Covenants recorded in the RMC Office for Charleston County, and any amendments thereto.
13. Plaintiff is entitled to levy monthly assessments and special assessments upon affirmative vote of a majority of the Board of Directors of the Homeowners' Association and shall be secured by a lien on the units in favor of the Plaintiff, pursuant to the terms and in the event that the owners become delinquent in their payment obligations.

14. Furthermore, any such lien may be enforced by judicial foreclosure by the Plaintiff in the same manner in which mortgages on real property may be foreclosed in the State of South Carolina, and owner shall be required to pay the costs and expenses of such foreclosure, including reasonable attorney's fees and costs.

15. That the Defendant, Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation, by virtue of an assignment from Wachovia Mortgage Company, may claim some interest in the subject property by virtue of that certain mortgage recorded on May 26, 2000, re-recorded July 10, 2000, in Mortgage Book X350, Page 182. An Assignment of Mortgage was recorded September 23, 2002, in Book K419 at Page 475, wherein Wachovia Mortgage Company assigned mortgage to Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation.

16. That the Defendant, Spinnaker Beach House Owners Association, may claim some interest in the subject property by virtue of the following:

- a. A Notice of Lien filed on November 5, 2015 in the amount of \$1,822.44, in Book 0515 at Page 655; and
- b. A pending foreclosure filed on February 2, 2016, in case number 2016-CP-10-0537;

17. That the Plaintiff has exercised their option to foreclose on the property and declare the whole amount due.

18. Upon information and belief the property which is the subject of this action has not been taken for tax, fine or assessment, pursuant to any statute, or seized by virtue of an execution of attachment against the property of the Plaintiff or Defendant.

19. Pursuant to South Carolina Code Sections 29-3-650 and 29-3-660, Plaintiff specifically demands or reserves its right to a personal or deficiency judgment against the Defendant hereby obligated for the above-described debt.

WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters as set forth herein and:

A. That the amount due under the governing documents of the Seabrook Island Property Owners Association be ascertained and determined under the direction of this Court, together with attorneys' fees and the costs of the action, and a judgment be awarded against the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, in said amount.

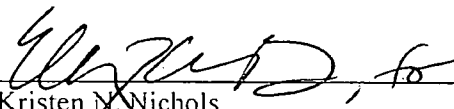
B. That the Plaintiff's Lien for assessment be declared a lien, junior in priority only to that first mortgage lien in favor of Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation and to any unpaid ad valorem real estate taxes and that Seabrook Island Property Owners Association have judgment of foreclosure for the amounts that are found to be due and owing thereon, with attorney's fees and for the costs of this action;

C. That the property, together with all the appurtenances thereto according to said governing documents of the association, be sold under the Direction of the Court, subject to the first mortgage lien in favor of Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation, ad valorem real estate taxes, and personal property taxes (if any), the equity of redemption to be barred, and that the proceeds of sale be applied as follows:

- i. First, to the costs and expenses of the within action and sale;
- ii. Second, to the payment and discharge of the amount due on Plaintiff's lien and together with allowable interest and reasonable attorney's fees and costs as aforesaid; and
- iii. Third, to the distribution of any surplus pursuant to Rule 71, of the South Carolina Rules of Civil Procedure;

D. Order such other and further relief as may be just and proper.

TURNER, PADGET, GRAHAM & LANEY, P.A.



Kristen M. Nichols
Email: KNichols@turnerpadget.com
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, South Carolina 29413
Telephone: (843) 576-2836
Fax: (843) 577-1659
ATTORNEYS FOR THE PLAINTIFF

Charleston, South Carolina
12/16, 2016

**NOTICE
FAIR DEBT COLLECTION
PRACTICES ACT, (THE ACT)
15 U.S.C. SECTION 1601 AS AMENDED**

1. The principal amount of the debt as of November 30, 2016, is in the principal amount of \$3,112.77, plus interest, late charges, and costs of collection and attorneys' fees.
2. The Creditor is Seabrook Island Property Owners Association.
3. The debt described in the loan documents attached hereto will be assumed to be valid by the Creditor's law firm unless you, the debtor, within thirty (30) days after the receipt of this notice, dispute, the validity of the debt or some portion thereof.
4. If you, the debtor, notify the Creditor's law firm within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain a verification of the debt and a copy of the verification will be mailed to you, the debtor, by the Creditor's law firm.
5. If the creditor named in the attached Note is not the original Creditor, and if you make a request to the Creditor's law firm within the thirty (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.
6. **Please be advised that the time period within which you may dispute the amount of your debt or any portion of that debt and request additional information in accordance with this notice in no way alters or affects the time within which you must answer the Complaint.**
7. **The Creditor's Law Firm is attempting to collect a debt and any information obtained will be used for that purpose.**

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

IN THE COURT OF COMMON PLEAS

C/A # 2016-CP-10- 0750

VERIFICATION

B

JULIE J. ARMSTRONG
CLERK OF COURT

2016 DEC 19 AM 10:51

FILED

PERSONALLY APPEARED before me the undersigned Heather Paton, being the Executive Director, of the above-captioned Plaintiff, who, being duly sworn, deposes and says as follows:

I have reviewed the Complaint in the above-captioned action, and all the matters alleged therein are true of my own knowledge or upon the business records of the Plaintiff, except for those allegations upon information and belief, and as to those, I believe them to be true.

SWORN to before me this
7 day of December, 2016

Allison J. Housley
Notary Public for South Carolina
My Commission Expires: 9/11/2018

Heather Paton
Heather Paton
Seabrook Island Property Owners Association



BP0579617

PGS:

3

After recording return to:
 Kristen N. Nichols
 Turner Padgett Graham & Laney
 PO Box 22129
 Charleston, SC 29413

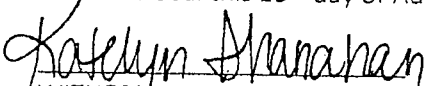
STATE OF SOUTH CAROLINA
 COUNTY OF CHARLESTON

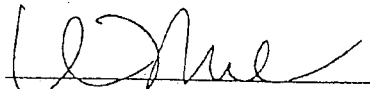
NOTICE OF LIEN

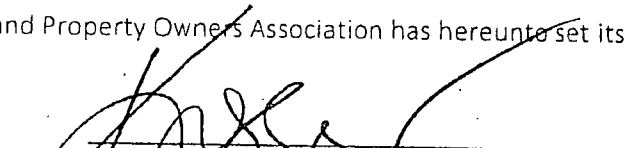
Claimant:	Seabrook Island Property Owners Association
Record Owner(s):	Charles Kelley and Deborah Kelley
Property Address:	749 Spinnaker Beachhouse
Subdivision and Lot:	Spinnaker Beachhouses Lot 749
Tax Map Number:	147-05-00-072
Amount Due as of July 31, 2016:	\$2,755.89

This Notice of Lien is made for assessments and other allowable charges levied against the property above and remaining unpaid as of the date of this Notice of Lien. This amount includes attorneys' fees, costs, charges, late fees, and interest applicable to such assessments. Additionally, this Notice of Lien is levied for all accruing, but unpaid, future assessments, both regular and special, any and all allowable interest, delinquent charges as applicable, costs, and attorneys' fees until the date of payment.

IN WITNESS WHEREOF, Seabrook Island Property Owners Association has hereunto set its hand and seal this 29th day of August, 2016.


 WITNESS


 WITNESS


 Seabrook Island Property Owners Association
 By: Kristen N. Nichols
 Its: Attorney



))

Rakyn Shanahan
WITNESS

day of Aug 05, 2016

 **ANDREA MARKOVIC**
NOTARY PUBLIC, STATE OF SOUTH CAROLINA
My Commission Expires 6/17/2025

RECORDER'S PAGE

NOTE: This page MUST remain
with the original document

**Filed By:**

TURNER PADGET GRAHAM & LANEY

PO BOX 22129
CHARLESTON SC 29413

RECORDED

Date: August 30, 2016

Time: 2:48:52 PM

Book

Page

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0579

617

Notice/Ln

Charlie Lybrand, Register
Charleston County, SC

MAKER:

KELLEY CHARLES AL

of Sats:

of Pages:

3

of References:

Note:

RECIPIENT:

SEABROOK ISLD POA

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 10.00

Original Book:

Original Page:

DRAWER Drawer 1
CLERK KLH



0579
Book



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Page



08/30/2016
Recorded Date



3
Pgs



Original Book



Original Page



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Doc Type



14:48:52
Recorded Time

Affidavit of Process Server

Court of Common Pleas

(NAME OF COURT)

Seasonal Island Property Owners Charles Kelley AKA Charles F Kelley 2016-CP-10-6750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Sloane, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Deborah Kelley AKA Deborah L. Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemptions from ANR, Certificate of Compliance, Landowner Summary

by leaving with Charles Kelley Husband At

☒ Residence 101 Alder St Punxsutawney, PA 15767
ADDRESS CITY / STATE

☐ Business _____
ADDRESS CITY / STATE

On 12-22-16 AT 659pm
DATE TIME

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
from _____ CITY STATE ZIP

Manner of Service:

☐ Personal: By personally delivering copies to the person being served.

☒ Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of 18 and explaining the general nature of the papers.

☐ Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

☐ Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion

☐ Address Does Not Exist ☐ Other Charles Kelley took both sets of paper but Deborah Kelley was present

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME

(3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

Description: Age 60's Sex M Race W Height 6' Weight 195 Hair white Beard Yes Glasses Yes

Newton E. Sloane
SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Sloane
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Linda M. Clark
SIGNATURE OF NOTARY PUBLIC

PA

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL
LINDA M. CLARK

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS
EBENSBURG BORO. CAMBRIA COUNTY
My Commission Expires May 3, 2020

FORM 2

Affidavit of Process Server

Court of Common Pleas
(NAME OF COURT)
Seabrook Island Property vs Charles Kelley AKA Charles E. Kelley 2016-CP-106750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Stoner III, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Charles Kelley AKA Charles E. Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemptions from AOR, Certificate of Compliance, La Benders Summons

by leaving with _____ At _____
☒ Residence 101 Q. St Pennsauken PA 15767
NAME ADDRESS RELATIONSHIP CITY / STATE
☐ Business _____
ADDRESS CITY / STATE

On 12-22-16 AT 659 p.m.
DATE TIME

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
from _____
CITY STATE ZIP

Manner of Service:

- ☒ **Personal:** By personally delivering copies to the person being served.
☐ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.
☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- ☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion
☐ Address Does Not Exist ☐ Other _____

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME
(3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

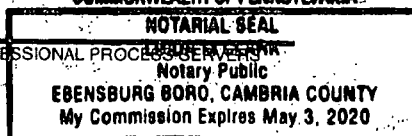
Description: Age 65 Sex M Race W Height 6' Weight 195 Hair White Beard No Glasses Yes

Newton E. Stoner III
SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Stoner III
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Dinda M. Clark
SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of
COMMONWEALTH OF PENNSYLVANIA



FORM 2

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00157 KNN)

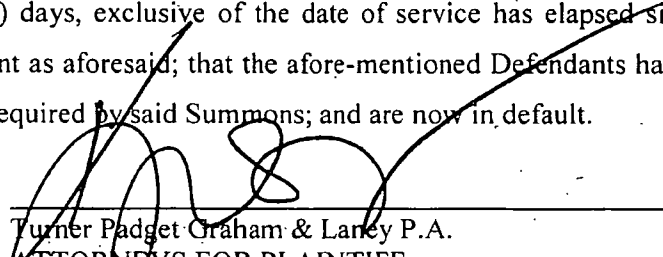
IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

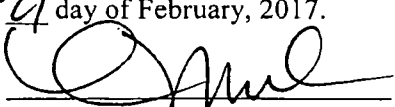
AFFIDAVIT OF DEFAULT

FILED
2017 MAR -9 AM 11:09
JULIE J. ARMSTRONG
CLERK OF COURT
BY [Signature]

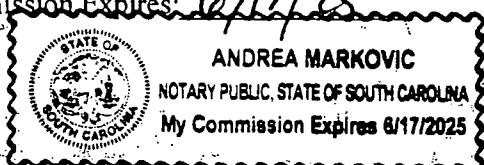
PERSONALLY APPEARED before me, Kristen N. Nichols, who, first being duly sworn, deposes and says that she is the attorney for the Plaintiff in the above entitled action; that the Summons, Lis Pendens and Complaint were served upon Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, as evidenced by the Affidavits of Service filed with the Court and attached hereto as **Exhibit A**; that more than thirty (30) days, exclusive of the date of service has elapsed since the service of the Summons and Complaint as aforesaid; that the afore-mentioned Defendants have filed no Answer or any other pleadings as required by said Summons; and are now in default.


Turner Padgett Graham & Laney P.A.
ATTORNEYS FOR PLAINTIFF
Kristen N. Nichols (SC Bar #74790)
40 Calhoun Street, Suite 200
Charleston, SC 29401
(843) 576-2863

SWORN TO BEFORE ME THIS
21 day of February, 2017.


Notary Public for South Carolina

My Commission Expires: 6/17/25



Affidavit of Process Server

Court of Common Pleas
(NAME OF COURT)
Seabrook Island Property vs Charles Kelley AKA Charles E Kelley 2016-CP-106750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Stoner III, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Charles Kelley AKA Charles E Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemption from ADR, Certificate of Compliance, L. Anders Sumner

by leaving with Al
☒ Residence 101 Alder St Pennsauken PA 15767
NAME ADDRESS CITY / STATE
☐ Business
ADDRESS CITY / STATE

On 12-22-16 AT 659 p.m.
DATE TIME
☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on
DATE
 from
CITY STATE ZIP

Manner of Service:

- ☒ **Personal:** By personally delivering copies to the person being served.
☐ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of and explaining the general nature of the papers.
☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- ☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion
☐ Address Does Not Exist ☐ Other:

Service Attempts: Service was attempted on: (1) (2)
DATE TIME DATE TIME
 (3) (4) (5)
DATE TIME DATE TIME DATE TIME

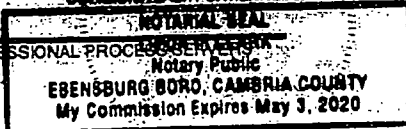
Description: Age 60's Sex M Race W Height 6' Weight 195 Hair White Beard Yes Glasses Yes

Newton E. Stoner III
 SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Stoner III
 Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Ronda M. Clark
 SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of
 COMMONWEALTH OF PENNSYLVANIA



FORM 2

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

AFFIDAVIT OF SERVICE

Case: 2016-CP-10-6750	Court: In the Court of Common Pleas	County: Charleston, SC	Job: 1157905 (07941-00167)
Plaintiff / Petitioner: Seabrook Island POA, Inc.		Defendant / Respondent: Charles Kelley, et. al.	
Received by: Legal Professionals, LLC		For: Turner Padgett Graham & Laney, P.A.	
To be served upon: Spinnaker Beach House Owners Association			

I, Mark Weaghtington, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Spinnaker Beach House Owners Association, 101 Rice Bent Way Unit 11, Columbia, SC 29229
Manner of Service: Corporation, Dec 21, 2016, 1:08 pm EST
Documents: Civil Action: Coversheet, Lis Pendens, Summons, Complaint and Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Certificate of Exemption from ADR

Additional Comments:
1) Successful Attempt: Dec 21, 2016, 1:08 pm EST at 101 Rice Bent Way Unit 11, Columbia, SC 29229 received by Spinnaker Beach House Owners Association. Age: 62; Ethnicity: Caucasian; Gender: Female; Weight: 145; Height: 5'5"; Hair: Gray; Eyes: Hazel;
SERVED CONNIE CONLEY WHO STATED, SHE IS AUTHORIZED TO ACCEPT SERVICE FOR SPINNAKER BEACH HOUSE OWNER'S ASSOCIATION.

Mark Weaghtington 12-27-2016
Mark Weaghtington Date

Legal Professionals, LLC
P.O. Box 397
Mount Pleasant, SC 29465
803-586-8867

Subscribed and sworn to before me by the affiant who is personally known to me.

[Signature]
Notary Public

12-27-2016 3-12-2023
Date Commission Expires

FILED
2017 JAN -6 PM 3:47
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06750

Seabrook Island Property Owners
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.
Kelley; Deborah Kelley a/k/a
Deborah L. Kelley; Mortgage
Electronic Registration Systems,
Inc., its successors and assigns, as
nominee for Chase Mortgage
Company, its successors and assigns,
a Delaware Corporation; and
Spinnaker Beach House Owners
Association,)

Defendants.)

**MOTION TO SET ASIDE ENTRY OF DEFAULT
AND VACATE JUDGMENT OF
FORECLOSURE AND SALE AND
MASTER'S DEED**

2017 SEP 18 PM 2:33
JULIE A. ANDERSON
CLERK OF COURT

Defendants Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley (hereinafter collectively referred to as "Defendants Kelley") through their undersigned attorney, hereby move pursuant to the South Carolina Rules of Civil Procedure including SCRPC Rules 55(c) and 60(b) to set aside the entry of default, and vacate the judgment of foreclosure and sale and master's deed issued in this matter. Defendants Kelley's motion is supported by the facts and law set forth below.

In August 2016, Defendant Charles Kelley was diagnosed with Leukemia and embarked on a course of treatment in Pittsburgh, Pennsylvania. He remains under the care of his treating physicians for this condition which has required inpatient care and chemotherapy. The above referenced action was commenced by the filing of a Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Civil Action Cover Sheet, Lis

Pendens, Summons, and Complaint on December 19, 2016. On March 9, 2017, an Affidavit of Default was filed stating that Defendants Kelley were served and that more than thirty (30) days had elapsed since the service of the Summons and Complaint. However, the Affidavit of Process Server filed on January 5, 2017 reflects that Defendants Kelley were only served with the Certificate of Exemption for ADR, Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Lis Pendens and Summons. Defendants Kelley were not served with the Complaint. According to SCRCP Rule 4(d), "*the Summons and Complaint must be served together*" to constitute effective service.

"Good cause shown" is the standard by which South Carolina courts must determine the appropriateness of granting relief from an entry of default pursuant to SCRCP 55(c). See Wham v. Shearson Lehman Bros., Inc., 298 S.C. 462, 381 S.E.2d 499 (Ct. App. 1989). The factors considered in determining if good cause had been shown are: (1) the timing of the party's motion for relief; (2) whether the party has a meritorious defense; and (3) the degree of prejudice to the opposing party if relief is granted. Rule 55(c) should be liberally construed so as to promote justice and dispose of a case on the merits. Maxwell v. Genez, 250 S.C. 563, 567 S.E.2d 496 (Ct. App. 2002). Based on the Affidavits of Process Server, copies of which are attached hereto, Defendants Kelley were not served in accordance with SCRCP Rules 3 and 4 mandating the setting aside of the entry of default and vacating the judgment of foreclosure and sale and master's deed issued in this case.

(SIGNATURE PAGE TO FOLLOW)

Date: September 18, 2017

A handwritten signature in black ink, appearing to read 'Jonathan S. Altman', written over a horizontal line.

Jonathan S. Altman, Esq.
Derfner & Altman, LLC
575 King Street, Suite B
Charleston, SC 29403
(843) 723-9804

*Attorney for Defendants Charles
and Deborah Kelley*

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SEABROOK ISLAND PROPERTY
OWNERS ASSOCIATION,

Plaintiff,

vs.

CHARLES KELLEY a/k/a CHARLES E.
KELLEY; DEBORAH KELLEY a/k/a
DEBORAH L. KELLEY; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., ITS SUCCESSORS AND
ASSIGNS, AS NOMINEE FOR CHASE
MORTGAGE COMPANY, ITS
SUCCESSORS AND ASSIGNS, A
DELAWARE CORPORATION; AND
SPINNAKER BEACH HOUSE OWNERS
ASSOCIATION,

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. 2016-CP-10-0750
) 6750

MOTION TO INTERVENE

2017 OCT 13 PM 2:42
JULIE J. ANDERSON
CLERK OF COURT

FILED

PLEASE TAKE NOTICE THAT, pursuant to Rule 24 of the South Carolina Rules of Civil Procedure, 749 Spinnaker, LLC, a South Carolina limited liability company (the "LLC"), hereby submits, by and through the undersigned attorney, a Motion to Intervene in the above-referenced matter.

The grounds in support of this Motion are as follows:

1. On May 5, 2017, this court ordered the sale of real property located at 749 Spinnaker Beachhouse, Johns Island, SC 29455 and bearing TMS # 147-05-00-072 (the "Property") in a Judgement of Foreclosure and Sale dated May 1, 2015 and filed with the Charleston County Clerk of Court on May 5, 2017 (the "Judgment").
2. The Judgment was served on Charles E. Kelley, Deborah L. Kelley, Spinnaker Beach House Owners Association and counsel for Mortgage Electron Company, its successors

and assigns, as nominee for Chase Mortgage Company via United States mail, postage prepared, on May 10, 2017 as evidenced in the Certificate of Service filed with the Charleston County Clerk of Court on May 12, 2017.

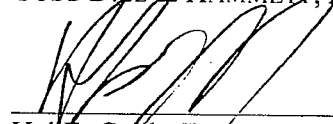
3. Notice of the Sale was published on May 30, 2017, June 6, 2017 and June 13, 2017 as evidenced in the Affidavit of Publication recorded with the Charleston County Clerk of Court on June 21, 2017.
4. The sale of the Property occurred on June 20, 2017 and remained opened until July 20, 2017 as required by S.C. Code Ann. § 15-39-720 (1976) as a result of the demand for a personal or deficiency judgment (the "Sale").
5. The LLC was the high bidder at the Sale paying the required deposit on June 20, 2017 and the balance due on August 18, 2017.
6. The Master-In-Equity executed the Master's Deed on August 18, 2017 (the "Deed") and the Deed was recorded in the Charleston County Register of Mesne Conveyance's Offices on September 5, 2017 in Deed Book 0664 at Page 088.
7. Rule 24, SCRPC allows a party to intervene: "Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties."
8. Should this court proceed with the Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Sale and Master's Deed filed on September 18, 2017 (the "Motion") on behalf of Defendants Charles E. Kelley and Deborah L. Kelley, the LLC

will be directly and adversely affected as the bona fide purchasers and owners of the Property.

WHEREFORE Plaintiff respectfully requests this Court grant the LLC's request for Motion to Intervene. Plaintiff also respectfully requests this Court allow the LLC's Opposition to the Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Sale and Master's Deed.

Respectfully Submitted,

COBB DILL & HAMMETT, LLC



Hal E. Cobb, Esq.
SC BAR # 100575
300 W. Coleman Blvd., Ste. 106
Mt. Pleasant, SC 29464
PH: (843) 732-3476
CELL: (843) 327-5777
FAX: (843) 353-2583
hcobb@cdhlawfirm.com
Attorney for the Plaintiff

October 13, 2017
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SEABROOK ISLAND PROPERTY
OWNERS ASSOCIATION,

Plaintiff,

vs.

CHARLES KELLEY a/k/a CHARLES E.
KELLEY; DEBORAH KELLEY a/k/a
DEBORAH L. KELLEY; MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., ITS SUCCESSORS AND
ASSIGNS, AS NOMINEE FOR CHASE
MORTGAGE COMPANY, ITS
SUCCESSORS AND ASSIGNS, A
DELAWARE CORPORATION; AND
SPINNAKER BEACH HOUSE OWNERS
ASSOCIATION,

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. 2016-CP-10-6750
)
)
)

) **MEMORANDUM IN OPPOSITION**
) **OF DEFENDANTS CHARLES KELLEY**
) **AND DEBORAH KELLEY'S MOTION**
) **TO SET ASIDE ENTRY OF DEFAULT**
) **AND VACATE JUDGMENT OF**
) **FORECLOSURE AND SALE AND**
) **MASTER'S DEED**

FILED
2017 OCT 13 PM 2:42
JULIE A. WESTROM
CLERK OF COURT

The Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Sale and Master's Deed (the "Motion") filed by Defendants Charles Kelley and Deborah Kelley (hereinafter collectively referred to as "Kelley") should be denied as the intervening party, 749 Spinnaker, LLC, a South Carolina limited liability company (the "LLC") will be adversely affected as the bona fide purchasers and owners of 749 Spinnaker Beachhouse, Johns Island, SC 29455 and bearing TMS # 147-05-00-072 (the "Property").

INTRODUCTION

On May 5, 2017, this court ordered the sale of the Property in a Judgement of Foreclosure and Sale dated May 1, 2015 and filed with the Charleston County Clerk of Court on May 5, 2017 (the "Judgment"). The Judgment was served on Kelley, Spinnaker Beach House Owners Association,

and counsel for Mortgage Electronic Company, its successors and assigns, as nominee for Chase Mortgage Company via United States mail, postage prepared, on May 10, 2017 as evidenced in the Certificate of Service filed with the Charleston County Clerk of Court on May 12, 2017. Notice of the Sale was published on May 30, 2017, June 6, 2017, and June 13, 2017 as evidenced in the Affidavit of Publication recorded with the Charleston County Clerk of Court on June 21, 2017. The sale of the Property occurred on July 20, 2017 and remained opened until July 20, 2017 as required by S.C. Code Ann. § 15-39-720 (1976) because of the demand for a personal or deficiency judgment (the "Sale"). The LLC was the high bidder at the Sale paying the required deposit on July 20, 2017 and the balance due on August 18, 2017. The Master-In-Equity executed the Master's Deed on August 18, 2017 (the "Deed") and the Deed was recorded in the Charleston County Register of Mesne Conveyance's Office on September 5, 2017 in Deed Book 0664 at Page 088. On or about September 18, 2017, Kelley filed their Motion, that if granted will be directly and adversely affect the LLC as the bona fide purchasers and owners of the Property.

ARGUMENTS IN OPPOSITION

I. Kelley is barred from bringing the Motion to Vacate for improper service under South Carolina case law as it would cause injustice to the LLC.

Code Section 15-39-870 of the South Carolina Code provides that, "[u]pon execution and delivery by the proper officer of the court of a deed for any property sold at a judicial sale under a decree of a court of competent jurisdiction the proceedings under which such sale is made shall be deemed *res judicata* as to any and all bona fide purchasers for value without notice, notwithstanding such sale may not subsequently be confirmed by the court. *Robinson v. Estate of Harris*, 388 S.C. 616, 698 S.E.2d 214 (2010).

In *Robinson v. Estate of Harris*, the appellants attempted to set aside a previous foreclosure sale because of ineffective service of process. The *Robinson* court found that the sale was *res*

judicata as to the bona fide purchaser for value without notice and reiterated “the rationale for the statute is the well-established public policy of protecting good faith purchasers and upholding the finality of a judicial sale. *Id.* The *Bloody Point v. Ashton* court upheld *Robinson* stating that:

In *Robinson*, the defaulting owner of the subject property sought to vacate the foreclosure sale due to ineffective service. This court noted the bona fide purchaser submitted documents from the court file demonstrating (1) service was made upon defendants; (2) both defendants were in default; (3) the attorneys of record were notified of the hearing; and (4) neither defendants were in the United States military service. The court further noted the purchaser had satisfied all of the elements to be considered a bona fide purchaser for value: (1) actual payment of the purchase price of the property, (2) acquisition of legal title to the property, or the best right to it, and (3) a bona fide purchase, “i.e., in good faith and with integrity of dealing, without notice of a lien or defect.” (internal citations omitted) *Bloody Point Prop. Owners Ass’n, Inc. v. Ashton*, 410 S.C. 62, 67, 762 S.E.2d 729, 732 (Ct. App. 2014)

Here, since Kelley allowed this proceeding to continue without contestation from commencement to date, this Court ordered the foreclosure sale of the Property pursuant to the Judgment so ordered. The LLC purchased the Property at the time of sale with the intention of remodeling the home so as to spend time with children and family living in the area. At the time of purchase, the LLC had no reasonable notice of any pending issues, appeals, or motions that Kelley may bring. When the LLC purchased the Property, it was a bona fide purchaser and the sale was *res judicata* as interpreted by the *Robinson* court the LLC was not subject to notice of motions from Kelley under the *Bloody Point* ruling. As such, any allowance of Kelley’s Motion by this court would be in contradiction to South Carolina’s well-established public policy and unjustly impact the LLC by denying them the enjoyment of the Property and the loss of money, time, and effort spent in improving the Property.

II. Kelley had sufficient time and notice to bring their Motion to Vacate for insufficient service prior to the Sheriff’s foreclosure auction of the property in question.

As to the timing in which Kelley brought their Motion before this Court, the LLC believes that sufficient time has passed to bar Kelley from bringing such a claim under the doctrine of laches.

“Laches is neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Whether a claim is barred by laches is to be determined in light of [the] facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of a right does not constitute laches.” *Robinson v. Estate of Harris*, 391 S.C. 114, 118, 705 S.E.2d 41, 43 (2011); citing *Hallums v. Hallums*, 296 S.C. 195, 198–99, 371 S.E.2d 525, 527 (1988).

Here, sufficient time passed for Kelley to satisfy any liens levied against the Property, prevent default in this action, and take the necessary and reasonable steps to prevent foreclosure. Further, should Kelley had any issues concerning that which gives rise to this Motion, they were afforded ample time to do so prior to the Sale of the Property. Winding the clock back to give Kelley an opportunity to submit this Motion before the Court now incorporates injury to the LLC, who suffers loss of financial investment, time spent in renovation and repair, loss of expectation of ownership, and loss of enjoyment of the Property should this Motion be allowed and ultimately granted. Should this Court grant the Motion, the LLC has no other course of action but to file a suit against the parties named in efforts to recover, which inhibits any effort to preserve judicial expediency.

Upon purchase of the Property, the LLC is guaranteed, by law, the quiet enjoyment of the Property lawfully purchased. (“The covenant of quiet enjoyment obligates the grantor to protect the estate against the lawful claim of ownership asserted by a third person. No breach of this covenant occurs until there has been a disturbance of possession by actual or constructive eviction. The complaint alleges no attempt to interfere with the purchasers’ possession; therefore, the demurrer should have been sustained as to respondents’ cause of action for breach of the covenant

of quiet enjoyment.” *Martin v. Floyd*, 282 S.C. 47, 51, 317 S.E.2d 133, 136 (Ct. App. 1984). Allowing this Motion to proceed would not only be an injustice to the intervening Plaintiff, depriving them of their enjoyment and damaging them financially, but also those parties with a pecuniary interest in associating with the LLC in satisfying liens currently against the Property, the failure of which giving rise to this initial action.

Kelley may argue under the statute of limitations defense under Section 15–3–340 of the South Carolina Code, which provides: “[N]o action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.” (emphasis added). S.C. Code §15-3-340. However, this statute does not apply to matters concerning property born in an equity dispute.

The Court of Appeals in *McKinnon v. Summers* held that an action for the recovery of real property is not governed by the predecessor statute to §15–3–340 (citing §10–124 of the 1952 Code). *McKinnon v. Summers*, 224 S.C. 331, 79 S.E.2d 146 (1953). The Court of Appeals further stated that, even if [Respondents’] complaint,” on in the case at bar, motion, “was taken at face value as one to quiet title, the action would not be governed by § 15–3–340 because an action to quiet title is in equity and statutes of limitations are not generally applicable to equitable actions, (emphasis added) citing *Fox v. Moultrie*, 379 S.C. 609, 613, 666 S.E.2d 915, 917 (2008) (“An action to quiet title is one in equity.”); *Parr v. Parr*, 268 S.C. 58, 67, 231 S.E.2d 695, 699 (1977) (stating statutes of limitation are generally not applicable in equitable actions). *Id.*

III. Kelley is barred from taking civil action against the LLC for personal property that remained in the building located on the real property following the LLC's purchase at auction.

It has come to the attention of the LLC that Kelley may seek to bring a suit for the disposition

of personal effects that remained at the Property following the auction sale and after the LLC received the deed and took possession. The LLC believes as though they are protected by this Court for the removal of any items previously belonging to Kelley pursuant to the Judgment as signed, stamped, and executed on the 5th of May, 2017. The Judgment, attached herein as Exhibit A, states in Paragraphs 28 and 29 as follows:

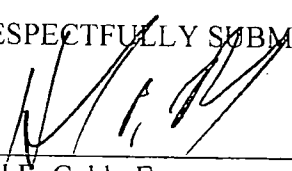
28. In the event the successful bidder is someone other than the Defendants in possession of the Properties, the Sheriff of this county is ordered and directed to eject and remove from the Property the occupant(s) of the Properties sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said Properties without delay, and to keep said successful bidder or his assigns in such peaceable possession.

29. In the event the successful bidder is someone other than the Defendants in possession of the Properties, and the occupants have voluntarily vacated the Properties or have been ejected from the Properties leaving furniture, fixtures or other items not subject to Plaintiff's Lien, the Purchaser is authorized to remove from the Properties all furnishing, fixtures and other items not subject to Plaintiff's Lien. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the Properties by placing said personal property on the public street or highway or by any other means.

Here, the LLC, as purchaser, believes that the Sheriff of said jurisdiction was charged by this court to effectuate the ejectment of Kelley following the sale of the Property and to ensure that the Property was in ready condition for the LLC to take possession. As this was a second home of Kelley, ejectment of the occupants was peaceable by nature, leaving only the personal effects of Kelley on the Property, which were to be removed by either Kelley or the Sheriff between the time of the auction sale and the time of delivery to the LLC. Upon delivery of the Property to the LLC by the Sheriff, the contents remaining on or in the Property then became the obligation of the LLC to remove in accordance with Paragraph 29 of the Judgment. The LLC conducted themselves in strict compliance under their obligations and are of the position that they are indemnified by this court for any civil action that Kelley may take in effort to recuperate the value of items abandoned following the auction and delivery of the Property.

WHEREFORE, the LLC prays that this Court will deny the Kelley's Motion for the foregoing reasons, indemnify the LLC from civil action relating to claims for personal property by Kelley, and that the LLC respectfully requests that this Motion be DENIED.

RESPECTFULLY SUBMITTED,



Hal E. Cobb, Esq.
SC Bar #: 100575
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Mount Pleasant, SC 29464
Telephone: (843) 971-0866
Facsimile: (843) 353-2583
Email: hcobb@cdhlawfirm.com
ATTORNEYS FOR THE INTERVENING PARTY

Dated: October 13, 2017.
Mount Pleasant, South Carolina

EXHIBIT A

(Judgment of Foreclosure and Sale (Deficiency Judgment Demanded) Dated May 5, 2017)

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

Kristen N. Nichols, Esquire
Attorney for the Plaintiff

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**JUDGMENT OF FORECLOSURE
AND SALE**

DEFICIENCY JUDGMENT DEMANDED

FILED
2017 MAY -5 AM 10:03
JULIE J. ARMSTRONG
CLERK OF COURT

A foreclosure hearing was held on Wednesday, April 19, 2017, at 10:00 a.m. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on December 19, 2016.
2. The Summons and Verified Complaint were filed on December 19, 2016.
3. Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.
4. Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.
5. Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.
6. The South Carolina Supreme Court Administrative Order 2011-05-02-01, dated May 2, 2011 does not apply to this foreclosure, in that the Plaintiff does not offer any form of foreclosure intervention because it is an HOA or POA.

7. The subject matter of this action is real and personal property located in Charleston County, South Carolina, and owned by Charles E. Kelley and Deborah L. Kelley, by virtue of a deed recorded on May 26, 2000, in Book F348, at Page 424.

8. The Plaintiff in this action filed a Notice of Lien for delinquent assessments, late fees, interest and costs by Seabrook Island Property Owners Association, recorded August 30, 2016, in Lien Book 0579 at Page 617.

9. This is an action for the foreclosure of a Lien for unpaid and past due Association Assessments. The obligation to pay Assessments is codified and established under the Governing Documents for Seabrook Island Property Owners Association, being recorded in the RMC Office for Charleston County, and any amendments thereto. The Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being the owner of 749 Spinnaker Beachhouse, Johns Island, South Carolina, is subject to the Governing Documents, together with all amendments thereto. As such, Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, is required to pay all assessments, together with attorney's fees and costs of collection.

10. This property is subject to the covenants, terms and conditions of The Governing Documents and has been subject to all special and regular assessments as prescribed by the Plaintiff. As of April 19, 2017, the past due assessments and related charges, in the amount of Five Thousand Sixty Dollars and 62/100 (\$5,060.62) Dollars together with reasonable attorney's fees and costs of this action were due; and these payments have not been made.

11. The sum of \$1,640.00 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the governing documents of Plaintiff. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond

the normal time.

12. According to the accounting of Plaintiff, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing, with interest, advances made by Plaintiff, and other costs and expenses of the action, including attorney's fees, all secured by the Lien, are as follows:

A Annual Assessments (2016, 2017)	\$4,280.00
B Late Interest through April, 2017	\$459.62
C Late Fees.....	\$321.00
D. Attorney's Fees	\$1,640.00
E. Attorney's Costs	\$1,213.00

TOTAL AMOUNT DUE AS OF April 19, 2017\$7,913.62

13. The property should be sold by this Court, subject to taxes, existing easements, covenants, conditions and restrictions of record, and those found in The Governing Documents, and other senior encumbrances (if any).

14. Plaintiff is seeking the foreclosure of the lien and has expressly demanded the right to a deficiency judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley pursuant to S.C. Code Ann. § 29-3-660. The Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

15. The mortgage to Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, Its successors and assigns, a Delaware Corporation is senior in priority to the Plaintiff's lien and as such, the sale shall be subject to this mortgage.

16. The following Defendant may claim a lien upon or subordinate legal interest in the subject property, and in the event there is a surplus from the sale of the subject property, these Defendant may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant and such lien or legal interest is as follows

Spinnaker Beach House Owners Association, may claim some interest in the subject property by virtue of the following:

- a. A Notice of Lien filed on November 5, 2015 in the amount of \$1,822.44, in Book 0515 at Page 655; and

- b. A pending foreclosure filed on February 2, 2016, in case number 2016-CP-10-0537.

IT IS THEREFORE ORDERED:

17. There is due to Plaintiff under the terms of The Governing Documents the sum of \$7,913.62, as set out in the Complaint and Findings of Fact. All additional costs of this action shall also be included in the debt due from Defendants, George Bennett a/k/a George G. Bennett and Theresa Bennett, and interest on any bid amount shall run at the rate of 7.50% per annum until paid in full.

18. The Nine Thousand Nine Hundred Twenty and 90/100 (\$9,920.90) Dollars shall constitute the total judgment debt due Plaintiff and shall bear interest at the rate of 7.50% per annum, and the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being liable for the aforesaid debt, shall on or before the date of sale of the property hereinafter described, pay the Plaintiff, of Plaintiff's attorney, the amount of Plaintiff's debt aforesaid, together with any and all additional attorney's fees, costs and disbursement of this action.

19. Plaintiff shall have judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley in the amount set forth above. Such judgment shall be entered and docketed in the Clerk's office immediately and in the same manner as other judgments pursuant to §29-3-650 SC Code of Laws (1976 as amended). Upon sale of the subject property, the judgment shall be credited in the amount paid to Plaintiff from the proceeds of the sale. The Plaintiff may waive any rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale. §29-3-650 SC Code of Laws (1976 amended).

20. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. § 14-11-310. It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions, and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

21. On default of payment at or before the time of the sale of the Properties, the mortgaged Properties below described hereinafter shall be sold at public auction at the Charleston County

Courthouse, in the City of Charleston, and State of South Carolina on a sales day determined by the below signed Master in Equity, on the following terms:

- a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to the costs and expense of the action and then to the Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse either make the required deposit at time of bid or to comply with the other terms of the bid within 30 days, then the properties may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.
- b. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.50%.
- c. The sales shall be subject to taxes and assessments, existing easements and restrictions, any other senior encumbrances, and also all other matters of record except for the liens and interests extinguished through this action, specifically the mortgage to Mortgage Electronic Registration Systems, Inc., Its successors and assigns, as nominee for Chase Mortgage Company, Its successors and assigns, a Delaware Corporation.
- d. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.
- e. Purchaser to pay for deed preparation, costs of recording the deed and the satisfaction of mortgage, and transfer taxes on the deed.
- f. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity or Special Referee.

22. Personal or deficiency judgment having been demanded, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. § 15-39-720 (1976).

23. Plaintiff may waive any of its rights, including its right to a deficiency judgment, in accordance with Rule 71 of the South Carolina Rules of Civil Procedure prior to sale.

24. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the purchaser a deed to the properties sold. Plaintiff or any other party to this action may become a

purchaser at such sale. If, upon such sale being made, the purchaser should fail to comply with the terms thereof within 20 days after the date of sale, then the Master in Equity may advertise the said Properties for sale on the next or some other subsequent sales day at the risk of the highest bidder and so forth from time to time thereafter until a full compliance shall be secured.

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

26. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this sale and to any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest accrued thereon (including attorney's fees and costs) or so much thereof as the purchase money will pay on the same.

NEXT: Any surplus should be held pending further Order of this Court.

27. If a deficiency exists after the sale, an Order of Deficiency Judgment may be entered without further notice or hearing.

28. In the event the successful bidder is someone other than the Defendants in possession of the Properties, the Sheriff of this county is ordered and directed to eject and remove from the Property the occupant(s) of the Properties sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said Properties without delay, and to keep said successful bidder or his assigns in such peaceable possession.

29. In the event the successful bidder is someone other than the Defendant(s) in possession of the Properties, and the occupants have voluntarily vacated the Properties or have been ejected from the Properties leaving furniture, fixtures or other items not subject to Plaintiff's Lien, the Purchaser is authorized to remove from the Properties all furnishing, fixtures and other items not subject to Plaintiff's Lien. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the Properties by placing said personal property on the public street or highway or by any other means.

30. The Defendants named herein, and all persons whosoever claiming under Defendants, are forever barred and foreclosed or all right, title, interest, equity of redemption or lien in the said mortgaged property so sold, or any part thereof.

31. In accordance with Rule 77(d) S.C.R.C.P., the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure and Sale upon all parties not in default for failure to appear in this action.

32. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of this action, and the name of the grantee. The Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

33. The undersigned will retain jurisdiction to all necessary acts incident to this foreclosure, including but not limited to the issuance of a Writ of Assistance.

34. The following is a description of the Property herein ordered to be sold:

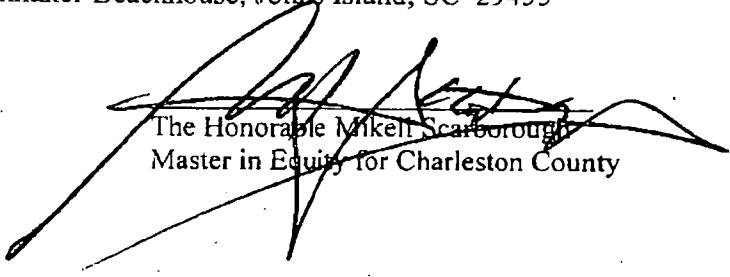
ALL that certain lot, piece, or parcel of land, with the buildings and improvements thereon, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and shown and designated as Lot 749, Spinnaker Beachhouses, Seabrook Island, Charleston County, S.C. , on a plat by E. M. Seabrook, Jr., C.E. and L. S., of Lots 734 through 754, inclusive, dated March 18, 1979, and recorded in the RMC Office for Charleston County in Plat Book AM, Page 111.

This being the same property conveyed to Charles E. Kelley and Deborah L. Kelley herein by deed of conveyance from Gary L. Smith and Sandra L. Smith dated May 24, 2000 and recorded in the R.M.C. Office for Charleston County, SC on May 26, 2000 in Book F348 at Page 424.

TMS No. 147-05-00-072

Property Address: 749 Spinnaker Beachhouse, Johns Island, SC 29455

April 11, 2017
Charleston, South Carolina


The Honorable Mikell Scarborough
Master in Equity for Charleston County

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

RECORD OF HEARING

FILED
2017 MAY -5 AM 10:00
JULIE J. ARMSTRONG
CLERK OF COURT

Pursuant to the Order of Reference granted in the above entitled action, a foreclosure hearing was held herein on April 19, 2017, at 10:00 AM, before The Honorable Mikell Scarborough, Master in Equity.

Plaintiff's attorney is Kristen N. Nichols of the firm of Turner Padgett Graham & Laney P.A.

According to the Complaint filed by Plaintiff (the "Complaint"), the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, have failed to pay assessment fees pursuant to governing documents of Seabrook Island Property Owners Association.

The original Lis Pendens was filed on December 19, 2016.

Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.

Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.

Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.

Pursuant to South Carolina Supreme Court Administrative Order 2011-05-02-01, the attorney for the Plaintiff certified that that the property is an HOA or POA, and said order does not apply to

this foreclosure; therefore Plaintiff has complied with the certification requirements and proceeded with the prosecution of this action as permitted by the Order.

Plaintiff's attorney presented or will present copies of the following documents:

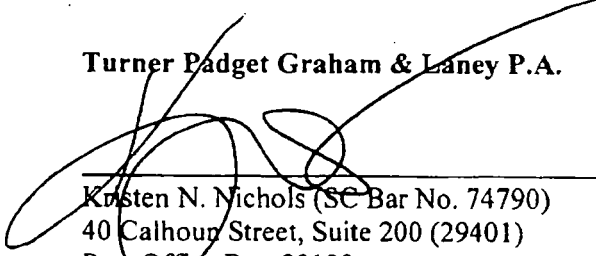
1. Affidavit of Attorney's Fees and Costs
2. Notice of Hearing and Certificate of Mailing
3. Promissory Note
4. Mortgage
5. Affidavit Verified Statement of Account

Plaintiff established the total debt amount secured by the Notice of Lien, recorded August 30, 2016, is \$5,060.62, exclusive of attorney's fees and costs. Plaintiff established that the assessments are due for failure to make the 2016 payment, and all subsequent payments, including late interest and fees.

Pursuant to South Carolina Code Sections 29-3-650 and 29-3-660, Plaintiff specifically demands and is entitled to a personal or deficiency judgment, unless heretofore or hereafter released, against Defendant, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, hereby obligated for the above-described debt, in the event the proceeds of the sale of the property are insufficient to pay in full the indebtedness, including costs of collection. Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

Plaintiff asks that the lien be foreclosed, that the property be sold at public auction in accordance with law, and that the sale be made subject to taxes and assessments, existing easements or restrictions, and any other senior encumbrances.

Turner Padget Graham & Laney P.A.



Kristen N. Nichols (SC Bar No. 74790)
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Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadget.com

Charleston, South Carolina
April 16, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF
ATTORNEY'S FEES AND COSTS**

(07941-00167 KNN)

The undersigned being duly sworn, deposes and says as follows:

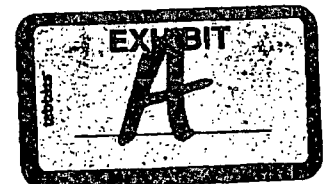
1. I am an attorney with the law firm of Turner Padgett Graham & Laney P.A. and am over the age of 18.

2. I am the attorney for the Plaintiff in the above-referenced matter, and this firm has been representing the Plaintiff in this particular matter since August, 2016.

3. I was retained to collect an amount due from the Borrowers as evidenced by a Notice of Lien recorded August 30, 2016.

4. I, or one of my colleagues, along with highly trained and efficient non-attorney professionals, have been responsible for preparing correspondence regarding the enforcement of the Lien, Demand Letter, a Summons and Verified Complaint, Lis Pendens, Certificate of Compliance with Administrative Order, Affidavit of Default, Order of Reference, Record of Hearing, proposed Judgment of Foreclosure and Sale, Form 4, this Affidavit of Attorney's Fees and Costs, and other supporting correspondence and Affidavits in regard to the pleadings; and will further prepare other documents necessary to bring this matter to conclusion through judicial sale of the property.

5. Pursuant to the governing documents of Seabrook Island Property Owners Association, Plaintiff is entitled to recover all of its expenses and actual attorney's fees and costs in connection with Plaintiff's enforcement of the Lien. This foreclosure is being handled on an hourly basis of \$250.00 per hour for attorney time and \$125.00 per hour for non-attorney professionals.



6. Costs and expenses incurred in connection with this foreclosure action are in the amount of \$1,213.00, as shown below.

Notice of Lien (recording costs).....	\$10.00
Title Abstract.....	\$278.00
Filing Fee	\$150.00
Service.....	\$625.00
Reference Fee.....	\$125.00
Motion Fee (reference).....	<u>\$25.00</u>
TOTAL COSTS	\$1,213.00

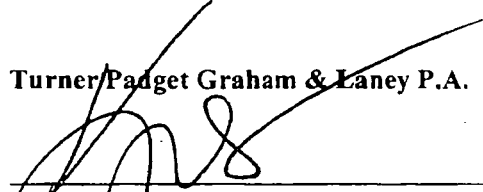
7. I, Kristen N. Nichols, the primary attorney, have practiced law for more than 10 years. I have handled an extensive number of mortgage foreclosure cases, including contested cases and cases involving resolution of title issues. I concentrate my practice in the areas of commercial and consumer foreclosure, bankruptcy and creditor's rights litigation.

8. In determining recoverable attorney's fees, I have found that courts generally award attorney's fees of \$1,640.00 or more for similar residential foreclosure cases in South Carolina. The fee I am requesting in this case is in line with those awards. This sum is contemplated in language contained in the mortgage previously offered into evidence in this action.

9. I believe that an attorney's fee, in the amount of \$1,640.00, and costs in the amount of \$1,213.00, are reasonable in connection with this debt collection, and that Plaintiff is entitled to these amounts pursuant to the provisions of the Loan Documents.

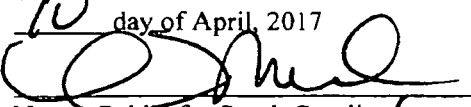
AND FURTHER THE AFFIANT SAITH NOT.

Turner Padget Graham & Laney P.A.

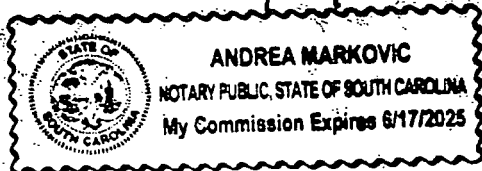


Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadget.com

SWORN to before me this
10 day of April, 2017



Notary Public for South Carolina
My Commission Expires: 6/17/25



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF VERIFIED
STATEMENT OF ACCOUNT
Deficiency Judgment Demanded**

(07941-00167 KNN)

PERSONALLY APPEARED before me the undersigned Heather Paton, on behalf of the above-captioned Plaintiff, who, being duly sworn, deposes and says as follows:

I am a duly authorized representative of the Plaintiff and am authorized to make this Affidavit on behalf of the said Plaintiff.

I am familiar with the account forming the basis for the within action, that all the matters alleged therein are true of my own knowledge or upon the business records of the Plaintiff, except for those allegations upon information and belief, and as to those, affiant believes them to be true.

The total outstanding account balance of the Defendants, past due and payable to the Plaintiff pursuant to the Note between the parties, exclusive of attorney's fees and costs of collection for this action, is stated below, said sum including all just credits given:

A.	Annual Assessments (2016, 2017)	\$4,280.00
B.	Late Interest through April 2017	\$459.62
C.	Late Fees	\$321.00

TOTAL AMOUNT DUE AS OF April 19, 2017.....\$5,060.62

SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION

Heather Paton
Heather Paton
Executive Director

SWORN to before me this
27 day of March, 2017
Alison J. Jolley
Notary Public for South Carolina
My Commission Expires: 9/11/2018





PGS:

3

After recording return to:
Kristen N. Nichols
Turner Padgett Graham & Laney
PO Box 22129
Charleston, SC 29413

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

NOTICE OF LIEN

Claimant:	Seabrook Island Property Owners Association
Record Owner(s):	Charles Kelley and Deborah Kelley
Property Address:	749 Spinnaker Beachhouse
Subdivision and Lot:	Spinnaker Beachhouses Lot 749
Tax Map Number:	147-05-00-072
Amount Due as of July 31, 2016:	\$2,755.89

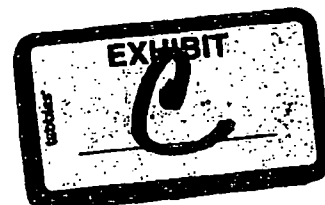
This Notice of Lien is made for assessments and other allowable charges levied against the property above and remaining unpaid as of the date of this Notice of Lien. This amount includes attorneys' fees, costs, charges, late fees, and interest applicable to such assessments. Additionally, this Notice of Lien is levied for all accruing, but unpaid, future assessments, both regular and special, any and all allowable interest, delinquent charges as applicable, costs, and attorneys' fees until the date of payment.

IN WITNESS WHEREOF, Seabrook Island Property Owners Association has hereunto set its hand and seal this 29th day of August, 2016.

Kathryn Shanahan
WITNESS

[Signature]
WITNESS

[Signature]
Seabrook Island Property Owners Association
By: Kristen N. Nichols
Its: Attorney



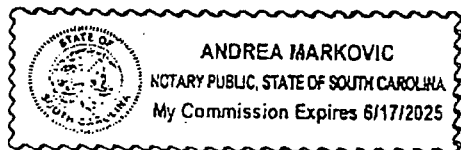
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me the undersigned, who states that she saw the within Seabrook island Property Owners Association by its Attorney, Kristen N. Nichols, sign, seal, and deliver the within Notice of Lien, and that she with the other witness witnessed the execution thereof.

Rakyn Shanahan
WITNESS

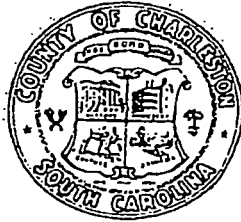
SWORN to before me this
29 day of August, 2016

[Signature]
Notary Public for the State of South Carolina
My Commission Expires: 6/17/25



RECORDER'S PAGE

NOTE: This page MUST remain
with the original document



Filed By:

TURNER PADGET GRAHAM & LANEY

PO BOX 22129

CHARLESTON SC 29413

RECORDED

Date: August 30, 2016

Time: 2:48:52 PM

Book

Page

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0579

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Notice/Ln

Charlie Lybrand, Register
Charleston County, SC

MAKER:

KELLEY CHARLES AL

of Sats:

of Pages:

3

of References:

RECIPIENT:

SEABROOK ISLD POA

Note:

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 10.00

Original Book:

Original Page:

DRAWER

Drawer 1

CLERK

KLH



0579
Book



617
Page



08/30/2016
Recorded Date



3
Pgs



Original Book



Original Page



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Doc Type



14:48:52
Recorded Time

Amended
AFFIDAVIT OF SERVICE

Case: 2016-CP-10-6750	Court: In the Court of Common Pleas	County: Charleston, SC	Job: 1157886 (07941-00167)
Plaintiff / Petitioner: Seabrook Island POA, Inc.		Defendant / Respondent: Charles Kelley, et. al.	
Received by: Gittings, Inc		For: Turner Padgett Graham & Laney, P.A.	
To be served upon: Deborah Kelley a/k/a Deborah L. Kelley			

I, Newton Stoner, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Deborah Kelley a/k/a Deborah L. Kelley c/o Charles Kelley, Husband, 101 Alder Street, Punxsutawney, PA 15767

Manner of Service: Substitute Service - Abode, Dec 22, 2016, 6:59 pm EST

Documents: Civil Action Coversheet, Lis Pendens, Summons, Complaint and Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Certificate of Exemption from ADR

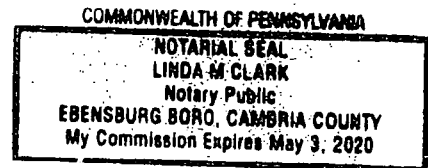
Additional Comments:

1) Successful Attempt: Dec 22, 2016, 6:59 pm EST at 101 Alder Street, Punxsutawney, PA 15767 received by Deborah Kelley a/k/a Deborah L. Kelley c/o Charles Kelley, Husband. Age: 60; Ethnicity: Caucasian; Gender: Male; Weight: 195; Height: 6'; Hair: White; Other: Glasses; No Beard;

Newton Stoner 10-6-17
Server's Signature Date

Subscribed and sworn to before me by the affiant who is personally known to me.

Linda M. Clark
Notary Public
10-6-17 May 3, 2020
Date Commission Expires



FILED
2017 OCT 17 PM 2:10
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Amen
AFFIDAVIT OF SERVICE

Case: 2016-CP-10-6750	Court: In the Court of Common Pleas	County: Charleston, SC	Job: 1157881 (07941-00167)
Plaintiff / Petitioner: Seabrook Island POA, Inc.		Defendant / Respondent: Charles Kelley, et. al.	
Received by: Gittings, Inc		For: Turner Padgett Graham & Laney, P.A.	
To be served upon: Charles Kelley a/k/a Charles E. Kelley			

I, Newton Stoner, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Charles Kelley a/k/a Charles E. Kelley, 101 Alder Street, Punxsutawney, PA 15767

Manner of Service: Personal/Individual, Dec 22, 2016, 6:59 pm EST

Documents: Civil Action Coversheet, Lis Pendens, Summons, Complaint and Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Certificate of Exemption from ADR

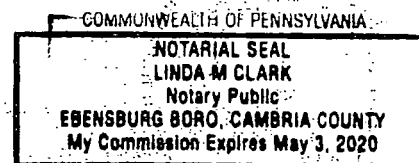
Additional Comments:

1) Successful Attempt: Dec 22, 2016, 6:59 pm EST at 101 Alder Street, Punxsutawney, PA 15767 received by Charles Kelley a/k/a Charles E. Kelley. Age: 60; Ethnicity: Caucasian; Gender: Male; Weight: 195; Height: 6'; Hair: White; Other: Glasses; No Beard;

Newton Stoner 10-6-17
Server's Signature Date

Subscribed and sworn to before me by the affiant who is personally known to me.

Linda M. Clark
Notary Public
10-6-17 May 3, 2020
Date Commission Expires



FILED
2017 OCT 20 PM 12:42
JULIE J ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

) Civil Action No. 2016-CP-10-6750

Seabrook Island Property Owners
Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee
for Chase Mortgage Company, its
successors and assigns, a Delaware
Corporation; and Spinnaker Beach House
Owners Association,

Defendants.

**Plaintiff's Reply to Defendants' Charles
Kelley a/k/a Charles E. Kelley and
Deborah Kelley a/k/a Deborah L. Kelley
Motion to Set Aside Entry of Default and
Vacate Judgment of Foreclosure Sale and
Master's Deed**

(07941-00167 KNN)

COMES NOW Plaintiff, Seabrook Island Property Owners Association (hereinafter, "SIPOA"), by and through its undersigned attorneys, pursuant to Rule 71, SCRPC, and hereby responds to the Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Master's Deed filed by counsel for the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley (the "Kelley Defendants"). In reply, SIPOA would show the following:

Plaintiff filed the Lis Pendens, Summons and Complaint for the foreclosure of a lien on property located at 749 Spinnaker Beachhouse ("Subject Property"), with the Clerk of Court for Charleston County on December 19, 2016. The Kelley Defendants were personally served at their residence, located at 101 Alder Street, Punxsutawney, PA, (the "Alder Street Address") on December 22, 2016. The Affidavits of Service for the Kelley Defendants were filed on January

5, 2017; however, said Affidavits contained a scrivener's error in that the affiant failed to indicate that the Complaint was served along with the Certificate of Exemption from ADR, Lis Pendens, and Summons. Upon realization of this error, Plaintiff, by and through counsel, contacted the process server to verify that all of the pleadings, including the Complaint, were received and served on the Kelley Defendants. The process server submitted Amended Affidavits of Service, which were filed with the Clerk of Court for Charleston County on October 4, 2017, wherein he explained the scrivener's error and verified that the Complaint was properly served on Kelley Defendants. (Copies of the Affidavits are attached hereto collectively as **Exhibit "A"**). The Kelley Defendants failed to contact the Plaintiff, counsel for the Plaintiff, and/or formally respond to the pleadings, and as a result, they were placed in default by order of the Court on March 9, 2017.

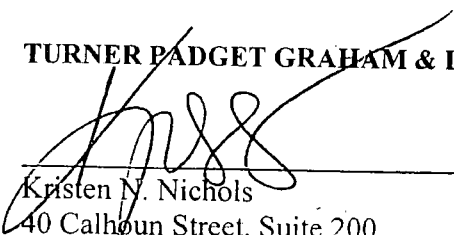
In addition to the Summons and Complaint, the Kelley Defendants received a letter from counsel for the Plaintiff, dated August 24, 2016, sent both certified and regular mail and addressed to them at the Alder Street Address, that they had a balance due and owing the Plaintiff, and that a lien would be filed if they failed to satisfy the arrearage within the time specified. They did not respond to the letter or exercise their right to cure. The Kelley Defendants were mailed a copy of the Notice of Hearing at the Alder Street Address on March 21, 2017, and a copy of the Certificate of Service was filed with the Court on March 23, 2017. They did not respond and were not present at the hearing on April 19, 2017. The Kelley Defendants were mailed a copy of the Notice of Sale and filed Judgment of Foreclosure and Sale on May 10, 2017, and copy of the Certificate of Service was filed with the Court on May 12, 2017. The Subject Property was advertised for sale in The Post and Courier on May 30, 2017; June 6, 2017; and June 13, 2017, as indicated by the Affidavit of Publication filed with the Clerk

of Court on Jun 21, 2017. The Subject Property was sold on July 20, 2017, the Master's Order of Sale and Disbursements was filed with the Clerk of Court on August 23, 2017, and the Master's Deed was recorded on September 5, 2017, in Book 0664 at page 088 in the Office of the RMC/ROD for Charleston County. The Kelley Defendants did not attempt to contact Plaintiff or counsel for Plaintiff regarding the sale of the subject property, yet they do not dispute that the Alder Street address is their home address where they reside and receive their mail.

Based on the foregoing facts, the Plaintiff believes that the service of the Summons and Complaint was proper, the Entry of Default as to the Kelley Defendants was proper, and the entry of the foreclosure order and subsequent foreclosure sale were properly executed pursuant to South Carolina law. Thus, the Plaintiff respectfully requests that the Kelley Defendants' Motion to Set Aside Default and Vacate the Judgment of Foreclosure Sale and Master's Deed be denied and that Plaintiff be allowed to collect from the surplus funds all attorneys' fees and costs associated with the defense of the motion.

Respectfully submitted,

TURNER PADGET GRAHAM & LANEY P.A.



Kristen N. Nichols
40 Calhoun Street, Suite 200
Post Office Box 22129
Charleston, South Carolina 29413-2129
Telephone: 843-576-2836
Facsimile: 843-577-1659 (direct fax)
Email: knichols@TurnerPadget.com

ATTORNEYS FOR DEFENDANT SEABROOK
ISLAND PROPERTY OWNERS ASSOCIATION

Charleston, South Carolina
11/30, 2017

Affidavit of Process Server

Court of Common Pleas
Seabrook Island Property vs Charles Kelley AKA Charles E. Kelley 2016-CP-106750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Stoner, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Charles Kelley AKA Charles E. Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemption from AR, Certificate of Compliance, La Anders Sumner
by leaving with _____

☒ Residence 101 Alder St Pennsauken PA 15767
NAME ADDRESS RELATIONSHIP CITY / STATE
☐ Business _____
ADDRESS CITY / STATE

On 12-22-16 AT 659 p m
DATE TIME
☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
from _____
CITY STATE ZIP

Manner of Service:

- ☒ **Personal:** By personally delivering copies to the person being served.
☐ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.
☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- ☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion
☐ Address Does Not Exist ☐ Other _____

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME
(3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

Description: Age 60's Sex M Race W Height 6' Weight 195 Hair White Beard No Glasses yes

Newton E. Stoner
SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Stoner
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Kinda M. Clark
SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of
COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

Notary Public
EBENSBURG BORO, CAMBRIA COUNTY
My Commission Expires May 3, 2020



FORM 2

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

Affidavit of Process Server

Court of Common Pleas

(NAME OF COURT)

Sealed and Properly Docketed Charles Kelley AKA Charles E Kelley 2016-CP-10-6750

PLAINTIFF/PETITIONER

DEFENDANT/RESPONDENT

CASE NUMBER

I, Newton E. Sloas, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Deborah Kelley AKA Deborah L. Kelley

NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemption from AVE, Certificate of Compliance, Lenders Summary

by leaving with Charles Kelley

NAME

RELATIONSHIP

At

☒ Residence 101 Alder St Punxsutawney, PA 15767

ADDRESS

CITY/STATE

☐ Business

ADDRESS

CITY/STATE

On 12-22-16 AT 6:59 pm

DATE

TIME

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on

from _____

CITY

STATE

ZIP

DATE

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2017 JAN -5 PM 2:47

FILED

Manner of Service:

☐ Personal: By personally delivering copies to the person being served.

☒ Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of 18 and explaining the general nature of the papers.

☐ Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

☐ Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion

☐ Address Does Not Exist ☐ Other Charles Kelley took both sets of paper but Deborah Kelley was present

Service Attempts: Service was attempted on: (1)

DATE

TIME

(2)

DATE

TIME

(3)

DATE

TIME

(4)

DATE

TIME

(5)

DATE

TIME

Description: Age 60 Sex M Race W Height 6' Weight 195 Hair white Beard Yes Glasses Yes

SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Sloas.
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

SIGNATURE OF NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

NOTARY PUBLIC for the state of PA

NOTARIAL SEAL
LINDA M. CLARK

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS
EBENSBURG BORO, CAMBRIA COUNTY
My Commission Expires May 3, 2020

FORM 2

2016-CP-10-6750

STATE OF SOUTH CAROLINA) IN THE COURT
OF COMMON PLEAS)
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO.: 2016-CP-
10-06750

Seabrook Island Property Owners)
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.)
DEFENDANT

Kelley; Deborah Kelley a/k/a)
L. KELLEY

Deborah L. Kelley; Mortgage)
Electronic Registration Systems,)
Inc., its successors and assigns, as)
nominee for Chase Mortgage)
Company, its successors and assigns,)
a Delaware Corporation; and)
Spinnaker Beach House Owners)
Association,)

Defendants.)

AFFIDAVIT OF

DEBORAH

FILED
2017 NOV 21 AM 8:34
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

Personally appeared before me, Deborah L. Kelley, who being duly sworn states as follows:

1. I, Deborah L. Kelley, am a Defendant in the above captioned action and reside at 101 Alder Street, Punxsutawney, PA 15767. I live with my husband, Charles E. Kelley, who is also a named Defendant in this action.

2. In August 2016, my husband, Charles E. Kelley, was diagnosed with Leukemia for which he primarily treated for in Pittsburgh. He remains under the care of his treating physicians for this condition. His care has included hospital admissions

and chemotherapy.

3. I did not learn of the sale of our home at 749 Spinnaker until mid-September 2017 when my husband advised that someone had changed the locks to our home.

4. Thereafter, my husband spoke with our son-in-law, Steven Barkowitz, a local attorney, and engaged Jonathan S. Altman as our counsel in this matter. Prior to that date, I was unaware of the pending action.

5. I have had an opportunity to review the Affidavit of Process Server attached hereto as Exhibit A. This affidavit reflects that Mr. Stoner served my husband for me but that I was present at the time. I have no recollection of Mr. Stoner or my husband accepting documents from him.

6. Since we learned of this case, we have since searched for any papers provided to my husband by Mr. Stoner. We have located the Certificate of Exemption for ADR, Certificate of Compliance, Lis Pendens, and Summons. We have not been able to locate any lawsuit or Complaint.

7. It is my belief that had the Complaint been provided to my husband, he would have responded. However, in light of my husband's medical condition and the absence of the Complaint from the documents provided to him, he did not appreciate the urgency of this situation.

FURTHER AFFIANT SAYETH NOTHING

Date:

11-17-2017

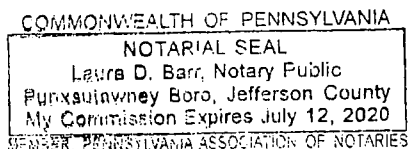
Deborah L. Kelley

Defendant Deborah L. Kelley

Sworn to and Subscribed before me
this 17th day of November, 2017.

Laure D. Barr
Notary Public for PA

My Commission Expires: July 12, 2020



2016-CP-10-6750

STATE OF SOUTH CAROLINA) IN THE COURT
OF COMMON PLEAS)
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO.: 2016-CP-
10-06750

Seabrook Island Property Owners)
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.)
DEFENDANT)
Kelley; Deborah Kelley a/k/a)
E. KELLEY)
Deborah L. Kelley; Mortgage)
Electronic Registration Systems,)
Inc., its successors and assigns, as)
nominee for Chase Mortgage)
Company, its successors and assigns,)
a Delaware Corporation; and)
Spinnaker Beach House Owners)
Association,)

Defendants.)

AFFIDAVIT OF

CHARLES

BY
C

JULIE J. ARMSTRONG
CLERK OF COURT

2017 NOV 21 AM 8:33

FILED

Personally appeared before me, Charles E. Kelley, who being duly sworn states as follows:

1. I, Charles E. Kelley, am a Defendant in the above captioned action and reside at 101 Alder Street, Punxsutawney, PA 15767. I live with my wife, Deborah L. Kelley, who is also a named Defendant in this action.

2. In August 2016, I was diagnosed with Leukemia and underwent a course of chemotherapy at UPMC Hillman Cancer Center in Pittsburgh. I remain under the care of my treating physicians for this condition. My care has included hospital

admissions and chemotherapy.

3. I did not learn of the sale of our home at 749 Spinnaker until mid-September 2017 when I was advised that the locks to our home had been changed.

4. Thereafter, I spoke with my son-in-law, Steven Barkowitz, a local attorney, and engaged Jonathan S. Altman as our counsel in this matter. Prior to that date, I was unaware of the pending action.

5. I have had an opportunity to review the Affidavit of Process Server attached hereto as Exhibit A. This affidavit reflects that on December 22, 2016, I was served with a Certificate of Exemption from ADR, Certificate of Compliance, Lis Pendens, and Summons at 6:59 p.m. According to the process server, I also accepted service of the above documents for my wife, Deborah L. Kelley. I have no recollection of being served with these papers and have spoken with my wife regarding Mr. Stoner's affidavit. She also has no recollection of Mr. Stoner or these papers. I have since searched for papers provided to me by Mr. Stoner and have located the Certificate of Exemption for ADR, Certificate of Compliance, Lis Pendens, and Summons. I have been unable to locate any lawsuit or Complaint.

6. It is my belief that if the Complaint had been provided to me, I would have responded accordingly. However, in light of my medical condition and the absence of the Complaint from the documents provided to me, I did not appreciate the urgency of this situation.

FURTHER AFFIANT SAYETH NOTHING

Date: Nov. 17 2017

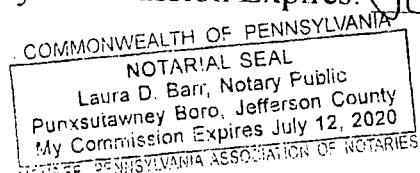
Charles E. Kelley

Defendant Charles E. Kelley

Sworn to and Subscribed before me
this 17th day of November, 2017.

Laura D. Barr
Notary Public for PA

My Commission Expires: July 12, 2020



STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06750

Seabrook Island Property Owners
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.
Kelley; Deborah Kelley a/k/a
Deborah L. Kelley; Mortgage
Electronic Registration Systems,
Inc., its successors and assigns, as
nominee for Chase Mortgage
Company, its successors and assigns,
a Delaware Corporation; and
Spinnaker Beach House Owners
Association,)

Defendants.)

**MEMORANDUM IN SUPPORT OF
MOTION TO SET ASIDE ENTRY OF DEFAULT
AND VACATE JUDGMENT OF FORECLOSURE
AND SALE AND MASTER'S DEED
IN ACCORDANCE WITH
SCRCP RULE 55(c) & 60 (b)**

FILED
2017 NOV 27 PM 12:17
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley (hereinafter collectively referred to as "Kelley") submit the below set forth memorandum in support of their Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Sale and Master's Deed pursuant to SCRCP Rules 55(c) and 60(b).

I. STATEMENT OF FACTS/PROCEDURAL HISTORY

Charles and Deborah Kelley reside in Punxsutawney, Pennsylvania and have owned 749 Spinnaker Beachhouse on Seabrook Island for over thirty (30) years. In 2016, Charles Kelley became ill and was diagnosed with Leukemia. He has been treated for this condition at UPMC Hillman Cancer Center in Pittsburgh where he underwent chemotherapy. Charles Kelley remains under the care of his treating physicians. Affidavits of Charles and Deborah Kelley are attached hereto as Exhibits A and B.

This action was commenced on December 19, 2016 by the filing of a Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Civil Action Cover Sheet, Lis Pendens, Summons, and Complaint by Seabrook Island Property Owners Association (hereinafter "SIPOA"). The Notice of Lien attached to SIPOA's Complaint reflects that Kelley owed SIPOA the sum of \$2,755.89 for assessments, attorneys' fees, costs, charges, late fees, and interest.

On January 5, 2017, SIPOA filed two (2) Affidavits of Process Server (attached hereto as Exhibits C and D) in which Newton Stoner states that he served Charles Kelley with the Certificate of Exemption from ADR, Certificate of Compliance, Civil Action Cover Sheet, Lis Pendens and Summons for both Charles and Deborah Kelley on December 22, 2016. Stoner did not serve Deborah Kelley personally and did not serve Charles Kelley with the Complaint.

On March 9, 2017, SIPOA filed an Affidavit of Default (attached hereto as Exhibit E) stating that the Complaint had been served upon Charles Kelley. On March 9, 2017, an Order of Reference was issued by Julie J. Armstrong, Clerk of Court for Charleston County.

A foreclosure hearing was held on April 19, 2017. The Judgment of Foreclosure and Sale (attached hereto as Exhibit F) included findings that errantly found that the Proof of Service showed that the Complaint was properly served upon Kelley¹. The Record of Hearing filed on May 5, 2017 also errantly represented that the filed Proof of Service shows that service of the Complaint was properly made upon Kelley.

A foreclosure sale was held on July 20, 2017 at which the high bidder for the Kelley property was 749 Spinnaker, LLC. At the time of the sale, 749 Spinnaker, LLC had yet to be formed. The members of 749 Spinnaker, LLC are Philip and Cherie Squire (hereinafter "Squire") who reside at 727 Spinnaker Beachhouse and are neighbors of Kelley. Philip Squire is

¹ The judgment issued at the foreclosure hearing totaled \$9,920.90.

a member of the SIPOA Board of Directors and also serves as President of the Defendant Spinnaker Beachhouse Owners Association.

On or about September 15, 2017, Charles Kelley learned that the locks had been changed. Thereafter, he contacted his son-in-law, Steven Barkowitz, a local attorney, and promptly engaged counsel. On September 18, 2017, Kelley filed a Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Sale and Master's Deed.

On October 13, 2017, 749 Spinnaker, LLC filed a Motion to Intervene and Memorandum in Opposition to Kelley's motion. All parties have consented to 749 Spinnaker, LLC's intervention.

On October 17, 2017 and October 20, 2017, SIPOA filed an Amended Affidavits of Service in which Newton Stoner states that the Complaint was served on Charles Kelley and Deborah Kelley.

II. STATEMENT OF LAW

A. Service upon Kelley was defective rendering all proceedings void.

Whether to grant or deny a motion under Rule 60(b) lies within the sound discretion of the Master, *Raby Constr. LLP v. Orr*, 358 SC 10, 17, 594 S.E.2d 478, 482 (2004). Rule 60(b) provides, on motion and upon such terms as are just, the Court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

1. Mistake, inadvertence, surprise, or excusable neglect;
2. Newly discovered evidence which, by due diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

3. Fraud, misrepresentation, or other misconduct of an adverse party;
4. The judgment is void; and

5. The judgment has been satisfied, released, or discharged, or prior judgment upon which it is based has been reversed or otherwise vacated or it is no longer equitable that the judgment should have prospective application.

It is well settled that “a void judgment is one that, from its inception, is a complete nullity and is without legal effect.” Universal Benefits, 349 S.C. at 183, 561 S.E.2d 661 (quoting Thomas & Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995)). “The definition of void under the rule encompasses judgments from courts which fail to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction.” *Id.*(quoting McDaniel v. U.S. Fid. & Guar. Co., 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App.1996)). “Generally, a person against whom a judgment or order is taken without notice may rightly ignore it and may assume that no court will enforce it against his person or property.” *Id.*

SIPOA’s Affidavit of Default misrepresented to the Court that Kelley had been properly served. This representation was contrary to Stoner’s Affidavits of Service which reflect that he had not served SIPOA’s Complaint on Kelley. In their Affidavits, Charles and Deborah Kelley state that they did not receive SIPOA’s Complaint. As service was defective, the Court lacked personal jurisdiction upon Kelley rendering the Judgment of Foreclosure and Sale and Master’s Deed void.

B. The Squires are not bona fide purchasers.

In its Memorandum in Opposition, 749 Spinnaker, LLC claims to be a bona fide purchaser entitled to protection under South Carolina law. While the invalidity of the Judgment of Foreclosure and Sale moots any such protection, 749 Spinnaker is not a bona fide purchaser for value. “To qualify as a bona fide purchaser, a party must show 1) actual payment of the

purchase price of the property, 2) acquisition of legal title to the property, or the best right to it, and 3) a bona fide purchase, 'i.e., in good faith and with integrity of dealing, without notice of a lien or defect.' [emphasis added] Robinson v. Estate of Harris, 378 S.C. 140, 146, 662 S.E.2d 420, 423 (Ct. App. 2008)(quoting Spence v. Spence, 368 S.C. 106, 117, 628 S.E.2d 869, 874-75 (2006)).

At the time of the foreclosure sale, 749 Spinnaker, LLC did not exist. The actual bidders were Philip and Cherie Squire. The Squires were deposed on November 8, 2017 and copies of their deposition transcripts are attached hereto as Exhibits G and H. Mr. Squire testified that he serves on SIPOA's board of directors and that he voted to proceed with the foreclosure of 749 Spinnaker (P. Squire Depo. at Page 7, lines 9-11, 18-21).

Prior to bidding, Philip Squire spoke with Defendant Spinnaker Beachhouse Owners Association regarding the conflict in his bidding on the Kelley home (P. Squire Depo. at Page 18, lines 15-18). Philip Squire did not disclose his intentions to SIPOA despite SIPOA's Code of Conduct for its Board of Directors and Conflict of Interest Policy (attached hereto as Exhibits I and J). SIPOA requires board members to complete Conflict of Interest Policy Statements to insure that its code and policies are adhered to by board members. Despite Philip Squire's appreciation of SIPOA's code and policies, he did not complete such a statement before bidding on 749 Spinnaker (P. Squire Depo. at Page 22, lines 3-5). 749 Spinnaker, LLC and Philip and Cherie Squire's acquisition of 749 Spinnaker was not the result of the good faith and integrity of dealing required to qualify as a bona fide purchaser under South Carolina law.

C. Constructive Notice.

749 Spinnaker, LLC and Philip and Cherie Squire were on constructive notice that the Affidavits of Default were facially defective and that the Court lacked jurisdiction over Kelley.

It is well settled that a bidder at a judicial sale is required to investigate the jurisdiction of the Court which ordered the sale and whether all proper parties were before the Court when the order was made. If Squire had conducted such an investigation, it would have revealed that Kelley had not been served with the Complaint.

D. Squire's Disposal of Kelley Personal Property.

In their memorandum, Squire attempts to address their disposal of Kelley's personal property following the sale. While Squire's post-sale actions are not before the Court, they are consistent with the bad faith they have displayed in the course of these proceedings. After the issuance of the Master's Deed on September 5, 2017, Squire took possession of 749 Spinnaker and changed the locks. Immediately thereafter, Kelley's Property Manager noticed that the locks had been changed and had them changed again. In response, Squire took possession of the property and immediately began disposing of the Kelley's personal property. Squire did not seek the assistance of the Sheriff or the Court. At his deposition, Philip Squire testified that he believed that Kelley thought they still owned the property (P. Squire Depo. at Page 50, lines 11-13). Despite this belief, Squire took the steps set forth hereinabove and claimed that paragraphs 28 and 29 of the Judgment of Foreclosure and Sale authorized them to do so. These paragraphs required Squire to pursue further legal action before disposing of Kelley's personal property.

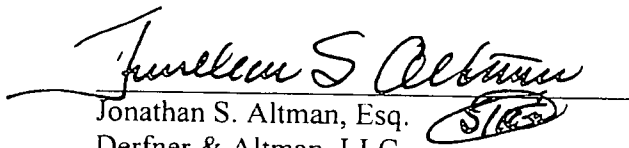
CONCLUSION

The record in this case establishes that Charles and Deborah Kelley were not properly served. As service was defective, the Court lacked personal jurisdiction over Kelley rendering the proceedings, including the Judgement of Foreclosure and Sale and Master's Deed, void. For the reasons set forth herein, Kelley respectfully requests an order setting aside the entry of

default and vacating all proceedings in this case, including the Judgment of Foreclosure and Sale and Master's Deed.

Respectfully submitted,

November 22, 2017


Jonathan S. Altman, Esq.
Derfner & Altman, LLC
575 King Street, Suite B
Charleston, SC 29403
(843) 723-9804
jaltman@derfneraltman.com

*Attorney for Defendants Charles Kelley
a/k/a Charles E. Kelley and Deborah Kelley
a/k/a Deborah L. Kelley*

EXHIBIT A

2016-CP-10-6750

STATE OF SOUTH CAROLINA) IN THE COURT
OF COMMON PLEAS)
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO.: 2016-CP-
10-06750

Seabrook Island Property Owners)
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.)
DEFENDANT

Kelley; Deborah Kelley a/k/a)
E. KELLEY

Deborah L. Kelley; Mortgage)
Electronic Registration Systems,)
Inc., its successors and assigns, as)
nominee for Chase Mortgage)
Company, its successors and assigns,)
a Delaware Corporation; and)
Spinnaker Beach House Owners)
Association,)

Defendants.)

AFFIDAVIT OF

CHARLES

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2017 NOV 21 AM 8:33

FILED

Personally appeared before me, Charles E. Kelley, who being duly sworn states as follows:

1. I, Charles E. Kelley, am a Defendant in the above captioned action and reside at 101 Alder Street, Punxsutawney, PA 15767. I live with my wife, Deborah L. Kelley, who is also a named Defendant in this action.
2. In August 2016, I was diagnosed with Leukemia and underwent a course of chemotherapy at UPMC Hillman Cancer Center in Pittsburgh. I remain under the care of my treating physicians for this condition. My care has included hospital

admissions and chemotherapy.

3. I did not learn of the sale of our home at 749 Spinnaker until mid-September 2017 when I was advised that the locks to our home had been changed.

4. Thereafter, I spoke with my son-in-law, Steven Barkowitz, a local attorney, and engaged Jonathan S. Altman as our counsel in this matter. Prior to that date, I was unaware of the pending action.

5. I have had an opportunity to review the Affidavit of Process Server attached hereto as Exhibit A. This affidavit reflects that on December 22, 2016, I was served with a Certificate of Exemption from ADR, Certificate of Compliance, Lis Pendens, and Summons at 6:59 p.m. According to the process server, I also accepted service of the above documents for my wife, Deborah L. Kelley. I have no recollection of being served with these papers and have spoken with my wife regarding Mr. Stoner's affidavit. She also has no recollection of Mr. Stoner or these papers. I have since searched for papers provided to me by Mr. Stoner and have located the Certificate of Exemption for ADR, Certificate of Compliance, Lis Pendens, and Summons. I have been unable to locate any lawsuit or Complaint.

6. It is my belief that if the Complaint had been provided to me, I would have responded accordingly. However, in light of my medical condition and the absence of the Complaint from the documents provided to me, I did not appreciate the urgency of this situation.

FURTHER AFFIANT SAYETH NOTHING

Date: Nov. 17 2017

Charles E. Kelley

Defendant Charles E. Kelley

Sworn to and Subscribed before me
this 17th day of November, 2017.

Laura D. Barr
Notary Public for PA

My Commission Expires: July 12, 2020

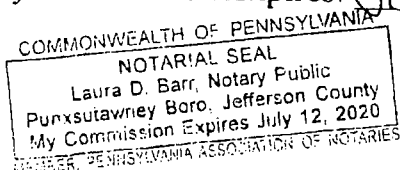


EXHIBIT B

2016-CP-10-6750

STATE OF SOUTH CAROLINA) IN THE COURT
OF COMMON PLEAS)
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO.: 2016-CP-
10-06750

Seabrook Island Property Owners)
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.)
DEFENDANT

Kelley; Deborah Kelley a/k/a)
L. KELLEY

Deborah L. Kelley; Mortgage)
Electronic Registration Systems,)
Inc., its successors and assigns, as)
nominee for Chase Mortgage)
Company, its successors and assigns,)
a Delaware Corporation; and)
Spinnaker Beach House Owners)
Association,)

Defendants.)

AFFIDAVIT OF

DEBORAH

FILED
2017 NOV 21 AM 8:34
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

Personally appeared before me, Deborah L. Kelley, who being duly sworn states as follows:

1. I, Deborah L. Kelley, am a Defendant in the above captioned action and reside at 101 Alder Street, Punxsutawney, PA 15767. I live with my husband, Charles E. Kelley, who is also a named Defendant in this action.

2. In August 2016, my husband, Charles E. Kelley, was diagnosed with Leukemia for which he primarily treated for in Pittsburgh. He remains under the care of his treating physicians for this condition. His care has included hospital admissions

and chemotherapy.

3. I did not learn of the sale of our home at 749 Spinnaker until mid-September 2017 when my husband advised that someone had changed the locks to our home.

4. Thereafter, my husband spoke with our son-in-law, Steven Barkowitz, a local attorney, and engaged Jonathan S. Altman as our counsel in this matter. Prior to that date, I was unaware of the pending action.

5. I have had an opportunity to review the Affidavit of Process Server attached hereto as Exhibit A. This affidavit reflects that Mr. Stoner served my husband for me but that I was present at the time. I have no recollection of Mr. Stoner or my husband accepting documents from him.

6. Since we learned of this case, we have since searched for any papers provided to my husband by Mr. Stoner. We have located the Certificate of Exemption for ADR, Certificate of Compliance, Lis Pendens, and Summons. We have not been able to locate any lawsuit or Complaint.

7. It is my belief that had the Complaint been provided to my husband, he would have responded. However, in light of my husband's medical condition and the absence of the Complaint from the documents provided to him, he did not appreciate the urgency of this situation.

FURTHER AFFIANT SAYETH NOTHING

Date: 11-17-2017

Deborah L. Kelley

Defendant Deborah L. Kelley

Sworn to and Subscribed before me
this 17th day of November, 2017.

Laura D. Barr
Notary Public for PA

My Commission Expires: July 12, 2020

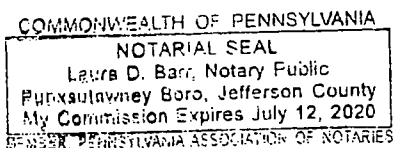


EXHIBIT C

Affidavit of Process Server

Court of Common Pleas
(NAME OF COURT)
Seabrook Island Property vs Charles Kelley AKA Charles E. Kelley 2016-CP-106750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Stoner, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Charles Kelley AKA Charles E. Kelley
NAME OF PERSON / ENTITY BEING SERVED
 with (list documents) Certificate of Exemption from ADR, Certificate of Compliance, La Anders Sumner
 by leaving with _____ At _____

☒ Residence 101 Elder St Pennsylvania PA 15767
NAME ADDRESS RELATIONSHIP CITY / STATE
☐ Business _____
ADDRESS CITY / STATE

On 12-22-16 AT 659 p m BY JULIE J. ARMSTRONG
DATE TIME CLERK OF COURT
☐ Inquired if subject was a member of the U.S. Military and was informed they are not.
 Thereafter copies of the documents were mailed by prepaid, first class mail on _____
 from _____
CITY STATE ZIP

Manner of Service:

- ☒ **Personal:** By personally delivering copies to the person being served.
☐ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.
☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- ☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion
☐ Address Does Not Exist ☐ Other: _____

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME
 (3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

Description: Age 60 Sex M Race W Height 6' Weight 195 Hair White Beard No Glasses yes

Newton E. Stoner
 SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Stoner III
 Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Shirley M. Clark
 SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of
 COMMONWEALTH OF PENNSYLVANIA



FORM 2

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

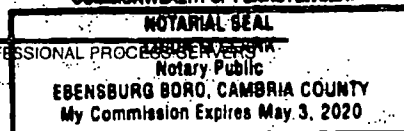


EXHIBIT D

Affidavit of Process Server

Court of Common Pleas

(NAME OF COURT)

Seaboard Island Property Owners Assoc Charles Kelley AKA Charles E Kelley 2016-CP-10-6750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Sloane, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Deborah Kelley AKA Deborah L. Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemption from A.R. Certificate of Compliance, Lis Pendens Summons

by leaving with Charles Kelley Husband At

☒ Residence 101 Alder St Punxsutawney, PA 15767
NAME ADDRESS CITY / STATE

☐ Business _____
ADDRESS CITY / STATE

On 12-22-16 AT 6:59 pm
DATE TIME

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
DATE
from _____
CITY STATE ZIP

Manner of Service:

☐ Personal: By personally delivering copies to the person being served.

☒ Substituted at Residence: By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of 18 and explaining the general nature of the papers.

☐ Substituted at Business: By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

☐ Posting: By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion

☐ Address Does Not Exist ☐ Other Charles Kelley took both sets of paper but Deborah Kelley was present

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME

(3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

Description: Age 64 Sex M Race W Height 6' Weight 195 Hair white Beard Yes Glasses Yes

Newton E. Sloane
SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Sloane
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Linda M. Clark
SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of PA



FORM 2

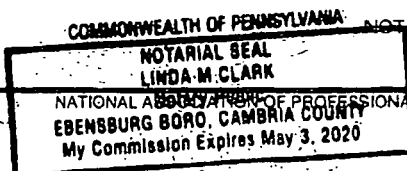


EXHIBIT E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00157 KNN)

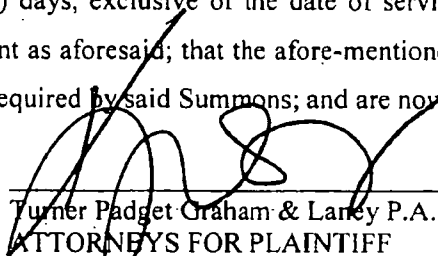
IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

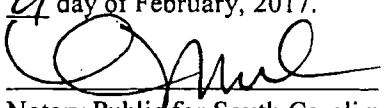
AFFIDAVIT OF DEFAULT

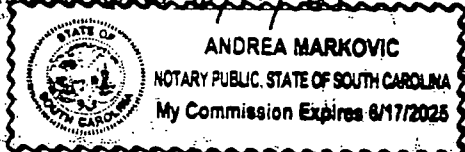
FILED
2017 MAR -9 AM 11:09
JULIE J. ARISTRONG
CLERK OF COURT
BY 

PERSONALLY APPEARED before me, Kristen N. Nichols, who, first being duly sworn, deposes and says that she is the attorney for the Plaintiff in the above entitled action; that the Summons, Lis Pendens and Complaint were served upon Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, as evidenced by the Affidavits of Service filed with the Court and attached hereto as Exhibit A; that more than thirty (30) days, exclusive of the date of service has elapsed since the service of the Summons and Complaint as aforesaid; that the afore-mentioned Defendants have filed no Answer or any other pleadings as required by said Summons; and are now in default.


Turner Padgett Graham & Laney P.A.
ATTORNEYS FOR PLAINTIFF
Kristen N. Nichols (SC Bar #74790)
40 Calhoun Street, Suite 200
Charleston, SC 29401
(843) 576-2863

SWORN TO BEFORE ME THIS
21 day of February, 2017.


Notary Public for South Carolina
My Commission Expires: 6/17/25



Court of Common Pleas (NAME)

(NAME OF COURT)

Seal and Property Deeds Assoc Charles Kelley AKA Charles E Kelley 2016 -CP-10-6750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

Service: I served Deborah Kelley AKA Deborah L Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemption from ANK Certificate of Compliance Letter, Seminar
by leaving with Charles Keller Husband At _____

NAME 2 RELATIONSHIP PA-15-76
 Residence 10101 ADDRESS 10101 CITY/STATE 10101

☐ Business

ADDRESS CITY / STATE

On 12-22-16 AT 6:59 PM
DATE TIME

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on

from _____
CITY STATE ZIP

☐ **Personal:** By personally delivering copies to the person being served.

☒ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of 18 and explaining the general nature of the papers.

☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.

☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

☐ Unknown at Address ☐ Moved, Left no Forwarding ☐ Service Cancelled by Litigant ☐ Unable to Serve in Timely Fashion

☐ Address Does Not Exist ☐ Other *Charles Kelley took both sets of paper but Deborah*

Service Attempts: Service was attempted on: (1) _____ (2) _____

DATE	TIME	DATE	TIME
------	------	------	------

(3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

Description: Age 60 Sex M Race W Height 6' Weight 195 Hair white Beard Yes Glasses Yes

SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 2nd day of June, 2016, by NEWTON STONE III
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

SIGNATURE OF NOTARY PUBLIC

~~COMMONWEALTH OF PENNSYLVANIA~~ NOTARY PUBLIC for the state of

NOTARIAL SEAL
LINDA M. CLARK

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS
EBENSBURG BORO. CAMBRIA COUNTY
My Commission Expires May 3, 2020

EXHIBIT

A

Affidavit of Process Server

Court of Common Pleas
(NAME OF COURT)
Seabrook Island Property vs Charles Kelley AKA Charles E Kelley 2016-CP-106750
PLAINTIFF/PETITIONER DEFENDANT/RESPONDENT CASE NUMBER

I, Newton E. Storer, being first duly sworn, depose and say: that I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to perform said service.

Service: I served Charles Kelley AKA Charles E Kelley
NAME OF PERSON / ENTITY BEING SERVED

with (list documents) Certificate of Exemption from ADR, Certificate of Compliance, & Anders Summons

by leaving with 101 Alder St Pennsylvanian PA 15767
NAME RELATIONSHIP
☒ Residence ADDRESS CITY/STATE
☐ Business ADDRESS CITY/STATE

On 12-22-16 AT 6:59 p.m.
DATE TIME

☐ Inquired if subject was a member of the U.S. Military and was informed they are not.

Thereafter copies of the documents were mailed by prepaid, first class mail on _____
DATE
 from _____
CITY STATE ZIP

Manner of Service:

- ☒ **Personal:** By personally delivering copies to the person being served.
- ☐ **Substituted at Residence:** By leaving copies at the dwelling house or usual place of abode of the person being served with a member of the household over the age of _____ and explaining the general nature of the papers.
- ☐ **Substituted at Business:** By leaving, during office hours, copies at the office of the person/entity being served with the person apparently in charge thereof.
- ☐ **Posting:** By posting copies in a conspicuous manner to the front door of the person/entity being served.

Non-Service: After due search, careful inquiry and diligent attempts at the address(es) listed above, I have been unable to effect process upon the person/entity being served because of the following reason(s):

- ☐ Unknown at Address
- ☐ Moved, Left no Forwarding
- ☐ Service Cancelled by Litigant
- ☐ Unable to Serve in Timely Fashion
- ☐ Address Does Not Exist
- ☐ Other _____

Service Attempts: Service was attempted on: (1) _____ (2) _____
DATE TIME DATE TIME
 (3) _____ (4) _____ (5) _____
DATE TIME DATE TIME DATE TIME

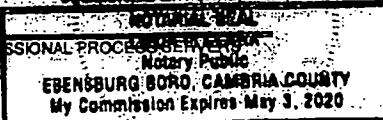
Description: Age 60 Sex M Race W Height 6' Weight 195 Hair White Beard No Glasses yes

Newton E. Storer
 SIGNATURE OF PROCESS SERVER

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2016, by Newton Storer III
 Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Shirley M. Clark
 SIGNATURE OF NOTARY PUBLIC

NOTARY PUBLIC for the state of
 COMMONWEALTH OF PENNSYLVANIA



FORM 2

NATIONAL ASSOCIATION OF PROFESSIONAL PROCESS SERVERS

AFFIDAVIT OF SERVICE

Case: 2016-CP-10-6750	Court: In the Court of Common Pleas	County: Charleston, SC	Job: 1157905 (07941-00167)
Plaintiff / Petitioner: Seabrook Island POA, Inc.		Defendant / Respondent: Charles Kelley, et. al.	
Received by: Legal Professionals, LLC		For: Turner Padgett Graham & Laney, P.A.	
To be served upon: Spinnaker Beach House Owners Association			

I, Mark Weaghtington, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Spinnaker Beach House Owners Association, 101 Rice Bent Way Unit 11, Columbia, SC 29229

Manner of Service: Corporation, Dec 21, 2016, 1:08 pm EST

Documents: Civil Action: Coversheet, Lis Pendens, Summons, Complaint and Certificate of Compliance with Administrative Order Requiring Foreclosure Intervention, Certificate of Exemption from ADR

Additional Comments:

1) Successful Attempt Dec 21, 2016, 1:08 pm EST at 101 Rice Bent Way Unit 11, Columbia, SC 29229 received by Spinnaker Beach House Owners Association. Age: 62; Ethnicity: Caucasian; Gender: Female; Weight: 145; Height: 5'5"; Hair: Gray; Eyes: Hazel; SERVED CONNIE CONLEY WHO STATED, SHE IS AUTHORIZED TO ACCEPT SERVICE FOR SPINNAKER BEACH HOUSE OWNER'S ASSOCIATION.

Mark Weaghtington 12-27-2016
 Mark Weaghtington Date

Subscribed and sworn to before me by the affiant who is personally known to me.

[Signature]
 Notary Public

12-27-2016 3-12-2023
 Date Commission Expires

Legal Professionals, LLC
 P.O. Box 397
 Mount Pleasant, SC 29465
 803-586-8867

FILED
 2017 JAN -6 PM 3:47
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

EXHIBIT F

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

Kristen N. Nichols, Esquire
Attorney for the Plaintiff

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**JUDGMENT OF FORECLOSURE
AND SALE**

DEFICIENCY JUDGMENT DEMANDED

FILED
2017 MAY -5 AM 10:03
JULIE J. ARMSTRONG
CLERK OF COURT

A foreclosure hearing was held on Wednesday, April 19, 2017, at 10:00 a.m. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on December 19, 2016.
2. The Summons and Verified Complaint were filed on December 19, 2016.
3. Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.
4. Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.
5. Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.
6. The South Carolina Supreme Court Administrative Order 2011-05-02-01, dated May 2, 2011 does not apply to this foreclosure, in that the Plaintiff does not offer any form of foreclosure intervention because it is an HOA or POA.

7. The subject matter of this action is real and personal property located in Charleston County, South Carolina, and owned by Charles E. Kelley and Deborah L. Kelley, by virtue of a deed recorded on May 26, 2000, in Book F348, at Page 424.

8. The Plaintiff in this action filed a Notice of Lien for delinquent assessments, late fees, interest and costs by Seabrook Island Property Owners Association, recorded August 30, 2016, in Lien Book 0579 at Page 617.

9. This is an action for the foreclosure of a Lien for unpaid and past due Association Assessments. The obligation to pay Assessments is codified and established under the Governing Documents for Seabrook Island Property Owners Association, being recorded in the RMC Office for Charleston County, and any amendments thereto. The Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being the owner of 749 Spinnaker Beachhouse, Johns Island, South Carolina, is subject to the Governing Documents, together with all amendments thereto. As such, Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, is required to pay all assessments, together with attorney's fees and costs of collection.

10. This property is subject to the covenants, terms and conditions of The Governing Documents and has been subject to all special and regular assessments as prescribed by the Plaintiff. As of April 19, 2017, the past due assessments and related charges, in the amount of Five Thousand Sixty Dollars and 62/100 (\$5,060.62) Dollars together with reasonable attorney's fees and costs of this action were due; and these payments have not been made.

11. The sum of \$1,640.00 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the governing documents of Plaintiff. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond

the normal time.

12. According to the accounting of Plaintiff, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing, with interest, advances made by Plaintiff, and other costs and expenses of the action, including attorney's fees, all secured by the Lien, are as follows:

A Annual Assessments (2016, 2017)	\$4,280.00
B Late Interest through April, 2017	\$459.62
C Late Fees.....	\$321.00
D. Attorney's Fees	\$1,640.00
E. Attorney's Costs	\$1,213.00

TOTAL AMOUNT DUE AS OF April 19, 2017\$7,913.62

13. The property should be sold by this Court, subject to taxes, existing easements, covenants, conditions and restrictions of record, and those found in The Governing Documents, and other senior encumbrances (if any).

14. Plaintiff is seeking the foreclosure of the lien and has expressly demanded the right to a deficiency judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley pursuant to S.C. Code Ann. § 29-3-660. The Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

15. The mortgage to Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, Its successors and assigns, a Delaware Corporation is senior in priority to the Plaintiff's lien and as such, the sale shall be subject to this mortgage.

16. The following Defendant may claim a lien upon or subordinate legal interest in the subject property, and in the event there is a surplus from the sale of the subject property, these Defendant may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant and such lien or legal interest is as follows

Spinnaker Beach House Owners Association, may claim some interest in the subject property by virtue of the following:

- a. A Notice of Lien filed on November 5, 2015 in the amount of \$1,822.44, in Book 0515 at Page 655; and

- b. A pending foreclosure filed on February 2, 2016, in case number 2016-CP-10-0537.

IT IS THEREFORE ORDERED:

17. There is due to Plaintiff under the terms of The Governing Documents the sum of \$7,913.62, as set out in the Complaint and Findings of Fact. All additional costs of this action shall also be included in the debt due from Defendants, George Bennett a/k/a George G. Bennett and Theresa Bennett, and interest on any bid amount shall run at the rate of 7.50% per annum until paid in full.

18. The Nine Thousand Nine Hundred Twenty and 90/100 (\$9,920.90) Dollars shall constitute the total judgment debt due Plaintiff and shall bear interest at the rate of 7.50% per annum, and the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being liable for the aforesaid debt, shall on or before the date of sale of the property hereinafter described, pay the Plaintiff, of Plaintiff's attorney, the amount of Plaintiff's debt aforesaid, together with any and all additional attorney's fees, costs and disbursement of this action.

19. Plaintiff shall have judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley in the amount set forth above. Such judgment shall be entered and docketed in the Clerk's office immediately and in the same manner as other judgments pursuant to §29-3-650 SC Code of Laws (1976 as amended). Upon sale of the subject property, the judgment shall be credited in the amount paid to Plaintiff from the proceeds of the sale. The Plaintiff may waive any rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale. §29-3-650 SC Code of Laws (1976 amended).

20. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. § 14-11-310. It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions, and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

21. On default of payment at or before the time of the sale of the Properties, the mortgaged Properties below described hereinafter shall be sold at public auction at the Charleston County

Courthouse, in the City of Charleston, and State of South Carolina on a sales day determined by the below signed Master in Equity, on the following terms:

- a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to the costs and expense of the action and then to the Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse either make the required deposit at time of bid or to comply with the other terms of the bid within 30 days, then the properties may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.
- b. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.50%.
- c. The sales shall be subject to taxes and assessments, existing easements and restrictions, any other senior encumbrances, and also all other matters of record except for the liens and interests extinguished through this action, specifically the mortgage to Mortgage Electronic Registration Systems, Inc., It's successors and assigns, as nominee for Chase Mortgage Company, It's successors and assigns, a Delaware Corporation.
- d. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.
- e. Purchaser to pay for deed preparation, costs of recording the deed and the satisfaction of mortgage, and transfer taxes on the deed.
- f. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity or Special Referee.

22. Personal or deficiency judgment having been demanded, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. § 15-39-720 (1976).

23. Plaintiff may waive any of its rights, including its right to a deficiency judgment, in accordance with Rule 71 of the South Carolina Rules of Civil Procedure prior to sale.

24. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the purchaser a deed to the properties sold. Plaintiff or any other party to this action may become a

purchaser at such sale. If, upon such sale being made, the purchaser should fail to comply with the terms thereof within 20 days after the date of sale, then the Master in Equity may advertise the said Properties for sale on the next or some other subsequent sales day at the risk of the highest bidder and so forth from time to time thereafter until a full compliance shall be secured.

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

26. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this sale and to any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest accrued thereon (including attorney's fees and costs) or so much thereof as the purchase money will pay on the same.

NEXT: Any surplus should be held pending further Order of this Court.

27. If a deficiency exists after the sale, an Order of Deficiency Judgment may be entered without further notice or hearing.

28. In the event the successful bidder is someone other than the Defendants in possession of the Properties, the Sheriff of this county is ordered and directed to eject and remove from the Property the occupant(s) of the Properties sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said Properties without delay, and to keep said successful bidder or his assigns in such peaceable possession.

29. In the event the successful bidder is someone other than the Defendant(s) in possession of the Properties, and the occupants have voluntarily vacated the Properties or have been ejected from the Properties leaving furniture, fixtures or other items not subject to Plaintiff's Lien, the Purchaser is authorized to remove from the Properties all furnishing, fixtures and other items not subject to Plaintiff's Lien. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the Properties by placing said personal property on the public street or highway or by any other means.

30. The Defendants named herein, and all persons whosoever claiming under Defendants, are forever barred and foreclosed or all right, title, interest, equity of redemption or lien in the said mortgaged property so sold, or any part thereof.

31. In accordance with Rule 77(d) S.C.R.C.P., the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure and Sale upon all parties not in default for failure to appear in this action.

32. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of this action, and the name of the grantee. The Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

33. The undersigned will retain jurisdiction to all necessary acts incident to this foreclosure, including but not limited to the issuance of a Writ of Assistance.

34. The following is a description of the Property herein ordered to be sold:

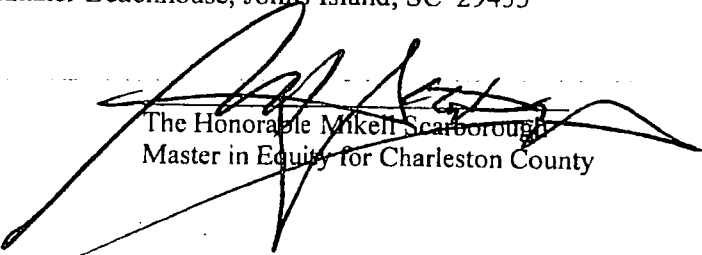
ALL that certain lot, piece, or parcel of land, with the buildings and improvements thereon, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and shown and designated as Lot 749, Spinnaker Beachhouses, Seabrook Island, Charleston County, S.C., on a plat by E. M. Seabrook, Jr., C.E. and L. S., of Lots 734 through 754, inclusive, dated March 18, 1979, and recorded in the RMC Office for Charleston County in Plat Book AM, Page 111.

This being the same property conveyed to Charles E. Kelley and Deborah L. Kelley herein by deed of conveyance from Gary L. Smith and Sandra L. Smith dated May 24, 2000 and recorded in the R.M.C. Office for Charleston County, SC on May 26, 2000 in Book F348 at Page 424.

TMS No. 147-05-00-072

Property Address: 749 Spinnaker Beachhouse, Johns Island, SC 29455

April 11, 2017
Charleston, South Carolina


The Honorable Mikell Scarborough
Master in Equity for Charleston County

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

RECORD OF HEARING

FILED
2017 MAY -5 AM 10:00
JULIE J. ARMSTRONG
CLERK OF COURT

Pursuant to the Order of Reference granted in the above entitled action, a foreclosure hearing was held herein on April 19, 2017, at 10:00 AM, before The Honorable Mikell Scarborough, Master in Equity.

Plaintiff's attorney is Kristen N. Nichols of the firm of Turner Padgett Graham & Laney P.A.

According to the Complaint filed by Plaintiff (the "Complaint"), the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, have failed to pay assessment fees pursuant to governing documents of Seabrook Island Property Owners Association.

The original Lis Pendens was filed on December 19, 2016.

Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.

Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.

Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.

Pursuant to South Carolina Supreme Court Administrative Order 2011-05-02-01, the attorney for the Plaintiff certified that that the property is an HOA or POA, and said order does not apply to

this foreclosure; therefore Plaintiff has complied with the certification requirements and proceeded with the prosecution of this action as permitted by the Order.

Plaintiff's attorney presented or will present copies of the following documents:

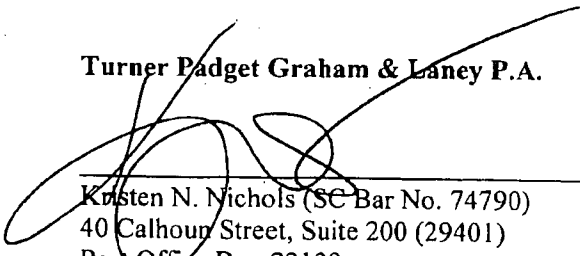
1. Affidavit of Attorney's Fees and Costs
2. Notice of Hearing and Certificate of Mailing
3. Promissory Note
4. Mortgage
5. Affidavit Verified Statement of Account

Plaintiff established the total debt amount secured by the Notice of Lien, recorded August 30, 2016, is \$5,060.62, exclusive of attorney's fees and costs. Plaintiff established that the assessments are due for failure to make the 2016 payment, and all subsequent payments, including late interest and fees.

Pursuant to South Carolina Code Sections 29-3-650 and 29-3-660, Plaintiff specifically demands and is entitled to a personal or deficiency judgment, unless heretofore or hereafter released, against Defendant, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, hereby obligated for the above-described debt, in the event the proceeds of the sale of the property are insufficient to pay in full the indebtedness, including costs of collection. Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

Plaintiff asks that the lien be foreclosed, that the property be sold at public auction in accordance with law, and that the sale be made subject to taxes and assessments, existing easements or restrictions, and any other senior encumbrances.

Turner Padget Graham & Laney P.A.



Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadget.com

Charleston, South Carolina
April 16, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

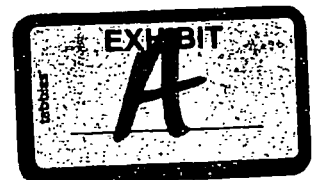
DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF
ATTORNEY'S FEES AND COSTS**

(07941-00167 KNN)

The undersigned being duly sworn, deposes and says as follows:

1. I am an attorney with the law firm of Turner Padgett Graham & Laney P.A. and am over the age of 18.
2. I am the attorney for the Plaintiff in the above-referenced matter, and this firm has been representing the Plaintiff in this particular matter since August, 2016.
3. I was retained to collect an amount due from the Borrowers as evidenced by a Notice of Lien recorded August 30, 2016.
4. I, or one of my colleagues, along with highly trained and efficient non-attorney professionals, have been responsible for preparing correspondence regarding the enforcement of the Lien, Demand Letter, a Summons and Verified Complaint, Lis Pendens, Certificate of Compliance with Administrative Order, Affidavit of Default, Order of Reference, Record of Hearing, proposed Judgment of Foreclosure and Sale, Form 4, this Affidavit of Attorney's Fees and Costs, and other supporting correspondence and Affidavits in regard to the pleadings; and will further prepare other documents necessary to bring this matter to conclusion through judicial sale of the property.
5. Pursuant to the governing documents of Seabrook Island Property Owners Association, Plaintiff is entitled to recover all of its expenses and actual attorney's fees and costs in connection with Plaintiff's enforcement of the Lien. This foreclosure is being handled on an hourly basis of \$250.00 per hour for attorney time and \$125.00 per hour for non-attorney professionals.



6. Costs and expenses incurred in connection with this foreclosure action are in the amount of \$1,213.00, as shown below.

Notice of Lien (recording costs).....	\$10.00
Title Abstract.....	\$278.00
Filing Fee	\$150.00
Service.....	\$625.00
Reference Fee.....	\$125.00
Motion Fee (reference).....	\$25.00
TOTAL COSTS	\$1,213.00

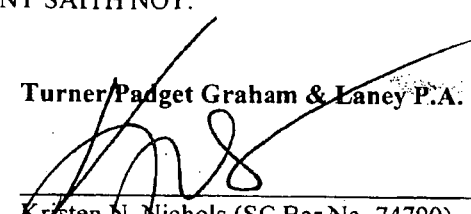
7. I, Kristen N. Nichols, the primary attorney, have practiced law for more than 10 years. I have handled an extensive number of mortgage foreclosure cases, including contested cases and cases involving resolution of title issues. I concentrate my practice in the areas of commercial and consumer foreclosure, bankruptcy and creditor's rights litigation.

8. In determining recoverable attorney's fees, I have found that courts generally award attorney's fees of \$1,640.00 or more for similar residential foreclosure cases in South Carolina. The fee I am requesting in this case is in line with those awards. This sum is contemplated in language contained in the mortgage previously offered into evidence in this action.

9. I believe that an attorney's fee, in the amount of \$1,640.00, and costs in the amount of \$1,213.00, are reasonable in connection with this debt collection, and that Plaintiff is entitled to these amounts pursuant to the provisions of the Loan Documents.

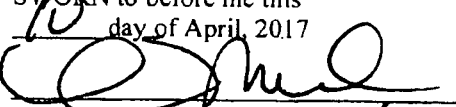
AND FURTHER THE AFFIANT SAITH NOT.

Turner Padgett Graham & Laney P.A.

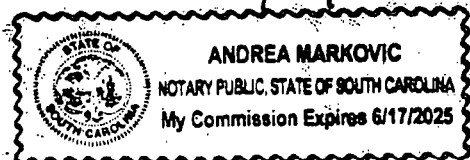


Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadgett.com

SWORN to before me this
day of April, 2017



Notary Public for South Carolina
My Commission Expires: 6/17/25



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF VERIFIED
STATEMENT OF ACCOUNT
Deficiency Judgment Demanded**

(07941-00167 KNN)

PERSONALLY APPEARED before me the undersigned Heather Paton, on behalf of the above-captioned Plaintiff, who, being duly sworn, deposes and says as follows:

I am a duly authorized representative of the Plaintiff and am authorized to make this Affidavit on behalf of the said Plaintiff.

I am familiar with the account forming the basis for the within action, that all the matters alleged therein are true of my own knowledge or upon the business records of the Plaintiff, except for those allegations upon information and belief, and as to those, affiant believes them to be true.

The total outstanding account balance of the Defendants, past due and payable to the Plaintiff pursuant to the Note between the parties, exclusive of attorney's fees and costs of collection for this action, is stated below, said sum including all just credits given:

A.	Annual Assessments (2016, 2017).....	\$4,280.00
B.	Late Interest through April 2017	\$459.62
C.	Late Fees	\$321.00

TOTAL AMOUNT DUE AS OF April 19, 2017.....\$5,060.62

SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION

Heather Paton

Heather Paton
Executive Director

SWORN to before me this
27 day of March, 2017
Alison Jolley
Notary Public for South Carolina
My Commission Expires: 9/11/2018





PGS:

3

After recording return to:
Kristen N. Nichols
Turner Padgett Graham & Laney
PO Box 22129
Charleston, SC 29413

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

NOTICE OF LIEN

Claimant:	Seabrook Island Property Owners Association
Record Owner(s):	Charles Kelley and Deborah Kelley
Property Address:	749 Spinnaker Beachhouse
Subdivision and Lot:	Spinnaker Beachhouses Lot 749
Tax Map Number:	147-05-00-072
Amount Due as of July 31, 2016:	\$2,755.89

This Notice of Lien is made for assessments and other allowable charges levied against the property above and remaining unpaid as of the date of this Notice of Lien. This amount includes attorneys' fees, costs, charges, late fees, and interest applicable to such assessments. Additionally, this Notice of Lien is levied for all accruing, but unpaid, future assessments, both regular and special; any and all allowable interest, delinquent charges as applicable, costs, and attorneys' fees until the date of payment.

IN WITNESS WHEREOF, Seabrook Island Property Owners Association has hereunto set its hand and seal this 29th day of August, 2016.

Kathryn Annahan
WITNESS

[Signature]
WITNESS

[Signature]
Seabrook Island Property Owners Association
By: Kristen N. Nichols
Its: Attorney



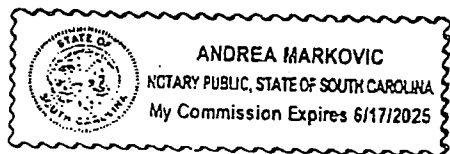
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me the undersigned, who states that she saw the within Seabrook island Property Owners Association by its Attorney, Kristen N. Nichols, sign, seal, and deliver the within Notice of Lien, and that she with the other witness witnessed the execution thereof.

Rakyn Shanahan
WITNESS

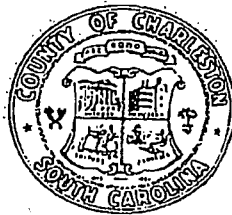
SWORN to before me this
29 day of August, 2016

[Signature]
Notary Public for the State of South Carolina
My Commission Expires: 6/17/25



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Notice/Ln

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Charleston County, SC

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SEABROOK ISLD POA

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EXHIBIT G

0001

1 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
2 COUNTY OF CHARLESTON CASE NO.: 2016-CP-10-06750
3
4 SEABROOK ISLAND PROPERTY OWNERS,)
ASSOCIATION,)
5 PLAINTIFF,)
6) Deposition of:
vs.) Philip Squire
7) November 8th,
2017
8 CHARLES KELLEY A/K/A CHARLES E.)
KELLEY; DEBORAH KELLEY A/K/A)
9 DEBORAH L. KELLEY; MORTGAGE)
ELECTRONIC REGISTRATION SYSTEMS,)
10 INC., ITS SUCCESSORS AND ASSIGNS,
AS NOMINEE FOR CHASE MORTGAGE
11 COMPANY, ITS SUCCESSORS AND
ASSIGNS, A DELAWARE CORPORATION;
12 AND SPINNAKER BEACH HOUSE OWNERS
ASSOCIATION,
13
14 DEFENDANTS.
15
16

17 The deposition of PHILIP SQUIRE, taken before
18 Amanda Barbao, Court Reporter and Notary Public, at the
19 law offices of Derfner & Altman, 575 King Street,
20 Charleston, South Carolina, commencing at 11:30 a.m.,
21 on November 8th, 2017.
22
23
24
25

0002

1 APPEARANCES
2
3 FOR THE PLAINTIFF:
4 (Seabrook Island)
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12

13 FOR THE DEFENDANTS:

14 (Charles and Deborah Kelley)

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18

19

20

21

22

23

24

25

0003

1

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Court Reporter's Certificate

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EXHIBITS

14

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15

16

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--oOo--

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0004

1

(PHILIP SQUIRE, having been first duly sworn,
testified as follows:)

2

3

EXAMINATION BY MR. ALTMAN:

4

Q Mr. Squire, good morning. You and I met earlier
off the record. I'm John Altman. I represent Charles
and Deborah Kelley, relative to a case that's pending in
Charleston County. It's a foreclosure action brought by
Seabrook Island Property Owner's Association. Have you
ever been deposed prior to today?

10

A No.

11 Q Let me just run through the ground rules with you
12 and make sure that you and I understand the way this
13 process goes. This is my chance to ask you questions
14 about this case and anything that I think is relevant to
15 this case. Your job is to answer the questions that you
16 know the answers to. If I ask a question improperly or
17 you just don't understand it, tell me. I'll do my best
18 to rephrase it. If you don't know the answer, tell me
19 you don't know. It's not a test. And you're not being
20 graded. So if you do answer a question, I'm going to
21 assume that you understood my question and that your
22 answer is correct. Is that fair?

23 A Yes.

24 Q Any reason why you wouldn't be able to give full
25 and complete, accurate testimony today?

0005

1 A Yes.

2 Q You feeling all right?

3 A Yes.

4 Q Take any medication this morning?

5 A No.

6 Q Give me your full name.

7 A Philip Richard Squire.

8 Q Where are you from originally, Mr. Squire?

9 A Where was I born?

10 Q Tell me where you were born. Tell me where you
11 spent most of your life.

12 A I was born in London. I grew up in Jersey.

13 Q How long have you lived in South Carolina?

14 A About three or four years. It's hard to answer.

15 Q My understanding is you've had a second home at
16 Seabrook since 2003?

17 A 2002 we've owned it.

18 Q And you've lived -- it's been your primary
19 residence since?

20 A About four years.

21 Q And you reside at 727 Spinnaker?

22 A That's correct.

23 Q Do you own any other property in Charleston County
24 other than the property at issue in this case and your
25 current residence?

0006

1 A No.

2 Q Are you retired?

3 A Yes.

4 Q When did you retire?

5 A Fourteen years ago.

6 Q What was your last position of employment at the
7 time of your retirement?

8 A I was a consultant with a small consulting firm.

9 Q What was that located?

10 A Annapolis, Maryland.

11 Q What have you done since your retirement?

12 A Not much.

13 Q If I understand, you've served on a number of
14 boards on Seabrook Island. Can you tell me what boards
15 you've served on and the tenures of your service.
16 A I was on the Spinnaker board for I think three
17 years. And I've been on the SIPOA board for a year and
18 a half now.
19 Q Were you on the SIPOA board at the time this
20 foreclosure action was commenced?
21 A I think so.
22 Q Okay. And I'll publish to you, the suit was filed
23 in December of 2016.
24 A Yes.
25 Q Tell me the process or the board's involvement in
0007
1 the filing of a foreclosure action for when a homeowner
2 gets behind on their assessments?
3 A Well, from my standpoint, the finance committee
4 recommends foreclosure based on an opinion of our
5 attorney, and the board votes on that by
6 recommendation.
7 Q Do you typically participate in those votes?
8 A Yes.
9 Q Did you vote on SIPOA's proceeding with the
10 foreclosure of the Kelley home?
11 A I don't know. I guess so.
12 Q If you were on the board at the time -- and I'll
13 publish to you the complaint was filed --
14 A Right.
15 Q -- on December 19, 2016. Were you serving on the
16 board at that time?
17 A Yes.
18 Q And if you were serving at that time, would you
19 have voted yes or no to proceed with foreclosure?
20 A Yes.
21 Q Do you recall ever voting not to proceed with a
22 foreclosure for past due assessments?
23 A Ever?
24 Q Ever.
25 A Yes.
0008
1 Q Okay. Was that instance involving the Kelley home?
2 A No, I don't think so.
3 Q To the best of your recollection, did you vote for
4 SIPOA to proceed with the foreclosure of the Kelley
5 home?
6 A I don't know because all the names are redacted on
7 the foreclosure list. So I don't know if I was
8 specifically voting.
9 Q Is the property address redacted?
10 A Yes.
11 Q So you have no idea?
12 A I don't know who the people are.
13 Q Okay. How many times have you voted not to
14 proceed?

15 A Once. It was an abstention.
16 Q And how many times have you voted to proceed?
17 A I couldn't tell you the exact number. It's
18 probably three or four. You're talking about per
19 property or overall?
20 Q I'm talking about overall.
21 A You mean the number of properties I've voted to
22 foreclose on or the times I've voted? Because they
23 submit the list and say, do you vote to foreclose on
24 all these people, and it's like a yes or no on all of
25 them.

0009

1 Q What's on the list that is put in front of you?
2 What information?
3 A I think -- it's the SIPOA account number and
4 whether it's a collection or foreclosure action.
5 That's about it.
6 Q As we sit here today, do you have any reason to
7 believe that you didn't vote to proceed with the
8 foreclosure of the Kelley home?
9 MR. COBB: Object to the form. Can you ask
10 it more directly?
11 Q Do you believe you voted to proceed with the
12 foreclosure of the Kelley home?
13 A I think I probably did, based on the timing.
14 Q Fair enough. Tell me how you came to bid on the
15 Kelley home at the foreclosure sale of July 20th?
16 A How I came to it?
17 Q Yes.
18 A We decided to bid on it and drove over to the
19 courthouse and started bidding.
20 Q How did you come to decide to bid on it.
21 A My wife, through the public information, we saw
22 that the property was coming up for bid. And we are
23 familiar with Spinnaker. And we had been considering
24 in investing on real estate on the island, so we
25 decided to bid on that one.

0010

1 Q What public information did your wife come across
2 that showed that the property was coming up for bid?
3 A The Charleston County Courthouse records.
4 Q Is that a normal thing for your wife to review?
5 A Oh, yeah.
6 Q Why does your wife regularly review the Charleston
7 County Courthouse records?
8 A Because we were considering looking at properties.
9 Q Do you recall when your wife came across the Kelley
10 property?
11 A I believe it was May of this year.
12 Q Okay. Had you considered buying or bidding at a
13 foreclosure sale prior to May 2017?
14 A Yes.
15 Q How long had you been interested in participating
16 in the foreclosure bid process?

17 A Over the last year about.
18 Q Prior to May 20th, had you attended any foreclosure
19 auctions?
20 A Me personally?
21 Q Yes, sir.
22 A No.
23 Q Had your wife?
24 A Prior to May 20th, I don't think so. I think she
25 started going to the auctions after we discovered that
0011

1 this property was in foreclosure.
2 Q Okay. In May of 2017 when your wife uncovered that
3 the Kelly property was going to be scheduled for sale,
4 were you guys interested in bidding on foreclosed
5 property at that time?
6 A Yeah, we were starting to be interested, yes.
7 Q And that's why your wife was reviewing the
8 Charleston County website?
9 A Yes.
10 Q Because you guys were looking at investment
11 opportunities?
12 A That's correct.
13 Q Okay. Did your wife have a position with the
14 Spinnaker board back in May of 2017?
15 A No.
16 Q Was she doing any work for the Spinnaker board in
17 verifying outstanding liens or looking at foreclosure
18 actions relative to spinnaker liens in May of 2017?
19 A I don't believe so.
20 Q And she didn't serve on the board. There's no
21 reason for her to be investigating past due liens with
22 the outstanding liens board at that time, was there?
23 A Not unless somebody asked her to.
24 Q Are you aware of anybody asking her to?
25 A No.

0012
1 Q But in May of 2017, the two of you were exploring
2 bidding at foreclosure sales?
3 A Yes.
4 Q Was your interest focused on Seabrook properties,
5 or was it county wide?
6 A Seabrook.
7 Q Other than the Kelley property, have you bid on any
8 other Seabrook properties?
9 A Bid, no.
10 Q Have you pursued any other Seabrook properties?
11 A We investigated one.
12 Q Where was that?
13 A Tarpon Pond. You mean foreclosures?
14 Q Yes, sir.
15 A It was a Tarpon Pond.
16 Q And who was foreclosing the Tarpon property?
17 A I think it was the Tarpon Pond Association, I
18 believe.

19 Q Not SIPOA?
 20 A I'm not sure. But I think it was Tarpon Pond was
 21 foreclosing on them.
 22 Q Okay. Mr. Squire, does Seabrook Island, if you
 23 serve on the board, is there a code of conduct?
 24 A There is, yes.
 25 Q Are you familiar with that code of conduct?
 0013
 1 A Yes.
 2 Q And I think it's been marked, and I have a copy of
 3 it. It's been marked as Plaintiff's Exhibit 5. And
 4 I'll hand you that document. And it looks like it was
 5 approved on February 19, 2016. Did you vote to approve
 6 that code of conduct for members of the board of
 7 directors?
 8 A No.
 9 Q Okay. Were you serving on the board at the time it
 10 was approved?
 11 A Yes.
 12 Q Tell me how you came not to vote on it if you were
 13 serving?
 14 A Why I voted no? Is that what you're asking?
 15 Q Did you vote yes or no?
 16 A I voted no.
 17 Q Why did you vote no?
 18 A Because I thought it went too far.
 19 Q What component or aspect do you believe went too
 20 far?
 21 A Where was it? It's been a while since I voted on
 22 this. Board members shall not use or publicly support
 23 the use by others of any means of public advocacy of
 24 position for or against a matter that is currently
 25 before the board. I thought this was a violation of my
 0014
 1 First Amendment rights to talk to owners and other
 2 board members. And so I voted against it.
 3 Q Did it pass, despite your opposition?
 4 A Yes.
 5 Q And this code of conduct was certainly in place at
 6 the time of the Kelley foreclosure and when you
 7 participated in the bid process?
 8 A I suppose so, yes.
 9 Q Other than the section of the code to which you
 10 referred, which I think is item seven on page two, did
 11 you have any other issue with this code of conduct?
 12 A Yes. I had a number of issues. Board members --
 13 number 9, board members shall not knowingly
 14 misrepresent facts to any member of the community
 15 regarding a matter that is before the board, for any
 16 purpose. I didn't even know what that meant. I had no
 17 problem with 10. No problem with 11. No problem with
 18 12.
 19 Q I'll refer you to page one.
 20 A Okay.

21 Q Under the last whereas section. It starts,
22 whereas, in exercise of such authority and
23 responsibility, each board member has responsibility and
24 accountability pertaining to fiduciary duties and
25 ethical obligations, including but not limited to the
0015 following. It goes under fiscal, loyalty, care and
1 ethical conduct. Did you have any issues with any of
2 those obligations and responsibilities?
3 A No.
4 Q Did you have any issue with placing the interest of
5 SIPOA as a whole above personal and/or other interests?
6 A No.
7 Q What about ethical conduct, maintaining a high
8 standard of ethical conduct in the performance as a
9 SIPOA board member?
10 A Of course I think that is very important, yes.
11 Q You agree that's important?
12 A Yes.
13 Q And avoiding conflicts of interest would be equally
14 important?
15 A Yes.
16 Q In fact, SIPOA has a conflict of interest policy,
17 doesn't it?
18 A Yes. It's in our bylaws.
19 Q Okay. In fact, are you aware that there's a
20 separate document entitled SIPOA conflict of interest
21 policy? Have you ever seen that?
22 A You would have to jog my memory.
23 (Exhibit No. 12 was marked.)
24 Q Have you ever seen Exhibit 12 before?
0016 A I believe I have. I think this is pretty much the
1 language that's in the bylaws.
2 Q Okay.
3 A And I believe that I probably saw this one when I
4 ran for the board, yes.
5 Q Would you agree with me that this conflict of
6 interest policy has governed your conduct as a member of
7 the SIPOA board of directors?
8 A Yes.
9 Q I'm going to hand you Exhibit 6, which is entitled
10 Seabrook Island Property Owners Conflict of Interest
11 Statement. Have you ever seen that document before?
12 A Yes.
13 Q And I assume that you completed that document when
14 you sought to be a member of the board?
15 A Yes.
16 Q Have you completed it since?
17 A No, I don't believe so.
18 Q Do you understand that you had an ongoing
19 responsibility to disclose to the board, even the
20 appearance of any potential conflict? And I'll refer
21 you specifically to the last two paragraphs on page two.
22

23 And I'll give you a moment to read those.

24 A The last two?

25 Q Starts with "in essence."

0017

1 A What was the question again?

2 Q I'll start again. I understand you completed this
3 form at the time you sought a position on the board.

4 A That's correct.

5 Q Have you completed this form since?

6 A No, I don't believe so.

7 Q Did you complete this form when you were
8 considering bidding on the Kelley property?

9 A No.

10 Q Did you speak with anybody affiliated with the
11 board or Seabrook Island regarding your interest on
12 bidding on a foreclosed property that the SIPOA board
13 was foreclosing?

14 A You said or Seabrook Island? Are you talking
15 about anybody on the island?

16 Q Anybody.

17 A Yes.

18 Q Whose guidance did you seek regarding your
19 participation in this sale?

20 A I asked the outstanding liens board.

21 Q What did the outstanding liens board tell you?

22 A They didn't see any conflict at all.

23 Q Why did you speak with the Spinnaker board that
24 wasn't the foreclosing entity, as opposed to the SIPOA
25 board that had brought the action?

0018

1 A Because I didn't see there was any conflict with
2 SIPOA or Spinnaker. I just wanted to verify because I
3 was president of the Spinnaker Association, you know,
4 that I told them.

5 Q So you recognized that there might be a conflict.
6 And because of that concern, you sought counsel of the
7 Spinnaker board or somebody affiliated with Spinnaker
8 HOA?

9 A I didn't recognize there was a conflict. I didn't
10 think it was a conflict at all.

11 Q Tell me why you had the discussion to start with.

12 A I wanted the Spinnaker board to know that I was
13 bidding on the property.

14 Q Why did you want the Spinnaker board to know that
15 you were bidding on a property?

16 A Because it was Spinnaker, and I wanted to make
17 sure they didn't have any problem with me bidding on
18 it.

19 Q What problem might they have?

20 A I don't know.

21 Q You hadn't voted to proceed with the foreclosure
22 being brought by the Spinnaker board, had you?

23 A I'm sorry?

24 Q Who brought the action?

25 A The foreclosure action?

0019

1 Q Yes, sir.

2 A SIPOA.

3 Q Spinnaker didn't bring this action, did they?

4 A No.

5 Q But you sought the counsel of the Spinnaker board regarding your interest in bidding?

7 A I was the president of the Spinnaker Association at the time.

9 Q And you were also a member of the SIPOA board that voted to proceed with the foreclosure?

11 A Correct.

12 Q In hindsight, do you recognize potential conflict of a member of the SIPOA board who voted to proceed with the foreclosure then bidding at the foreclosure sale?

15 A Absolutely not.

16 Q Do you know of any other instance when a member of the SIPOA board has ever bid on property that the SIPOA board voted to foreclose?

19 A I don't know of any.

20 Q Nor do I. This is the only time that I know of that this has ever occurred, that a member of the board of SIPOA has bid on property that SIPOA was foreclosing.

23 A Is that a question?

24 Q I'm asking you whether this has ever happened before, whether a member of your board has done this?

0020

1 A Didn't I already answer this? I said no, I don't know of anybody else that has ever bid on a property that SIPOA has foreclosed on.

4 Q Okay. I'll refer you back to Exhibit 6. It's in front of you. It says, if a person in one of these positions is confronted by an issue that a person of ordinary prudence would recognize places them in the position of having to choose between the best interests of SIPOA and their own personal views, then that person should disclose the conflict. Is it your testimony that you at no time disclosed this potential conflict to anybody involved with SIPOA?

13 A I didn't think it was a conflict.

14 Q In hindsight, do you think it was a conflict?

15 A No.

16 Q Tell me why not.

17 A Because it wouldn't matter if I bid on it or somebody else bidden on it. It still would have happened. And I had a fiduciary duty, as a SIPOA board member, to -- once we voted to foreclose on it, it didn't matter anymore who bid on the property.

22 Q How did you know it would have happened?

23 A How did I know what would have happened?

24 Q How did you know that somebody else would have bid on it when you decided to participate in the bid?

0021

1 A I didn't know for sure, but I'm pretty sure
2 somebody else would bid on this property.
3 Q You didn't know when you made the decision. When
4 you decided to participate in the bid process, you
5 didn't know whether there would be 100 bidders or zero.
6 A That's true. Well, I knew there would be one.
7 Q You, correct?
8 A Yeah.
9 Q Or your wife?
10 A Yes.
11 Q So you didn't know that other folks would do it.
12 Do you think it would be appropriate for every member of
13 the board of directors of SIPOA to bid on every property
14 that they vote to proceed to foreclosure?
15 A I see no problem.
16 Q Do you think that would be consistent with the
17 ethical obligations and the conflict of interest
18 policies of your bylaws?
19 A I have no problem doing what we did, bidding on a
20 property. I mean, we have fiduciary duty to protect
21 property values on the SIPOA board, and that's what we
22 did when we foreclosed on these properties. Once we
23 made that decision, anybody could bid on these
24 properties.
25 Q Is there any policy or guideline upon which you
0022
1 rely in making that statement?
2 A No.
3 Q Did you seek counsel from anybody with the SIPOA
4 board prior to embarking on this course of conduct?
5 A No.
6 Q Have you done so since?
7 A No.
8 Q Okay.
9 A And --
10 Q I'm sorry?
11 A They haven't told me anything either. I mean,
12 they have not brought me up on any charges on conflict
13 of interest.
14 Q What charges might they bring you up on?
15 A If you violate the code of conduct, you can be
16 brought before the SIPOA board.
17 Q For what?
18 A For violating the code of conduct.
19 Q For removal?
20 A Possibly.
21 Q Have you considered that possibility prior to your
22 testimony just now?
23 A No.
24 Q When was the first time you entered the Kelley's
25 premises?
0023
1 A It was early September.
2 Q Do you recall the date?

3 A I think it was like September 6th or somewhere
 4 around there.
 5 Q Okay.
 6 A It was just after Labor Day.
 7 Q Did you speak with them?
 8 A Who is "them"?
 9 Q The Kelleys, have you ever spoken to them?
 10 A I've never spoken to the Kelleys.
 11 Q Have you ever attempted to write them or
 12 communicate with them?
 13 A Never.
 14 Q Your wife testified as to the work done on the
 15 property and the items disposed of.
 16 A Okay.
 17 Q Do you have anything independent to add to her
 18 testimony?
 19 MR. COBB: Object to the form. He didn't
 20 hear her testimony.
 21 Q Who would have the most knowledge regarding the
 22 personal property items removed and the work done on the
 23 property?
 24 A We both would know.
 25 Q Tell me what the two of you have done to the
 0024 property.
 1 A In terms of things removed?
 2 Q Yes, sir.
 3 A I think we gave away a couch to Habitat. It was
 4 in very bad shape. Some houseware, some construction
 5 debris throughout. We gave away a cast grill, a few
 6 other items I think.
 7 Q Who did you give those items to?
 8 A Habitat. No. I'm sorry. Goodwill.
 9 Q Did they give you a receipt for the value of those
 10 items?
 11 A I believe they did.
 12 Q What value was assigned to those items?
 13 A We haven't assigned any value.
 14 Q Do you intend to file for a charitable donation
 15 relative to those items?
 16 A Probably.
 17 Q Are they your items to take that donation?
 18 A I believe so.
 19 Q Based on what?
 20 A The judge's order, I believe, said that we can
 21 dispose of anything in the house as we see fit.
 22 Q Okay.
 23 A That's my understanding.
 24 Q I want you to show me that section. I think I know
 0025 the order to which you are referring. Here's Exhibit 1.
 1 I think that's the judge's order, and I would like you
 2 to point to me where it says that you can dispose of
 3 anything as you see fit.
 4

5 A Perhaps it wasn't the judge's order. It was
6 another document that talked about what happens after
7 share of sale.

8 Q I think this is the document, so I'll try to guide
9 you. And if I'm incorrect --

10 A Okay.

11 Q I will publish to you in the memorandum your
12 counsel filed on your behalf, he pointed to paragraphs
13 28 and 29 of that order.

14 A Yeah. It's in paragraph 29. Purchaser is
15 authorized to remove from properties all furnishings,
16 fixtures and other items not subject to Plaintiff's
17 lien.

18 Q Okay. You're reading the second clause of the
19 first paragraph of paragraph 29?

20 A The personal property, being deemed abandoned,
21 shall be removed by the purchaser or its agents from
22 the property by placing said personal property on the
23 public street or highway.

24 Q Let's read the entire paragraph. Because you've
25 left out the first section of it. 29 reads, in the

0026

1 event the successful bidder is someone other than the
2 defendant in possession and the occupants have
3 voluntarily vacated the properties or have been ejected
4 from properties. Did you ever pursue the Kelley's
5 ejectment from the property?

6 A No.

7 Q Do you know what that means?

8 A I --

9 Q I'll help you. What that means is you have filed a
10 court action to have them evicted or ejected. Did you
11 do either of those two things?

12 A No.

13 Q Well, let's look at the second part of paragraph --
14 the first sentence of paragraph 29. And the occupants
15 have voluntarily vacated.

16 A Yes.

17 Q What evidence do you have that the Kelleys
18 voluntarily vacated the premises? Did you speak with
19 them?

20 A I never spoken to the Kelleys.

21 Q Have you seen a document reflecting that they had
22 voluntarily vacated the property?

23 A Well, I mean, we always felt that the fact that he
24 didn't pay his dues, Spinnaker dues and SIPOA, means
25 that he was vacating the property. He let it go to

0027

1 foreclosure. We figured he didn't want it. We thought
2 he was voluntarily leaving.

3 Q It was a feeling. Did the house appear to have
4 been voluntarily vacated? Was it empty?

5 A It wasn't empty.

6 Q In fact, it was furnished?

7 A Very poorly.
8 Q You kept the furniture?
9 A We kept the furniture, yes, so far.
10 Q And I appreciate the comment on the quality of my
11 client's furnishings, but would you agree that the house
12 was fully furnished?
13 A Correct.
14 Q You didn't see a moving truck in front of the
15 house?
16 A No.
17 Q In fact, you had no evidence to suggest that the
18 Kelleys had voluntarily vacated the property?
19 A I don't know about no evidence.
20 Q Well, tell me what evidence you have.
21 A There was no pictures of the Kelleys on the walls
22 or anything, no personal effects or anything. There
23 were no clothes in the house.
24 Q You're aware it was a rental property?
25 A A lot of junk.

0028

1 Q You're aware it was a rental property?
2 A No, I was not.
3 Q Was it being taxed as a primary residence?
4 A I have no idea.
5 Q Do you have any evidence that it wasn't a rental
6 property?
7 A I'm not sure. I don't have any evidence that it
8 was a rental property. I wouldn't know.
9 Q It could be?
10 A Sure.
11 Q He wasn't living there full time?
12 A I know he had a property manager, but I don't know
13 if they rented it.
14 Q How do you know he had a property manager?
15 A Because when we -- a few days later after we got
16 the property, the locks had been changed. And we got
17 in touch with the property manager.
18 Q How did you come to get in touch with the property
19 manager?
20 A We had changed the lock on the door because we had
21 the deed to the house. And that's what we were told we
22 were supposed to do when you get the deed to the house
23 is change the locks right away. And we came back a day
24 or two later, and the lock had been changed back. We
25 called security. And security came and said they

0029

1 didn't know much about it. But they evidently knew who
2 the property manager was, and we got in touch with the
3 property manager. And they told us -- the property
4 manager, Ronald Ible [ph], told us that the owner had
5 changed the lock back.
6 Q All right. I just want to make sure I understand
7 the sequence. You got the deed on September 5th and
8 changed the locks shortly thereafter?

9 A That's correct.
 10 Q And then the locks were changed back by the
 11 Kelley's property manager?
 12 A That's correct.
 13 Q Did you then change the locks back again?
 14 A Yes.
 15 Q So you knew the Kelleys remained interested in the
 16 property because they had changed the locks back?
 17 A We were surprised.
 18 Q And despite your knowledge of the Kelley's
 19 continued interest in the property, you proceeded to
 20 take certain acts with regard to the property, including
 21 the start of renovations and the disposal of some of
 22 their personal effects?
 23 A We saw it as our property.
 24 Q But you knew they remained interested in the
 25 property, and they did not voluntarily vacate it?
 0030
 1 A We saw that as irrelevant. We had the deed. It
 2 was our property.
 3 Q You didn't care, did you?
 4 A It wasn't my responsibility to care for Mr.
 5 Kelley.
 6 Q Did you attempt to speak with the property manager?
 7 A My wife spoke with the property manager.
 8 Q Did you attempt to speak with the Kelleys?
 9 A Personally, no.
 10 Q They had been your neighbors for --
 11 A They weren't my neighbors. They lived in
 12 Pennsylvania.
 13 Q They lived ten houses down from you, sir. They
 14 lived on the same street.
 15 A They lived in Pennsylvania.
 16 Q How close is their house to your house?
 17 A A few hundreds yards.
 18 Q Did you ever speak with the Court regarding the
 19 proper way to handle the removal of a former owner's
 20 property post foreclosure?
 21 A Speak with the Court?
 22 Q Or anybody before you dump their belongings, what
 23 steps did you take to make sure you were doing things
 24 the right way?
 25 A They weren't his belongings. They were my
 0031
 1 belongings.
 2 Q Do you have a bill of sale or anything to reflect
 3 that the personal property was conveyed to you, sir?
 4 A I have a deed that says I own the house.
 5 Q No. You have a deed that says you own the house
 6 but what about the personal property, sir?
 7 A My understanding is that comes with the house
 8 after a foreclosure.
 9 Q From where does that understanding come? Because
 10 that is 100 percent incorrect.

11 A From this paragraph here, that's the way we read
12 that, that anything that he abandoned shall be removed
13 by the purchaser.
14 Q The paragraph that you rely upon says that you can
15 remove those items in two circumstances. One, if you
16 pursue an ejectment, which you didn't do. And the other
17 is if the former owner has voluntarily vacated, which
18 you knew they didn't do because they changed the locks
19 after you did. Do you have anything, other than your
20 feeling that they have vacated, to justify your disposal
21 of their personal effects?
22 A Well, he was in the property during the
23 foreclosure process. We figured he was taking his
24 personal stuff out and abandoning the rest of it.
25 Q Other than your figuring and your feelings, do you

0032

1 have any other evidence that justifies your actions?
2 Did you seek legal advice?
3 A Did I seek legal advice?
4 Q You had retained counsel by then. You could have
5 called your lawyer before you got rid of my client's
6 stuff.
7 A We did speak with our counsel after you filed the
8 case and we found out there was a problem.
9 Q You had engaged Mr. Cobb well before that. You
10 engaged Mr. Cobb in July.
11 A Right.
12 Q Did you pick up the phone and call him before you
13 chose to put my client's belongings on the street?
14 A No.
15 Q Why not?
16 A Because it was our belongings. That was obvious
17 to us.
18 Q Sir, I will tell you that what may be obvious to
19 you is contrary to the law.
20 A We believed that we did everything according to
21 the law when we bid on the property. And reading that
22 paragraph, when the judge gave us title to the house
23 and said anything that is abandoned is ours, we
24 believed it was ours.
25 Q And if you're mistaken --

0033

1 A Why would I believe anything differently?
2 Q Well, I'll show you, sir. I'm going to hand you a
3 document that has been marked Exhibit 2, which walks
4 folks through the process of what you're supposed to do
5 with personal property post sale. Now, your wife
6 testified that she was very familiar with the public
7 records and the courthouse documents. Are you, sir?
8 A To a certain extent.
9 Q I will publish to you that this document, Exhibit
10 2, is from the master-in-equity website. In fact, the
11 first page is the index for that website. Do you see
12 that, sir?

13 A I see it.

14 Q And in fact, five up from the bottom is a document
15 entitled writ of assistance. Did you call the
16 courthouse and seek guidance before you disposed of my
17 client's belongings?

18 A No.

19 Q Well, let's look back. And I'll walk you through
20 it. There was a blank form on page two of this exhibit
21 that explains what someone like yourself is supposed to
22 do before you dispose of someone's property. And the
23 document is called a motion for writ of assistance.
24 Have you ever seen that document before?

25 A I've never seen this document.

0034

1 Q I'll publish to you that document shows what
2 somebody is supposed to do before they take matters into
3 their own hands and dump folks belongings on the side of
4 the street or donate them in an attempt to go ahead and
5 take a tax benefit from it. Did you file that motion
6 for writ of assistance, sir?

7 A No.

8 Q Did you get an order from the Court for a writ of
9 assistance?

10 A No.

11 Q Okay. Prior to today, were you aware that that was
12 the proper process to take?

13 A I'm not aware it is the proper process.

14 Q Are you questioning the validity of the document I
15 put in front of you?

16 A No.

17 Q Why don't you take a few moments to read it.

18 A I'm not a lawyer. I don't know.

19 Q You've testified throughout your deposition as to
20 what your understanding is of the law. Why don't you
21 take a few moments and read Exhibit 2.

22 A Okay. The defendants would be the Kelleys?

23 Q Yes, sir.

24 A Okay.

25 Q Does that document seem to apply to the removal of

0035

1 personal property post foreclosure?

2 A It appears to me, as a nonlawyer, that this is
3 talking about if you have to kick somebody out of the
4 property.

5 Q I'll refer you to paragraph four of that document
6 that reads, the defendant or others claiming through
7 them still occupy the premises and have within the
8 premise certain items of personal property and
9 furniture. Does that help?

10 A Not really.

11 Q No? Would you disagree with me that the very
12 situation addressed in that motion applied to yours,
13 that you had taken possession of real property, personal
14 property and furniture, in this case, the Kelley's,

15 remained in the premises?

16 A The first line says, the defendants or others

17 claiming through them still occupy the subject

18 premises. I don't know of Kelley ever claiming that he

19 still occupied the property.

20 Q Do you know that he did not claim to occupy the

21 property? He changed the locks on the property.

22 A I don't know either way. He never called us and

23 said, you know, I still own that property.

24 Q He changed the locks. You knew that.

25 A He may have thought he owned the property. That

0036

1 wasn't my concern.

2 Q Fair enough, sir. That's your testimony. I'm very

3 comfortable with that. What do you think the property

4 is worth?

5 A As is or after it's fixed? It's in very bad

6 shape.

7 Q Tell me what you think the property is worth in its

8 current condition.

9 A I'm going to say 150 maybe.

10 Q Okay. Are you aware of what the tax value of the

11 property is?

12 A Probably higher than that.

13 Q You keep a database as to values of Seabrook Island

14 properties?

15 A I track Seabrook Island properties, yes.

16 Q How do I get a copy of that database?

17 A It's on my computer.

18 Q Could you make a disk?

19 A It's a list of sales.

20 Q Whatever it is, can you provide that information or

21 whatever the contents of that database are to your

22 counsel so he can provide it to me?

23 A If he's okay with that, I'm okay with it.

24 Q Do you have a separate file, other than the file

25 that your wife brought today, as to the Kelley property?

0037

1 A Separate file on what?

2 Q Your wife provided copies of certain documents to

3 me relative to this particular case. She also

4 testified, and I believe you did too, that you may have

5 maintained a separate file.

6 A Separate file on what?

7 Q On this transaction, on your purchase of my

8 client's property, on your participation of the

9 foreclosure process.

10 A I may have a separate file than what she has? I

11 don't believe so. All the documents that she collected

12 for this and what we did, I think she has them all. I

13 believe that's correct.

14 Q Okay. Might you have documents other than your

15 wife?

16 A I might, but I can't think of any.

17 Q If you look and if you have those, provide them to
18 your counsel.

19 A What kind of documents? I mean, what are you
20 talking about?

21 Q I'm talking about -- I'm not going to guess what
22 may be in your file. But in your wife's file, there's
23 everything from court records to documents relative to
24 investigating the foreclosure process, to auction lists,
25 to other strategy documents, to copies of the rules of

0038

1 South Carolina Rules of Civil Procedure, to cases that
2 she has come across, to other public records.

3 A Yeah. I'm aware of what she has.

4 Q As well as documents regarding taxes, evaluation of
5 this property and other properties, projected income
6 streams, that sort of stuff. So if you have any
7 documents that would in any way relate to the Kelley
8 property, that's what I'm asking.

9 A Sure.

10 Q Okay. Does that help?

11 A Yeah. If I have any others, I'll be happy to
12 share them.

13 Q Are you in good health?

14 A I believe so, yes.

15 Q Have you ever been diagnosed with cancer?

16 A No.

17 Q Anyone close to you ever been treated for cancer?

18 A No.

19 Q Do you know of anybody that's been diagnosed with
20 leukemia?

21 A Personally?

22 Q Yes.

23 A I don't think so.

24 Q Do you know what chemotherapy is like when you're
25 suffering from leukemia?

0039

1 A No.

2 Q Does it surprise you that it's incapacitating?

3 A I wouldn't know. I'm not a doctor.

4 Q Would it surprise you that it would require
5 inpatient care outside of the area in which you live?

6 A It wouldn't surprise me.

7 Q Would you consider leukemia to be a serious
8 illness?

9 A Yes.

10 Q If you knew that the Kelleys had failed to pay
11 their assessments and appreciate that they may lose
12 their home that they've had for 38 years over a \$2,700
13 lien and that Mr. Kelley was suffering from leukemia,
14 would you have bid on their house?

15 A Probably, yes.

16 Q Okay. The fact that Mr. Kelley, who lived on the
17 same street from you and was critically ill, that would
18 not have impacted your decision?

19 A Mr. Kelley lived in Pennsylvania. He owned a
20 vacation house in Seabrook.
21 Q What difference does that make, sir?
22 A You said he lived there. He didn't live there.
23 Q He owned it for 38 years and vacationed there with
24 his family. He owned \$2,700 and was suffering from
25 cancer. And you and your wife took advantage of his
0040
1 circumstance to better yourselves financially, correct?
2 A I didn't know he had cancer.
3 Q But you do now. And that was my question. If you
4 knew now Mr. Kelley's circumstance, would you have
5 proceeded in the way that you did?
6 A I would, yes.
7 Q Irrespective of his health condition and what he
8 was going through?
9 A Yes.
10 Q To benefit yourself financially?
11 A It was a business decision. Whether it's going to
12 benefit me financially is still to be seen. The place
13 is in bad shape.
14 Q That's the least of your worries, sir.
15 MR. ALTMAN: Give me a couple of moments, and
16 we may be done.
17 (The deposition took a short recess.)
18 EXAMINATION BY MR. COBB:
19 Q Phil, just to reaffirm a couple of points from your
20 testimony here today by questions asked to you by
21 Mr. Altman, I just want to reiterate a couple of
22 things. Number one, when the SIPOA board is provided
23 the list of potential foreclosures, you had mentioned
24 that there was an account number on that list for SIPOA
25 membership account numbers.
0041
1 A I believe so, yes.
2 Q But you also testified that the name and address
3 for the person being foreclosed on was completely
4 redacted?
5 A That's correct.
6 Q Did you have any reason to believe during any of
7 these votes prior to finding out that 749 Spinnaker was
8 being foreclosed on, that that unit was actually being
9 the ones that you voted on?
10 A No, I had no reason to believe.
11 Q Are you able to -- do you have the ability to
12 figure out what an account number is, in terms of tying
13 it to the property or the owner?
14 A No.
15 Q Okay. You mentioned that you voted no or you had
16 abstained one time on a foreclosure list. Why did you
17 vote no at that time?
18 A Why did I abstain?
19 Q Yes.
20 A Because I think I expressed the belief that we

21 should have presented to the board -- we should set a
22 standard for when we foreclose on properties and then
23 let the staff go ahead with those foreclosures rather
24 than let the board vote.

25 Q Why was that important to you?

0042

1 A Because I didn't think it was right that we were
2 voting on these foreclosures.

3 Q So why didn't you abstain from future votes?

4 A This was within the last month. I thought about
5 it and decided this wasn't right.

6 Q Explain to me what you mean by "wasn't right."
7 What changed?

8 A I thought, first of all, it's a very
9 time-consuming process for the board. I thought the
10 staff should decide whether we're going to foreclose,
11 based on lawyers. And we just set the policy for when
12 we foreclose. And then it would be automatic if the
13 property meets that policy, then it should be a
14 foreclosure.

15 Q Is the board represented by Turner, Padgett, Graham
16 and Laney?

17 A Yes.

18 Q And Ms. Nichols here is with that firm. Have you
19 met or knew -- had you ever talked to Ms. Nichols about
20 this property prior to the point in time you were told
21 by Ed Huff to go call her?

22 A No.

23 Q And I apologize. Let me back up. Did you speak to
24 Ed Huff related to this situation -- let me back up even
25 further. I'm going to terminate that.

0043

1 You said earlier that you were interested for
2 roughly about a year for looking at possible
3 foreclosures. Do you think that it's possible that your
4 wife may have looked up the lien on this property in
5 May?

6 MR. ALTMAN: Object to the form.

7 Q Do you think your wife would have looked at this
8 property in May for the benefit of Spinnaker, being its
9 ex treasurer, or do you think she looked at this
10 property in May for the benefit of foreclosing on the
11 property?

12 MR. ALTMAN: Same objection.

13 A I think she was probably doing a little bit of
14 both.

15 Q You testified about Exhibit Number 6, the conflict
16 of interest form. Why do you believe your sitting on
17 the board of SIPOA and you being a member of an entity
18 that is bidding on the property, why do you believe it
19 wasn't a conflict of interest?

20 A Why it was not a conflict of interest?

21 Q Right. Under the code of conduct and the conflict
22 of interest policy and the bylaws. And I believe also

23 it is presented in Exhibit Number 11 or 12.

24 A Well, basically two reasons. Because once you
25 vote for foreclosure, I mean, there's -- the thing is

0044

1 out there, and anybody can bid on it. The second
2 reason is SIPOA has an interest in people bidding on
3 the properties. They want them to be bid on,
4 transferred ownership and start paying dues again.
5 That's what SIPOA is looking for. That's our fiduciary
6 duty. Get this property away from the person who is
7 not paying the dues and get it in the hands of somebody
8 who is paying the dues.

9 Q You mentioned how you had gone to Spinnaker prior
10 to the bidding, but you didn't go to SIPOA. Can you
11 please clearly explain why you didn't go to SIPOA prior
12 to bid?

13 A Why I didn't go to SIPOA? It's because I didn't
14 see it as any conflict of interest.

15 Q So what was the difference between a potential
16 concern of conflict of interest with Spinnaker versus a
17 potential conflict of interest with SIPOA?

18 A It was just to tell the Spinnaker board that I was
19 going to vote on it, just to see if they had any
20 problems with it at that point. It had gone past the
21 foreclosure process.

22 Q But again, why not go to SIPOA?

23 A Why?

24 Q Why not just inform them just like you did with --

25 A I didn't see there was any conflict of interest in

0045

1 bidding on the property. I really didn't.

2 Q Was it because you were the president of Spinnaker
3 is why you felt you needed to disclose to them what you
4 were doing?

5 A No.

6 Q Then why disclose it at all?

7 A Well, I was the president, and I wanted -- we had
8 a policy on the Spinnaker board to share as much
9 information as possible. We're very close to the
10 Spinnakers. And we're trying to get it back -- they
11 owe \$10,000 to Spinnaker as well.

12 Q You testified earlier that you -- and I think
13 Mr. Altman said neither of you were aware of another
14 SIPOA board member bidding on another property that
15 SIPOA was foreclosing on, correct?

16 A I know of no other, but I don't know.

17 Q So it is possible that another board member could
18 have bid. You just don't know, correct?

19 A Right.

20 Q Is there any specific policy against doing that?

21 A Not that I know of, and I haven't been told by the
22 SIPOA board that I've done anything wrong either.

23 Q But are they aware that you have this bid in and
24 you have this legal action?

25 A Yes.

0046

1 Q How are they aware of that?

2 A When these gentlemen filed their case, they
3 immediately told me that I couldn't operate the
4 property anymore until it was settled.

5 Q Okay. So "they" being, what, like a board of
6 architectural review or somebody like that?

7 A Ed Huff, who is also legal chair, informed me that
8 they had discussed it with SIPOA's attorney and that I
9 was -- if I made any requests for ARC changes, like I
10 wanted to replace the deck, then I would not be allowed
11 to do so.

12 Q All right. When you went to the bid, was their
13 competition of the bid?

14 A Yes.

15 Q How many people were bidding on this property?

16 A At least three or four.

17 Q Did you know anybody who was bidding on it?

18 A No.

19 Q Were any of them other board members of SIPOA?

20 A No.

21 Q You had talked about voluntarily vacating the
22 property in terms of paragraph 29 of Exhibit 1, the
23 foreclosure order by the master-in-equity. In your
24 statement, you said that there were no personal effects,
25 just a lot of junk, right?

0047

1 A Right.

2 Q So in terms of a voluntary vacated property that's
3 a rental property, do you believe that the furnishings
4 would have -- do you believe that somebody living in
5 Pennsylvania would come down and pick up a lot of old
6 furniture? Do you believe that was necessary for a
7 vacate?

8 A First of all, this was not a rental property.
9 There's no way. I'm familiar with rental properties on
10 Seabrook, and there's no way this was rental property.
11 No rental property manager would ever rent a property
12 that looked like this. And second of all, what was the
13 other part of your question?

14 Q We're running out of time. The property manager
15 that you spoke to -- well, did you speak to the property
16 manager that security referred you to?

17 A No.

18 Q Did the property manager ever contact you directly?

19 A Not me, no.

20 Q Who did they contact?

21 A He talked with Cherie.

22 Q Do you know if the property manager ever had
23 Mr. Kelley call Cherie or yourself to talk about the
24 situation or this dispute?

25 A No.

0048

1 Q So the only time you became really aware that this
2 was an issue was when you had this filing?
3 A That we had a problem?
4 Q Right.
5 A Yeah.
6 Q And why do you think he would have taken the steps
7 to change the locks? Why do you think that was him
8 claiming an interest on that property still?
9 A I think he probably thought he still owned the
10 property.
11 Q So maybe he was just blissfully ignoring the
12 foreclosure?
13 A He had a history of blissfully ignoring requests.
14 Q What kind of history?
15 A Well, when I was on the Spinnaker board five or
16 six years ago, he would never pay his dues. And we
17 would send him letter after letter after letter, and at
18 the end of the year, he would pay up.
19 Q Would you agree that, based off the information
20 Mr. Altman has provided you today under the
21 master-in-equity exhibit, that that would be proper to
22 do if the unit had not been voluntarily vacated, you
23 know, that it would be proper to take the steps as laid
24 out by Mr. Altman?
25 A If it had not been -- if I believed it had not
0049
1 been voluntarily abandoned?
2 Q Yes.
3 A Then I guess I should have done something like
4 that.
5 Q But you did believe it had been abandoned?
6 A Absolutely I believed it had been abandoned.
7 There was nothing worthwhile in there.
8 Q Understanding Mr. Kelley's situation on his health
9 issues and understanding the moral and ethical
10 implications of the situation in terms of the points
11 that had been brought up, not only in our conversations
12 but also in this deposition, do you believe that it
13 would be a fair outcome for you to receive the money you
14 paid in the master-in-equity back, the money you're out
15 of pocket and any and all legal fees, as well as
16 indemnifications from any claims the Kelleys may have
17 against you? Do you think that would be a fair outcome?
18 A No.
19 Q Why not?
20 A Because I want the house.
21 MR. COBB: No further questions.
22 FURTHER EXAMINATION BY MR. ALTMAN:
23 Q Mr. Squire, the locks were changed on September
24 6th, correct?
25 A About that, yes.
0050
1 Q Did you take any steps after the locks were changed
2 to determine what interest the Kelleys believed they

3 held in the property?
4 A We talked to the property manager. That's all.
5 Q And you testified just now that it was your belief
6 that they believed that they still owned the property?
7 A We didn't know.
8 Q But that's what you testified to, that you thought
9 that the Kelleys may have thought that they still owned
10 the property?
11 A That's what we thought, yes. When we saw that he
12 changed the lock back on, we thought, oh, this guy must
13 think he still owns the property.
14 Q And I would concur that that's a reasonable
15 conclusion when somebody changes the locks back that
16 they continue to hold an interest, likely an ownership
17 interest, in the property?
18 A Right.
19 Q At that point, did you take any steps to determine
20 whether your belief was correct that the Kelleys still
21 believed they were the owners of the property?
22 A I took no steps.
23 Q In fact, you did take steps, sir. The steps that
24 you took were you disposed of their personal effects.
25 You began renovating the property, and you took the

0051

1 property that you didn't want to keep for yourself to
2 Goodwill. Those are the steps you did take. Is that
3 accurate?
4 A Because I thought they were my property.
5 Q But you understood the Kelleys still claimed or
6 certainly believed that they may believed that they
7 still owned not only personal property but also the real
8 property?
9 A Yes, I suppose he probably did. I don't know what
10 he believed or not believed.
11 Q You knew that was a possibility?
12 A I knew that was a possibility.
13 Q And you took the steps, and you and your wife
14 discussed what you should do after the locks were
15 changed back?
16 A Yes.
17 Q And despite recognizing the possibility that the
18 Kelleys may have been unaware that they had lost their
19 property at a foreclosure sale, you chose to begin
20 altering the interior of the premises and dispose of
21 their personal effects?
22 A That's correct.
23 Q You did not seek legal advice prior to doing so?
24 A No.
25 Q You did not attempt to communicate with the Kelleys

0052

1 to determine what they knew and what they didn't know?
2 A No.
3 Q You and your wife, the two of you, made a decision
4 to proceed on this course based on your own feelings and

5 beliefs?
6 A That's correct.
7 MR. ALTMAN: That's all I have.
8 FURTHER EXAMINATION BY MR. COBB:
9 Q Was it solely based off your feelings and beliefs
10 based off of paragraph 29 of the foreclosure order?
11 A Yeah, that's basically what we relied on. 29 says
12 if it's abandoned, it's ours.
13 MR. COBB: Okay. That's all.
14 FURTHER EXAMINATION BY MR. ALTMAN:
15 Q But you yourself just testified that by the Kelleys
16 changing the lock back, that there was certainly -- you
17 recognized the possibility that the house had not been
18 abandoned, that they may have been of the belief that
19 they continued to own it?
20 A Yes.
21 Q And despite that belief, you proceeded as if, with
22 all certainty, they had voluntarily vacated and
23 abandoned the property?
24 A It didn't matter.
25 Q Your testimony is it didn't matter whether they had
0053
1 abandoned the property or not?
2 A That's not what I'm saying. We believed they
3 abandoned the property, so we acted accordingly.
4 Q You knew they had just changed the locks back?
5 A Yes.
6 Q Does changing the locks back, is that an act
7 consistent with abandonment?
8 A I would say no, but we didn't think about the
9 Kelley's concerns. It wasn't our concern.
10 Q Fair enough.
11 A I don't have a fiduciary duty to the Kelleys.
12 Q Would you agree your fiduciary duty is to the
13 Seabrook community, the members of SIPOA and the members
14 of the Spinnaker Association? You do have duties to
15 those members, correct?
16 A Yes.
17 Q And were the Kelleys members at the time you voted
18 to proceed with this foreclosure?
19 A Members, they probably were suspended members.
20 Because they hadn't paid their dues in so long.
21 Whether they're official members, I'm not sure.
22 Q And as a board member of both the Spinnaker HOA and
23 the SIPOA board, you had fiduciary and ethical duties to
24 those members?
25 A Yeah. But he wasn't a member once I owned the
0054
1 house.
2 Q To the community as a whole you did?
3 A To the community as a whole I have fiduciary
4 duties, yes.
5 Q And you also had a duty to disclose potential
6 conflicts of interest?

7 A Yes.
8 Q And even though you disclosed your course of
9 conduct to the Spinnaker board, you made no such effort
10 to disclose your intentions to the board that chose to
11 foreclose on the Kelley property?
12 A That's correct.
13 MR. ALTMAN: That's all I have.
14 FURTHER EXAMINATION BY MR. COBB:
15 Q I just have one more follow-up question. When you
16 took over the property on September 6th, did you believe
17 that that property had been voluntarily vacated at that
18 time?
19 A Yes.
20 Q At that time, were you relying on paragraph 29 of
21 the foreclosure order?
22 A Yes.
23 Q When Mr. Kelley had the locks changed through his
24 property manager, did you believe that was his intent to
25 reclaim his property?

0055

1 MR. ALTMAN: Object to the form. He's
2 already asked and answered.
3 Q Was that an attempt for him to erase his
4 abandonment?
5 MR. ALTMAN: Object to the form.
6 A I guess.
7 Q Do you believe that you can abandon something and
8 try to incur that abandonment through changing locks?
9 A That's possible. Maybe he had second thoughts.
10 It's possible. I don't know what he's thinking. It's
11 not my job to look after Kelley's interests.
12 MR. COBB: Okay. That's it. Thanks.
13 MS. NICHOLS: I just want to clarify
14 something on the record. Turner Padgett represents
15 SIPOA with regard to collection and foreclosure actions
16 filed as a result of liens for delinquent accounts;
17 however, to my knowledge, Turner Padgett does not
18 represent SIPOA on any other matters. And they may or
19 may not have another firm retained for other things.
20 (The deposition of Philip Squire concluded at
21 12:37 p.m. on November 8th, 2017.)
22
23
24
25

0056

1 COURT REPORTER'S CERTIFICATION
2
3 I DO HEREBY CERTIFY THAT THE TESTIMONY CONTAINED
4 IN SAID DEPOSITION WAS, BY ME, REDUCED TO WRITING BY
5 MEANS OF A COMPUTERIZED TRANSCRIPTION. THE SAID
6 DEPOSITION IS A TRUE AND ACCURATE TRANSCRIPT OF THE
7 WHOLE OF THE TESTIMONY GIVEN BY SAID WITNESS, AS
8 AFORESAID.

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I DO FURTHER CERTIFY THAT I AM NOT CONNECTED BY
BLOOD OR MARRIAGE WITH ANY OF THE PARTIES OR THEIR
ATTORNEYS OR AGENTS, AND THAT I AM NOT AN EMPLOYEE OF
EITHER OF THEM, NOR INTERESTED DIRECTLY OR INDIRECTLY
IN THE MATTER OF CONTROVERSY EITHER AS COUNSEL,
ATTORNEY, AGENT, OR OTHERWISE.

SIGNED THIS THE 15th DAY OF NOVEMBER, 2017.

AMANDA BARBAO

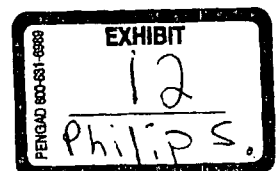
MY COMMISSION EXPIRES: 01/24/2023

SIPOA CONFLICT OF INTEREST POLICY

Approved by SIPOA Board of Directors November 16, 2015

CONFLICTS OF INTEREST. It is the policy of SIPOA that the conduct of its affairs be carried out so as to be free of influence resulting in disadvantage to SIPOA that may arise in consequence of interests or relationships of SIPOA's Directors or Key Employees as defined herein. For purposes of this policy, a "Key Employee" of SIPOA is defined as SIPOA's Executive Director, Assistant Executive Director, Director of Operations and Maintenance, Director of Administrative Services, Director of the Lake House and such additional employees as the Directors of SIPOA may from time to time designate. In accordance with this policy, Directors and Key Employees shall disclose relevant relationships and interests. In particular:

- a. SIPOA Directors and Key Employees shall, not later than March 1st of each year, in a signed statement, disclose if they or any of their Immediate Family Members as defined herein: (i) do business with SIPOA and all material facts relating to such business; or (ii) serve as a Director, officer, partner or trustee, or have a direct or indirect financial interest (other than as a shareholder of a *de minimis* [five percent {5%} or less] interest in a publicly or privately held company) in any corporation, association, partnership, trust or other entity that does business with SIPOA and all material facts relating to such business. For purposes of this policy, an "Immediate Family Member" is defined as a spouse, a "declared-domestic partner," dependent children, or dependent parents.
- b. SIPOA Directors and Key Employees shall timely disclose whether they or any of their Immediate Family Members: (i) do or propose to do business with SIPOA and all material facts relating to the business, or (ii) serve as a Director, officer, partner or trustee, or have a direct or indirect financial interest (other than as a shareholder of a *de minimis* interest in a



publicly or privately held company) in any corporation, association, partnership, trust or other entity that does or proposes to do business with SIPOA and all material facts relating to the business.

- c. Confidential Information of SIPOA shall not be used for personal gain by Directors or Key Employees. For purposes of this policy, the term "Confidential Information" shall include all information, transcribed in any form of media which the SIPOA considers proprietary and confidential. Excluded from such definition is information which: (i) was known to recipient prior to receiving any of the Confidential Information from SIPOA, (ii) after disclosure to the recipient has become publicly known through no wrongful act of the recipient, (iii) was received by recipient without breach of this Agreement from a third party without restriction as to the use and disclosure of the information, (iv) the recipient can demonstrate was independently developed by him or her without use of the Confidential Information, or (v) was ordered to be publicly released by the requirement of a government agency or court.
- d. Directors and Key Employees may not participate in discussion(s) of the Board relative to matters where the Board has determined that the relationship or interest of the Director or Key Employee could disadvantageously influence the selection of a contractor or vendor.
- e. Directors and Key Employees shall not, for themselves or on behalf of their Immediate Family Members, attempt to use their positions with SIPOA to obtain employment with, or special consideration from, SIPOA or its contractors or vendors.
- f. No owner of property on Seabrook Island may accept full-time employment with SIPOA nor be eligible to work for SIPOA as a full-time employee.

- g. In addition to Directors and Key Employees, (i) members of the Architectural Review Committee shall, not later than March 1st of each year, in a signed statement, disclose relevant relationships and interests as specified in paragraphs a and b of this policy; and (ii) candidates for the Board and Nominating Committee shall, not later than 120 days prior to the Annual Meeting of Property Owners of the year of their candidacy, in a signed statement, disclose relevant relationships and interests as specified in paragraphs a and b of this policy. **Unless subsequently elected, this form shall be destroyed once the official election results are announced.**

In the event SIPOA determines that any transaction has been entered under circumstances contrary to this policy, SIPOA shall have the right to recover any damages and expenses it incurs in consequence of such transaction from the Director(s) or Key Employee(s) whose failure to comply with the requirements of this policy resulted in such damages or expenses to SIPOA.

EXHIBIT C

EXHIBIT H

0001

1 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT
3 CASE NO.: 2016-CP-10-06750
4 SEABROOK ISLAND PROPERTY OWNERS,)
ASSOCIATION,)
5 PLAINTIFF,)
6) Deposition of:
vs.) Cherie Squire
7) November 8th,
8) 2017
9 CHARLES KELLEY A/K/A CHARLES E.)
KELLEY; DEBORAH KELLEY A/K/A)
10 DEBORAH L. KELLEY; MORTGAGE)
ELECTRONIC REGISTRATION SYSTEMS,)
INC., ITS SUCCESSORS AND ASSIGNS,)
AS NOMINEE FOR CHASE MORTGAGE
11 COMPANY, ITS SUCCESSORS AND
ASSIGNS, A DELAWARE CORPORATION;
12 AND SPINNAKER BEACH HOUSE OWNERS
ASSOCIATION,

13 DEFENDANTS.

14
15
16
17 The deposition of CHERIE SQUIRE, taken before
18 Amanda Barbao, Court Reporter and Notary Public, at the
19 law offices of Derfner & Altman, 575 King Street,
20 Charleston, South Carolina, commencing at 8:53 a.m., on
21 November 8th, 2017.
22
23
24
25

0002

1 APPEARANCES
2
3 FOR THE PLAINTIFF:
4 (Seabrook Island)
5 TURNER, PADGET, GRAHAM & LANEY
Kristen N. Nichols, Attorney at Law
6 40 Calhoun Street
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7 Knichols@turnerpadget.com
8
9 (749 Spinnaker)
10 COBB, DILL & HAMMETT
BY: Hal Eugene Cobb, Attorney at Law
300 West Coleman Boulevard, Suite 106
11 Mount Pleasant, South Carolina 29464

Hcobb@cdhlawfirm.com

12
13 FOR THE DEFENDANTS:
14 (Charles and Deborah Kelley)
15 DERFNER & ALTMAN
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18
19
20
21
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0003

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0004

1 (CHERIE SQUIRE, having been first duly sworn,
2 testified as follows:)
3 EXAMINATION BY MR. ALTMAN:
4 Q Ms. Squire, good morning. I'm John Altman. You
5 and I met off the record a few moments ago. I represent
6 Charles and Deborah Kelley, relative to a case that's
7 pending in the Court of Common Pleas in Charleston
8 County. It's a case that was brought by the Seabrook
9 Island Property Association. And you are an LLC of
10 which you are a member. I think it's 257 Spinnaker,

11 LLC?
12 A 749.
13 Q I'm sorry. 749 Spinnaker, LLC has filed a motion
14 to intervene in this case. Have you ever been deposed
15 prior to today?
16 A No.
17 Q Let me share with you a few ground rules to make
18 the process smoother for you. Because I know it's a
19 little unusual. This is my chance to ask you questions
20 about anything I want. I'll stick to generally things
21 related to this case or things that I think are relative
22 to this case. Your job is simply to answer the
23 questions that you have answers to.
24 A Okay.
25 Q She's going -- the court reporter to my right is
0005
1 going to take down everything that you and I say. So
2 you're doing a good job so far. Verbal responses as
3 opposed to head shakes or "uh-huh" or "huh-uhs" will be
4 helpful to her. Any reason why you wouldn't be able to
5 give full, complete and honest testimony today?
6 A No.
7 Q Are you under the influence of any medication or
8 feeling all right this morning?
9 A Fine.
10 Q My hope is that I'll get both you and your husband
11 out of here by lunchtime today, but if you need a break
12 for any reason at all, let me know. If you need water,
13 walk around, just tell me, and I'll be happy to
14 accommodate you.
15 A Okay.
16 Q State your full name for the record.
17 A Cherie Laprade Squire.
18 Q Where do you currently reside?
19 A 727 Spinnaker, Johns Island.
20 Q How long have you resided at 727 Spinnaker?
21 A I've owned it since 2002.
22 Q How long have you resided there?
23 A 2013.
24 Q Where did you reside prior to 2013?
25 A Crownsville, Maryland.
0006
1 Q Who lives at 727 Spinnaker with you?
2 A Phil Squire and myself.
3 Q Mr. Squire is your husband?
4 A Correct.
5 Q Where are you from originally?
6 A Alexandria, Virginia.
7 Q Do you presently own any other homes, other than
8 727 Spinnaker?
9 A 749 Spinnaker, under the LLC of 749 Spinnaker,
10 LLC.
11 Q And I appreciate that. I was asking about property
12 that you own personally?

13 A No.
14 Q Do you have an interest in any other LLCs?
15 A Yes. Squire Thoroughbreds, LLC.
16 Q When was that entity formed?
17 A I'm not sure. 2012, but I'm guessing. Maybe
18 2013. I'm guessing.
19 Q When did you form 749 Spinnaker?
20 A July of 2017.
21 Q What was the purpose of its formation?
22 A For the purpose of buying 749 Spinnaker.
23 Q Tell me how that came about.
24 A I don't understand the question.
25 Q Okay. Well, let's go back a little bit, and let's

0007

1 talk. Who filed the articles of organization for 749
2 Spinnaker?
3 A My husband did online.
4 Q Do you know when he did that?
5 A No.
6 Q Do you know when 749 Spinnaker became effective?
7 A The LLC?
8 Q Yes, ma'am.
9 A I believe the day of purchase, but I'm not sure.
10 Q And the day of purchase, you're referring to the
11 day of the auction?
12 A Yes. July 20th.
13 Q Okay. Do you have any idea when you filed the
14 articles?
15 A I believe that day, but I'm not sure.
16 Q Okay. Let me kind of walk you through the LLC
17 formation process. There are articles that are filed
18 with the Secretary of State's office. It typically
19 takes a while for the Secretary of State to receive
20 those documents before the entity exists. Do you
21 believe that you formed 749 Spinnaker, LLC -- and I'll
22 tell you the sale was July 20th. Do you think you filed
23 it that day or sometime prior to July 20th?
24 A No, we did not file it prior. I believe it was
25 that day.

0008

1 Q Was it after the sale?
2 A As in hours, minutes?
3 Q Yes, ma'am.
4 A I'm not sure.
5 Q I'm trying to understand the sequence. Did you go
6 to the courthouse, and did you believe you were the
7 successful bidder, and then did you go home and form the
8 LLC?
9 A I believe so.
10 Q Would I be correct that at the time of the sale,
11 749 Spinnaker, LLC did not yet exist?
12 A Correct.
13 Q And you formed it that afternoon?
14 A I believe so.

15 Q Okay. Do you know what entity bid at the sale?
 16 A 749 Spinnaker, LLC.
 17 Q How could that entity bid if it did not yet exist?
 18 A That's what we gave as our name. They asked for
 19 the name. That's what we gave as our name.
 20 Q So you provided the court for a name for an entity
 21 that had not yet been formed?
 22 A I guess.
 23 Q Did you seek legal advice prior to bidding at this
 24 sale?
 25 A No.
 0009
 1 Q How did you learn about the sale of 749 Spinnaker?
 2 A I saw that SIPOA was foreclosing on them in May.
 3 Q Where did you see that?
 4 A On court records.
 5 Q Okay. What court records?
 6 A County court records.
 7 Q Is that a practice that you look for properties
 8 that are being foreclosed upon?
 9 A Yep. I track properties on Seabrook Island quite
 10 a lot, and I own Spinnaker.
 11 Q Have you ever bid or participated in a foreclosure
 12 sale for other Seabrook-related properties?
 13 A I've never bid on one.
 14 Q What made you bid on this one?
 15 A We understand Spinnakers.
 16 Q What do you mean?
 17 A We understand their value, and we understand the
 18 potential to -- I mean, they're very habitable.
 19 They're very rentable. They're in a very good
 20 location. So it's an ideal second property for us.
 21 Q Was it your idea to bid on this property, or was it
 22 your husband's?
 23 A Both. Neither and both.
 24 Q Neither or both. Elaborate.
 25 A Well, both. You know, I didn't do it without him,
 0010
 1 and he didn't do it without me.
 2 Q What does Squire Thoroughbred do?
 3 A We own racehorses.
 4 Q Is that the entity that has title to your
 5 racehorses?
 6 A Yes.
 7 Q Does it do anything else?
 8 A We've bought a few broodmares.
 9 Q Is 749 Spinnaker the only property that you've
 10 attempted to purchase in a foreclosure sale?
 11 A Yes.
 12 Q What did you do to prepare for today's deposition?
 13 A I just reviewed my documents.
 14 Q What documents did you review?
 15 A The court filed documents.
 16 Q Okay. Do you have a file relative to 749

17 Spinnaker?
18 A Certainly.
19 Q Where is that file located?
20 A Between here and home.
21 Q Where between here and your home?
22 A On me in person and my home.
23 Q Do you mind showing me the documents that are on
24 your person?
25 A Yes, I do.

0011

1 Q With all do respect, you don't have a choice.
2 You're a witness, and you have documents relative to it.
3 You're not a party. I would like to take a break and
4 look at your documents.

5 MR. COBB: Can we go off the record?

6 (Discussion off the record.)

7 MR. COBB: She has brought her file related
8 to this property. She claims there's information at
9 her other house, but there appears to be communication
10 between me and her that are attorney/client work
11 product, and I object to the admission and review under
12 the attorney/client work product rule. And I don't
13 believe that you're allowed to look at that file until
14 I've had a chance to review it and be able to redact
15 any attorney/client work product in there.

16 MR. ALTMAN: Why don't we take a few moments
17 and you pull whatever refers to you from that file.

18 MR. COBB: I instructed her to put together
19 timelines and things of that nature in terms of work
20 product, and I'm noticing that is in there. I thought
21 it might be more like invoices for paint or something
22 like that. But it's mostly pleadings and apparently
23 everything in her file except for what she left at her
24 house.

25 MR. ALTMAN: We have a couple of issues.

0012

1 MR. COBB: And my card is stapled right here
2 (indicating).

3 MR. ALTMAN: I'm not worried about your card,
4 but we have a couple of issues here with regard to who
5 holds the privilege. She's here personally as a
6 witness. She's not a party. Okay. So whether the
7 privilege applies to her may be a question for another
8 day. But for the purposes of this morning, let's go
9 off the record. You take a few moments.
10 Correspondence from either you to her or her to you,
11 let's hold that back. We'll save that issue for
12 another day. I'll reserve all rights with regard to
13 those documents and take your time and do a thorough
14 job and pull whatever you think is privileged. And we
15 can go back on and identify those documents by date or
16 some fashion, and we can leave that issue for another
17 day.

18 MR. COBB: But you can't bifurcate the entity

19 from the individual that manages and runs the entity,
20 which she does contemporaneously with her husband. So
21 to say that, you know, we're deposing the individual
22 and not the entity, I get that. But you still --
23 you're deposing her essentially in her position as the
24 member of the entity that purchased property, correct?
25 MR. ALTMAN: No, I'm not. I didn't notice

0013

1 her in any way, shape or form. She's here as an
2 individual witness. She's not here as a 30(b)(6)
3 designee or in any managerial capacity.

4 MR. COBB: Fair enough. But then you're
5 asking for her file as it relates to her management as
6 a member of the entity that you're saying that you're
7 not asking for. You can't have it both ways

8 MR. ALTMAN: That's not what I asked her for.
9 What I asked is for a copy of the file or the documents
10 she reviewed to prepare for her deposition today.

11 MR. COBB: Okay. But again, in her
12 testimony, she stated that she's reviewed the file
13 related to the entity, not to any personal actions,
14 based off that. Again, I'm struggling to see how
15 you're bifurcating. And I'm not trying to be
16 difficult.

17 MR. ALTMAN: All I asked her, Hal, is what
18 she reviewed for today's depositions. She said she had
19 documents from her house -- between my office and her
20 house. Okay.

21 MR. COBB: Okay.

22 MR. ALTMAN: So if you want to go off and
23 take a few moments --

24 MR. COBB: Give me a few moments because
25 there's e-mails and things in here that I don't want to

0014

1 have in there under attorney/client work product. And
2 I will say, in terms of my fee service agreement, it
3 covers kind of a broad array, which I'm happy to
4 submit. But I believe it will cover that individual as
5 well.

6 MR. ALTMAN: You can pull your fee agreement.

7 MR. COBB: Okay. Let's take a few moments.

8 (Discussion off the record.)

9 BY MR. ALTMAN:

10 Q Ms. Squire, before we went off, I had asked you
11 what documents you had reviewed for today's deposition.
12 And if I'm remembering your testimony accurately, you
13 indicated that you reviewed some documents that are
14 currently physically located at your residence and also
15 some documents that were between my office and your
16 residence; is that correct?

17 A Correct.

18 Q Okay. And at that point, we adjourned your
19 deposition for you to retrieve the documents that were
20 closer to my office. Have you done so?

21 A Yes.

22 Q Okay. And those documents included documents you
23 had provided to your counsel but also documents you had
24 gathered prior to your counsel's engagement, correct?

25 A Correct.

0015

1 Q And we had an opportunity to separate documents to
2 which attorney/client privilege may be maintained from
3 those, to which no privilege is asserted.

4 MR. ALTMAN: Is that correct, counsel?

5 MR. COBB: It is. And also under the
6 agreement, it's actually under Cherie and Phil Squire.
7 It doesn't say the LLC at that point in the service
8 agreement. So I did just verify that. And I think I
9 said it was the other way around, but I did just verify
10 that. And I think I said it was the other way around,
11 and I was incorrect.

12 BY MR. ALTMAN:

13 Q Ms. Squire, is that your recollection as well, that
14 Mr. Cobb is your individual attorney?

15 A Yes.

16 Q Do you recall the date that you engaged Mr. Cobb
17 relative to this matter?

18 A July 20th, the day we purchased.

19 Q Okay. Prior to July 20th, had you sought the
20 advice of counsel relative to this case?

21 A No.

22 Q Why did you hire Mr. Cobb? Why did you seek his
23 assistance?

24 A Because we bought this at auction subject to
25 mortgage, and we needed him to explain to us subject to

0016

1 mortgage terms.

2 Q What is your understanding of subject to mortgage
3 terms now?

4 A That we're responsible for the balance of the
5 mortgage that isn't acquired out of surplus funds.

6 Q Was that your understanding at the time you bid at
7 the sale of the auction?

8 A We were unclear.

9 Q Okay. What were you unclear about?

10 A We didn't know what subject to mortgage -- we
11 didn't understand the term "subject to mortgage."
12 Actually, we didn't even hone in on the term "subject
13 to mortgage."

14 Q Was it your intention to buy this property free and
15 clear from the mortgage?

16 A I don't know. I don't know that we thought that
17 through.

18 Q Did you speak with any employees of the courthouse
19 or the master-in-equity's office regarding that issue?

20 A No.

21 Q Do you recall having any interaction with any
22 representatives or employees of Judge Scarborough's

23 office regarding that or any issue?
24 A I asked how we get into the house.
25 Q Okay. With whom did you have that conversation?

0017

1 A The clerk in the judge's office there at the
2 window.
3 Q Okay. Do you recall her name?
4 A No.
5 Q Do you recall what she looked like?
6 A No.
7 Q Was she -- do you recall the color of her hair?
8 A No.
9 Q When did that conversation take place?
10 A After we got the house on July 20th and turned in
11 our deposit check.
12 Q Was it your understanding that you took title to
13 the house on July 20th?
14 A No.
15 Q When did you take title to the house?
16 A When we paid 100 percent of our bid, which was
17 August 18th.
18 Q Did you take title of the house on August 18th?
19 A No, we didn't. Because we were traveling, and we
20 picked up the master's signed deed on September 4th or
21 5th. And I filed it that day in the RMC's office.
22 Q Okay. When was the first time you accessed the
23 Kelley's home?
24 A 6th.
25 Q September 6th?

0018

1 A Yes.
2 Q You had not entered the premises at any time prior
3 to September 6th?
4 A Never.
5 Q When was the last date that you entered the Kelley
6 premises?
7 MR. COBB: Object to the form.
8 A My premise, number one.
9 Q Okay. Let's make it simple then. When was the
10 last time you set foot in 749 Spinnaker?
11 A Today is Tuesday, Sunday.
12 Q For what purpose?
13 A No purpose, just checked on the house.
14 Q Do you recall receiving a letter from me dated
15 September 19, 2017, including the Kelley's motion to
16 vacate the foreclosure sale?
17 A Yes.
18 Q Have you altered, changed, taken any action that
19 impact the premises after receiving my letter of
20 September 19th?
21 A No. Cleaned it up. That's all.
22 Q What do you mean by cleaned it up?
23 A Took out the trash, washed a few glasses.
24 Q Has anybody occupied or spent the night at 749

25 Spinnaker --

0019

1 A Nope.

2 Q If you would, let me finish my question. Since you
3 purchased it at the July 20th sale?

4 A No.

5 Q Have you rented the unit at any point in time?

6 A Nope.

7 Q Have you made any changes to the unit?

8 A Yes.

9 Q Tell me what changes you made, when you made them
10 and who made those changes?

11 A We have taken out some cabinetry in the kitchen.
12 We have taken down some ceilings that were leaking and
13 had water spots. We have taken off wooden doors that
14 will be replaced. We have taken down one set of
15 vertical blinds, although all of them are inoperable.
16 We have disposed of some old furniture. We have thrown
17 out old linens. We have thrown out some old dishware.

18 Q Okay. Let's talk about those items one by one.
19 When was the cabinetry removed?

20 A I don't know the exact date. After September 10th
21 because I believe we had a hurricane.

22 Q Who removed it?

23 A We did, my husband and I.

24 Q No third party assisted you?

25 A Nope.

0020

1 Q So I assume there was no cost incurred with removal
2 of the cabinetry?

3 A No.

4 Q What about the ceiling?

5 A Same.

6 Q Who performed that work?

7 A We did.

8 Q What about the removal of the wooden doors?

9 A Same.

10 Q What about the vertical blinds?

11 A Same.

12 Q Okay. Can you give me the approximate dates that
13 the ceiling, wooden doors and vertical blinds were
14 removed?

15 A Between September 6th and September 18th. I'm not
16 sure.

17 Q Have you paid any third parties for any work
18 performed?

19 A I have not paid any third parties, but I do have
20 bills coming from third parties. I've already had an
21 architect in there, so an architect is already doing
22 work. I'm going to be legally obligated to pay that.

23 Q Let's talk about the folks you're legally obligated
24 to pay for work associated with this unit. Tell me
25 those individuals and approximate amounts.

0021

1 A I've spoken with an architect. His name is Mike
2 Karamus.
3 Q When did you speak with Mr. Karamus?
4 A I don't recall. September 9th, 10th, around
5 there.
6 Q Okay. Has Mr. Karamus sent you a bill for
7 services?
8 A No.
9 Q Have you told Mr. Karamus to stop work on the unit?
10 A Yes. I told him that this is ongoing.
11 Q When did you advise Mr. Karamus of that?
12 A I don't know.
13 Q Do you know how much money you owe Mr. Karamus for
14 work performed to date?
15 A I do not.
16 Q Besides Mr. Karamus, who else do you owe money
17 relative to work associated with this unit?
18 A I don't believe anybody.
19 Q Okay. Let's talk about the items that were located
20 in the unit when you took possession. If you would,
21 tell me the furniture that you disposed of.
22 A Excuse me. What's the question?
23 Q What furniture did you --
24 A A sofa bed that had holes in all of the coverings
25 on it.

0022

1 Q One sofa bed?
2 A Yep.
3 Q What else, as far as furniture? Any couches?
4 A No.
5 Q Any beds?
6 A No.
7 Q Any appliances?
8 A No.
9 Q Any tables?
10 A No.
11 Q Any chairs?
12 A No.
13 Q Is there any furniture that remains in the unit
14 from when you took possession?
15 A Yes.
16 Q Tell me what remains in the unit.
17 A There is the dining table and four -- I believe
18 four chairs, a sofa, a coffee table, two living room
19 chairs, several lamps, two double beds. I believe
20 there's a queen bed and an end table maybe in each
21 room.
22 Q Did it appear to you that anyone had moved out of
23 the unit?
24 A I had no way of knowing.
25 Q Did the unit appear furnished when you took

0023

1 possession of it?
2 A Yes.

3 Q Did you make any effort to contact Mr. and Ms.
4 Kelley or anybody regarding the personal property
5 located in the unit?
6 A No.
7 Q Do you know where Mr. and Ms. Kelley live?
8 A Yes.
9 Q Did you ever consider writing them or calling them
10 regarding their personal property?
11 A No.
12 Q Why not?
13 A Under the judge's order, I wasn't obligated to.
14 Q Okay. You want to show me the section of the order
15 that indicates you're not responsible for alerting the
16 homeowners of the personal property located in the unit?
17 Take your time.
18 A I don't have the judge's order.
19 MR. ALTMAN: You want to go ahead and mark
20 this.
21 (Exhibit No. 1 was marked.)
22 BY MR. ALTMAN:
23 Q I'm going to hand you a document that's been marked
24 as Exhibit 1. And I'll publish to you this is a
25 judgement of foreclosure and sale filed May 5th, 2017.
0024
1 And I'll also publish to you this is the order that is
2 referenced in a memo and opposition filed on your
3 behalf. I'm going to refer you to paragraphs 28 and 29
4 of that order. Take your time and tell me if that is
5 the language in the order to which you were referring to
6 earlier?
7 A Yes, item 29.
8 Q Item 29. You tell me which language you
9 specifically relied upon in your handling of the
10 Kelley's personal property.
11 A The occupants have voluntarily vacated the
12 properties, leaving furniture, fixtures or other items
13 not subject to Plaintiff's lien. The purchaser is
14 authorized to remove from the property all furnishing,
15 fixtures and other items not subject to Plaintiff's
16 lien. The personal property, being deemed abandoned,
17 shall be removed by the purchaser or its agents from
18 the properties by placing said personal property on the
19 public street or highway or by any other means.
20 Q Okay. What evidence do you have that the Kelleys
21 voluntarily vacated this unit?
22 A I know that Charles Kelley was there on May 24th,
23 which was after -- May 24th. July 24th after the
24 auction.
25 Q Okay. Did you speak with Mr. Kelley?
0025
1 A No. I wasn't even in town.
2 Q Who did you speak with regarding Mr. Kelley's
3 presence at the property on July 24th?
4 A The Spinnaker association property manager.

5 Q Who was that individual?
 6 A Her name is Cameron Leyh, L-E-Y-H.
 7 Q Did Ms. Leyh advise you that Mr. Kelley had
 8 voluntarily vacated his unit on July 24th?
 9 A No.
 10 Q I'll repeat my question. What evidence do you have
 11 that indicates that Mr. and Ms. Kelley voluntarily
 12 vacated their unit?
 13 A That's all I have.
 14 Q Now, you would agree with me, and I believe you
 15 just testified, that the unit was fully furnished?
 16 A I don't know that it was fully furnished. It was
 17 furnished. I have no knowledge of what he might have
 18 taken after I got that house at bid at auction.
 19 Q You would agree with me that he didn't take a sofa
 20 bed, a dining table, four chairs, a sofa, coffee table,
 21 queen bed, chairs, dishware, linens, furniture. All
 22 those things remained, correct?
 23 A Correct.
 24 Q Did the property manager indicate that Mr. Kelley
 25 had taken anything on or about July 24th?
 0026
 1 A No.
 2 Q Why did you think that he had vacated the unit?
 3 A The house went to auction on July 20th. He was at
 4 the house on July 24th. As far as I knew, he took
 5 anything he wanted and left the property.
 6 Q Did you do anything to verify that?
 7 A No.
 8 Q Okay. Did you call him?
 9 A No.
 10 Q Did you write him?
 11 A No.
 12 Q You had that information, didn't you?
 13 A Not required. Didn't.
 14 Q Okay.
 15 A Not necessary.
 16 Q Not necessary legally or not necessarily morally or
 17 ethically?
 18 MR. COBB: Object to the form.
 19 Q Did it cross your mind?
 20 A No. Actually, it did not.
 21 Q Do you know the Kelleys had owned this unit for
 22 38 years?
 23 A No. Actually, I did not know they owned it all
 24 that time.
 25 Q How close is this unit to your residence?
 0027
 1 A It's about 20 units down.
 2 Q Same street?
 3 A Never met Mr. Kelley. Don't have a personal
 4 relationship with Mr. Kelley.
 5 Q Never crossed your mind that buying a neighbor's
 6 property over a \$2,700 lien may be questionable conduct?

7 MR. COBB: Object to the form.
8 A No.
9 Q Never crossed your mind that disposing of a
10 neighbor's personal effects without contacting them or
11 communicating with them is questionable?
12 A No.
13 Q Let's go back, and let's look back at paragraph 28
14 of the order that you supposedly relied upon in
15 disposing of my client's property. When did you dispose
16 of the property? What date?
17 A I don't know. September. I think the second week
18 of September, September 10th.
19 Q After you had engaged legal counsel?
20 A As I said, I contacted Hal Cobb, my legal counsel,
21 on July 20th, the day I bid on the property.
22 Q Well, let's go through paragraph 28 then. And I'll
23 read it for you. In the event a successful bidder is
24 someone other than the defendants in possession of the
25 properties, the sheriff of this county is ordered and
0028
1 directed to object and remove from the property the
2 occupant of the property sold, together with all
3 personal located thereon. Did you ever contact the
4 sheriff to have the Kelley's personal property removed?
5 A No.
6 Q Isn't that what Judge Scarborough's order required
7 you to do?
8 A No. Because paragraph 29 says, if it has been
9 vacated.
10 Q Okay. And we've testified that you have no
11 evidence to show that it was vacated?
12 A There was no person in the property, so it was
13 vacant.
14 Q You understand the distinction between vacant and
15 vacated?
16 A Maybe not.
17 Q Okay. Did it appear that the Kelleys had moved out
18 of the unit?
19 A I have no idea what Mr. Kelley removed from the
20 unit when he was in it July 24th after I put down a
21 deposit after achieving it at auction. I have no idea
22 what he removed.
23 Q Let's talk about what we are certain about. You
24 never contacted the sheriff to have the Kelley's
25 ejected?
0029
1 A Correct.
2 Q You never contacted the sheriff to have the
3 Kelley's personal property removed?
4 A Correct.
5 Q Did you ever contact the master-in-equity's office
6 regarding what you should do with the Kelley's property?
7 A No.
8 Q Are you aware what a writ of assistance is?

9 A No.
10 Q Are you aware that there's a mechanism for going
11 back to court when a bidder takes possession of property
12 and the former owner's property remains therein?
13 A No.
14 Q Okay. You're pretty good at looking at public
15 records. I see you've got a complete file, and we'll go
16 through it in a moment. You review all the property
17 records for Seabrook Island I assume. That's how you
18 testified you came across this particular foreclosure
19 sale, correct?
20 A I don't go through every Seabrook Island property.
21 Q Have you ever looked at the master-in-equity
22 website?
23 A Is there a master-in-equity website? If so, I
24 don't know of that website. There's a county court
25 website. There's an RMC website.

0030

1 MR. ALTMAN: Let's mark this as Exhibit 2.
2 (Exhibit No. 2 was marked.)
3 BY MR. ALTMAN:
4 Q I'm going to hand you Exhibit 2, which is a
5 five-page document. If you would, just take a look at
6 that.
7 A Okay.
8 Q And I will tell you that the index on page one, the
9 fifth form from the bottom is entitled writ of
10 assistance. Do you know what a writ of assistance is?
11 A No.
12 Q If you would, turn to the next page of Exhibit 2.
13 There's a form entitled motion for writ of assistance.
14 Have you ever seen that form before?
15 A No.
16 Q Okay. Do you know that this is the motion that a
17 successful bidder is required to file with the
18 master-in-equity before disposing of a former owner's
19 property?
20 MR. COBB: Object to the form.
21 Q Did you seek the Court's assistance or guidance at
22 any time regarding disposal of the Kelley's property?
23 A No.
24 Q Did you contact the Court or speak with anybody
25 about the proper procedure regarding disposing of the

0031

1 Kelley property?
2 A No. I relied on the judge's order. I've stated
3 it, and I've stated it again. If I did something by
4 mistake, then that's a mistake, but I relied on this
5 judge's order.
6 Q Okay. Would you agree with me it appears that you
7 erred in your handling of the Kelley property?
8 A Absolutely not.
9 Q Why not?
10 A Because I have this judge's order right here that

11 says it's my property now, and if there's nobody in it,
12 I can remove the property by any other means.
13 Q Okay. What it says --
14 A So 29 would seem to contradict 28 if I have to go
15 through a sheriff.
16 Q Okay. Now, 28 may contradict 29 if you're
17 interpreting 29 as being vacant as opposed to vacated.
18 You would agree with me that vacant simply means that no
19 one is physically in it at the time. And I will concede
20 to you that the property may have been vacant. But
21 would you also agree with me that the house was
22 furnished with dishes, linen, furniture, bedding and
23 those sort of items?
24 A That's correct.
25 Q And you have no evidence that the Kelleys moved one

0032

1 piece of personal property from that residence prior to
2 you taking possession of it?
3 A Correct.
4 Q And you took no steps to verify that the Kelleys
5 had vacated the property, voluntarily or otherwise?
6 A I had no knowledge.
7 Q Okay. And you took it upon yourself to get rid of
8 their personal effects?
9 A My house. I had the deed in hand.
10 Q Their effects?
11 A My house.
12 Q Are you claiming ownership to their personal
13 property?
14 A Everything that came in that house is my house, my
15 property.
16 Q Show me what document that gives you title to their
17 personal property?
18 A This (indicating).
19 Q You're relying on paragraph 29?
20 A I am.
21 Q Do you have a deed or bill of sale relative to the
22 Kelley's personal property?
23 A No.
24 Q Do you have any legal background at all?
25 A No.

0033

1 Q What's your educational background?
2 A I have a Bachelor of Science in computer science,
3 and I have an MBA.
4 Q From where?
5 A From Purdue University and University of
6 Rochester.
7 Q Give me your employment background.
8 A My last employment was as a financial analyst with
9 a chemical company.
10 Q When was that?
11 A I've been retired for 17 years. So 1988 to 2001,
12 I believe.

13 Q Give me your date of birth.
14 A 12/19/63.
15 Q Do you suffer from any medical condition?
16 A No.
17 Q What have you done since 2001?
18 A I raised two children.
19 Q Okay. Are you in good health?
20 A Yes.
21 Q Have you ever hired a lawyer prior to Mr. Cobb?
22 A Yes.
23 Q Okay. For what reasons?
24 MR. COBB: Object to the form.
25 MR. ALTMAN: What's the objection? Go ahead

0034

1 and answer.
2 A I had -- I don't know what you want to call it. I
3 had a lawsuit against Seabrook Island Club.
4 Q Were you Plaintiff or Defendant?
5 A Plaintiff.
6 Q Okay. Tell me about that lawsuit.
7 A Seabrook Island Club held on to our equity payment
8 longer than we thought allowed by the bylaws.
9 Q Who represented you in that case?
10 A Neil Thompson.
11 Q How was that case resolved?
12 A The judge denied our -- we lost.
13 Q Did it go to trial?
14 A No. It just went before the master-in-equity.
15 Q Do you know which master-in-equity you went before?
16 Was it Judge Scarborough?
17 A Yes.
18 Q When was this?
19 A 2012 or 2013.
20 Q Okay. What other cases have you been involved with
21 since you relocated to Charleston?
22 A None.
23 Q What other cases have you been involved in during
24 your life?
25 A That's it.

0035

1 Q Okay. So is there some reason why you didn't
2 contact Mr. Thompson regarding this particular unit?
3 A No particular reason. We were referred to
4 Mr. Cobb.
5 Q Have you ever served in any official -- or on any
6 board or organization at Seabrook?
7 A Yes. I was on the Spinnaker board.
8 Q That's the Spinnaker HOA board?
9 A Yes.
10 Q Tell me the times that you were on the Spinnaker
11 HOA board.
12 A I was last on it in February of 2016. And I
13 started October of 2013.
14 Q 2013 through 2016?

15 A Uh-huh (indicating an affirmative response).
 16 Q That's a yes?
 17 A Yes, I believe.
 18 Q What other boards?
 19 A No other boards.
 20 Q What about your husband?
 21 A My husband has served on the Spinnaker board and
 22 also the Seabrook Island Property Association Board.
 23 Q I'm sorry?
 24 A Also on SIPOA.
 25 Q SIPOA and Spinnaker?
 0036
 1 A Correct.
 2 Q Any other boards?
 3 A No.
 4 Q Okay. Can you tell me his tenure on the SIPOA and
 5 the Spinnaker board?
 6 A The Spinnaker board was from October 2016 to
 7 October 2017. And the SIPOA board was from February --
 8 I have to come up with my dates here. 2016 through
 9 current.
 10 Q Tell me when he began in 2016 serving on the SIPOA
 11 board.
 12 A Excuse me?
 13 Q Do you recall when in 2016 he began serving on the
 14 SIPOA board?
 15 A At the annual meeting. I believe it's always
 16 about February 14th.
 17 Q Okay. If I told you this foreclosure action was
 18 commenced in December 2016, was he serving on the SIPOA
 19 board at that time?
 20 A Yep.
 21 Q Was he serving on the Spinnaker board as well at
 22 that time?
 23 A Yes.
 24 Q If a unit owner is behind in their assessments,
 25 does the board vote to proceed with legal action and
 0037
 1 foreclosure in those cases?
 2 A In which case, either?
 3 Q Either.
 4 A In my experience, on Spinnakers, there is a set
 5 collection policy. And a lien is filed after 90 days
 6 of noncollection, and there is no set foreclosure
 7 policy. I believe it's at recommendation of legal
 8 and/or property manager.
 9 Q Does the HOA board vote after receiving legal
 10 advice?
 11 A I think the lien is automatic because it's part of
 12 the collection policy and foreclosure under Spinnaker.
 13 And I'm only talking about Spinnaker because that's
 14 what I'm familiar with. Yes, it's voted on by the
 15 board.
 16 Q Okay. Do you know whether your husband voted,

17 either in his capacity as a board member for SIPOA or
18 for Spinnaker to proceed with the foreclosure of the
19 Kelley home?
20 A He definitely did not vote on anything associated
21 with Spinnakers because Spinnaker did not even know
22 Mr. Kelley was under foreclosure. And Spinnaker did
23 not initiate that action. The SIPOA board, I believe
24 in 2016, changed their collection policy and got a new
25 attorney, Kristin Nichols, to more aggressively pursue
0038
1 delinquent owners. And I think at some point they
2 started foreclosing on properties.
3 Q And I appreciate that. My question was: Did your
4 husband vote, either in his capacity as a board member
5 for SIPOA or for Spinnaker, to proceed with the
6 foreclosure of the Kelley home?
7 A No on Spinnakers and no knowledge if he voted on
8 749 Spinnaker. I do not know that.
9 Q So your belief that there would have been a vote by
10 the SIPOA board prior to foreclosure being commenced of
11 the Kelley home?
12 A I do not know that. I do not know the timing of
13 any of that.
14 Q Do they keep minutes of those SIPOA board meetings?
15 A Yes.
16 Q Does your husband regularly attend those meetings?
17 A Yes.
18 Q Can you recall him missing a meeting at any point
19 in the last 18 months?
20 A Yeah. He missed a meeting last November of 2016.
21 I don't know of any other meetings.
22 Q Okay. Can I see your file? Ms. Squire, you've
23 handed me a manila file. It appears to have
24 approximately 100 pages in it. Is this your personal
25 file?
0039
1 A Yes.
2 Q Does your husband have a separate file as to this
3 matter?
4 A I do not think so.
5 Q Would it be fair to characterize this as your work
6 product?
7 A Yes.
8 Q When did you began?
9 A I began this file in May of 2017 when I found out
10 that SIPOA had started foreclosure proceedings on 749
11 Spinnaker.
12 Q How did you find out?
13 A I found out by the county records.
14 Q Which county records?
15 A I think I looked up the RMC site to find the lien.
16 I did not -- I found a SIPOA lien, and from that, I
17 must have gone to the county court site. I wasn't
18 familiar with that website at all, but it must have

19 been how I found it.

20 Q Walk me through what you were looking for when you
21 found the lien on the Kelley home.

22 A When I found the lien on the Kelley home, I was
23 looking at that property because Spinnaker had a lien
24 on 749 Spinnaker on that property. And I was looking
25 that up. And when I looked that up, I saw that SIPOA

0040

1 had a lien on them.

2 Q Why were you looking for the Spinnaker lien on the
3 Kelley home?

4 A Because we had a new property management company
5 for Spinnaker. It's Ravenel and Associates, and we had
6 a community walkthrough with our new property manager,
7 Cameron Leyh. And I was -- as I had been on the
8 Spinnaker board before, I knew that we had problems
9 with several owners that did not regularly pay their
10 dues. So I was looking that one up.

11 Q I just want to be clear as far as time. This is
12 May 2017 when you were looking for the Spinnaker lien on
13 some county website?

14 A Correct.

15 Q And you were doing this even though you were not on
16 the Spinnaker board in May of 2017?

17 A Correct.

18 Q But you were doing this to help the new property
19 management company, even though you had no official
20 capacity with the Spinnaker board?

21 A Correct. It's all public data.

22 Q But your husband was serving on the Spinnaker
23 board?

24 A Correct.

25 Q Was he aware of the Kelley lien at the time you

0041

1 were doing this independent inquiry?

2 A No, not that I know of.

3 Q When you found the Spinnaker lien and the SIPOA
4 lien in May of 2017, what did you do next?

5 A I looked up the court filings on 749 Spinnaker.

6 Q When did you bring your discovery to your husband's
7 attention?

8 A Probably the same day.

9 Q For what reason?

10 A I wanted to see if Spinnaker was going to get paid
11 out of this event. That was my only intention.

12 Q Okay. So your goal in looking at the Kelley
13 property in May of 2017 was to protect the Spinnaker
14 Homeowners' Association?

15 A Correct.

16 Q And ensure that the Kelleys pay whatever monies
17 were due in owing to the HOA?

18 A Correct.

19 Q When did that goal change?

20 A I don't know. I started going to the county

21 auctions.

22 Q Tell me about that. When did you start going to
23 the county auctions?

24 A I think it's in that file. May or shortly
25 thereafter.

0042

1 Q Okay. What was your purpose for going to the
2 county auctions?

3 A I started going just to educate myself on how
4 these auctions happen, and I printed off the list of
5 properties that were going to be auctioned that day and
6 learned how that process works.

7 Q Did you bid at any of these auctions?

8 A No. We were going to bid on another Seabrook
9 property that was up for auction, but it got pulled off
10 the auction within days of the event.

11 Q Which property was that?

12 A I believe it was a Tarpon Pond villa.

13 Q Who was foreclosing the Tarpon Pond villa?

14 A SIPOA.

15 Q Did you or your husband speak with anybody at SIPOA
16 or the Spinnaker HOA regarding your interest in bidding
17 on properties that those entities may be foreclosing?

18 A No.

19 Q Did you review any documents relative to codes of
20 conduct or policies regarding the propriety or
21 impropriety in doing so?

22 A I didn't.

23 Q Okay. Are you aware --

24 A I was just a homeowner. I wasn't involved in
25 anything.

0043

1 Q Well, you were on the Spinnaker board?

2 A Not at this time.

3 Q Your husband was.

4 A Yes, my husband was, but I was not.

5 Q Your husband was a board member of both
6 organizations, correct?

7 A Correct.

8 Q Does your husband have an ownership interest in the
9 LLC you formed on July 20th?

10 A Yep.

11 Q What percentage does he own?

12 A 50/50.

13 Q Did you have an operating agreement?

14 A No.

15 Q What documents did you file to form your LLC?

16 A I believe it's in that file. I believe it's
17 whatever you file online.

18 Q So do you have any operating agreement or minutes
19 or anything for this entity?

20 A No.

21 Q Any resolutions?

22 A No.

23 Q Certificates of good standing?
 24 A No.
 25 Q Tax ID number?
 0044
 1 A I believe there must be one in there.
 2 Q Did you file for one?
 3 A I don't know. He did the filing.
 4 Q All right. Let's go back to May. May, you are,
 5 even though you're not serving in an official capacity,
 6 researching lien information to ensure that Spinnaker
 7 HOA is paid, correct?
 8 A Correct.
 9 Q Okay. Do you recall the time in May, approximate
 10 date when you were doing that?
 11 A May 17th I believe.
 12 Q Okay. But at some point, your course of action
 13 changes from ensuring that the HOA is paid monies that
 14 are due to you deciding to participate in foreclosure
 15 sales brought by SIPOA or Spinnaker?
 16 A Not or Spinnaker, but by SIPOA, yes.
 17 Q By SIPOA?
 18 A Right.
 19 Q What caused your interest to change?
 20 A Change?
 21 Q Yes.
 22 A Change.
 23 Q What triggered it? Was it a conversation with your
 24 husband? Was it independent research on your own,
 25 advice of third parties? What made you go from trying
 0045
 1 to ensure that homeowner liens were paid to trying to
 2 profit from your neighbor's misfortune?
 3 A I don't know. I mean, at some point we said,
 4 maybe we should bid on it.
 5 Q What point was that?
 6 A I mean, May to June because June 20th was the
 7 first foreclosure date.
 8 Q Do you know how much the lien was on the Kelley
 9 property?
 10 A By SIPOA?
 11 Q Yes, ma'am.
 12 A I believe it was in the court records. Off the
 13 top of my head, I don't know.
 14 Q Does \$2,755 ring a bell to you?
 15 A Okay. If that's what is in the court records.
 16 Q Do you recall how much the Spinnaker lien was?
 17 A No. I mean, the lien for Spinnaker had been filed
 18 the prior year, so no, I don't know.
 19 Q Does \$1,800 ring a bell?
 20 A Yeah. That's probably right, based on our dues.
 21 Q How much was the Kelley property worth at that
 22 time?
 23 A I don't know what properties are worth. It's
 24 whatever somebody is willing to pay. The prior

25 Spinnaker -- this one, 749 Spinnaker is in very poor
0046

1 condition. The prior one was sold for, I believe, 180
2 somewhere in February or March.

3 Q Okay. You do a considerable amount of research
4 regarding the value of properties at Seabrook, as does
5 your husband, correct?

6 A Yeah.

7 Q You maintain a database?

8 A I don't.

9 Q Does your husband?

10 A Yeah. I guess he has some sort of collection of
11 prices.

12 Q Give me an idea of what you think the Kelley
13 property was worth?

14 A Less than 180, maybe 160 to 170.

15 Q Do you know what the tax value of the property is?

16 A Off the top of my head, no, but I believe it's in
17 there.

18 Q I'll tell you. It's 292,000 is what the tax value
19 is.

20 A Tax assessments have nothing to do with market
21 value.

22 Q It's your testimony that tax assessments have
23 nothing to do with value?

24 A I mean, they might. They might be accurate. They
25 might not be.

0047

1 Q Would you agree with me that tax assessments are
2 typically less than what property is worth?

3 A No, I would not agree with that. Because I think
4 they go all over the map.

5 Q All right. Let's spend a few moments going through
6 your file. I will publish to you that the first three
7 pages in your file are blank. The next two pages are
8 affidavits of service. This sixth page is a document
9 titled distribution of funds for 749 Spinnaker.

10 A Correct.

11 Q Who prepared that document?

12 A I did.

13 Q When was this document prepared?

14 A Can I see it? October 20th. It's written at the
15 top.

16 Q Did you review the court records in this case prior
17 to the bid on July 20th?

18 A Yes.

19 Q Do you understand what a complaint is?

20 A In legal terms, probably not.

21 Q Do you know that a complaint is a document that's
22 required to be filed when bringing a legal action in the
23 State of South Carolina?

24 A No.

25 Q Did you file a complaint in your prior case against
0048

1 Seabrook Island?
2 A I don't know. I did not track that case like I've
3 had to track this one.
4 Q Did you see the complaint filed in this case?
5 A Yes.
6 Q Okay. Did you review the affidavit of service
7 filed in this case?
8 A Yes.
9 Q Okay. Did you see that the affidavit of service
10 indicated that the complaint had not been served on
11 Mr. and Ms. Kelley?
12 A No, I did not notice that.
13 Q Have you since noticed it?
14 A Yes.
15 Q Do you understand that the service of the complaint
16 is required by the rules set forth in South Carolina?
17 A Yes.
18 Q When did you first learn that the complaint had not
19 been served on Mr. and Ms. Kelley?
20 MS. NICHOLS: Object to the form.
21 A Excuse me?
22 MS. NICHOLS: I'm just objecting.
23 BY MR. ALTMAN:
24 Q When did you first appreciate that the complaint --
25 A I believe when your motion to vacate the

0049

1 foreclosure was --
2 Q Included in your file is a document entitled Rule 4
3 Process. It's rule four from the South Carolina rules
4 of Civil Procedure. It has certain sections that are
5 highlighted. Will you take a look at that?
6 A Yes.
7 Q Okay. Whose highlights are those?
8 A My husband's.
9 Q Will you read the highlighted portion for me?
10 A The summons shall be issued by Plaintiff or
11 Plaintiff's attorney. Copies of the original summons
12 shall be served upon each Defendant. The next one
13 says, the summons and complaint must be served
14 together. The Plaintiff shall furnish the person
15 making service with such copies as are necessary.
16 Q Would you agree with me that Rule 4 requires both
17 the summons and the complaint to be served on a party?
18 MR. COBB: Object to the form. She already
19 said she has no legal background.
20 MR. ALTMAN: I'm just asking her to confirm
21 what the document in front of her says.
22 A So when we read this, I know very well now, from
23 looking at court documents -- and you can see that I
24 have a list of all court documents. The summons and
25 complaint are filed together as one document on the

0050

1 county website. So must be served together, means they
2 are one stapled document. When you print that

3 document, you get both the summons and complaint. They
4 are not two separate documents on the website. That's
5 about as much as I know. It would be very difficult to
6 separate the two.
7 Q Is it your testimony that based on your experience,
8 that the summons and complaint are filed as a single
9 document?
10 A Excuse me?
11 Q I'm trying to understand your testimony. Is it
12 your testimony that the summons and complaint comprise
13 one single document?
14 A They do on the county courthouse website.
15 Q Do you understand that those documents are in fact
16 filed separately with the clerk of court?
17 A Did not realize that.
18 Q Do you have anything to indicate to the contrary,
19 other than how the documents appear on the website?
20 A No.
21 Q Have you spoken with the clerk of court's office?
22 A No.
23 Q Okay. Is there anything in any document in your
24 file to indicate that the summons and complaint is filed
25 as a single document?

0051

1 A Is there anything in my file that says that they
2 are a single document?
3 Q Yes.
4 A I think I have -- keep going. I might have a
5 listing of -- there's a listing of all the documents on
6 this case. Does the bottom one say summons and
7 complaint?
8 Q And I'm looking at it. It does say summons and
9 complaint.
10 A And it's one document.
11 Q I have no idea whether it's one document or not?
12 A Well, it would have a separate entry if it was two
13 documents.
14 Q The heading is under documents. And I'll publish
15 to you I misspoke earlier. The tax value of the Kelley
16 property is \$296,573. Does that impact your evaluation
17 of the property being less than \$180,000?
18 A No, it doesn't. Our property evaluations were
19 done in 2013, based on sales of those years. So the
20 most recent sale was 180.
21 Q Has property value gone down on Seabrook since
22 2013?
23 A I can't make any kind of blanket statement like
24 that. It depends on the property.
25 Q Have property values on Spinnaker gone down since

0052

1 2013?
2 A Again, very big mix of property, even within
3 Spinnaker. Some are old and in bad shape. Some have
4 been renovated. Some are bigger than others. It's a

5 wild mix.

6 Q Okay. Other than your architect, do you owe any

7 third parties for work performed on the Kelley home?

8 A No.

9 Q Do you have any idea what your debt to your

10 architect is?

11 A Could be on the order of 1,500 to \$2,000.

12 Q Okay.

13 (Exhibit No. 3 was marked.)

14 MR. ALTMAN: I'm going to ask you to copy

15 this for me, or I can do it. I don't want to keep her

16 personal effects.

17 MR. COBB: That's fine. Can I just get a

18 runner?

19 MR. ALTMAN: I can go do it.

20 (The deposition took a short recess.)

21 BY MR. ALTMAN:

22 Q I just put in front of you Exhibit 3, which are

23 biographies. And I'll refer you to page two, which

24 lists -- which is your husband's biography.

25 A Yes.

0053

1 Q Toward the bottom of the page.

2 A Uh-huh, yes.

3 Q And in that biography, your husband indicates or

4 states that he maintains a comprehensive data base of

5 Seabrook property values and understands current price

6 and sales trends?

7 A Okay.

8 Q Do you know when this biography was published?

9 A Maybe December. No. This probably went out with

10 the annual meeting package in December of 2015.

11 Q Okay. Does your husband -- has he continued to

12 maintain the comprehensive database to which he refers

13 in his biography?

14 A I don't believe he has. He's busy.

15 Q What's he busy with?

16 A Racehorses, traveling, daughters.

17 Q Does he work?

18 A No.

19 Q Was he participating in those activities at the

20 time he prepared this biography?

21 A Yeah, sure.

22 Q I'm just trying to get a sense of your life of

23 what's changed. He certainly indicates that he spends a

24 lot of time and has a comprehensive database, and you

25 just testified that you don't believe he's continuing

0054

1 with that.

2 A I think it goes in spurts when he has time to

3 catch up on prior sales.

4 Q Can you tell me when you believe he stopped

5 maintaining that database?

6 A I don't know. You'll have to ask him.

7 Q Have you reviewed -- are you familiar with the core
8 value statement for Seabrook Island? Have you ever seen
9 that before?

10 A I probably have seen it before, but no, I don't
11 know what it is. Something about maintaining property
12 values.

13 Q Do you remember anything else about it?

14 A No.

15 Q Other than the Spinnaker HOA --

16 A Uh-huh (indicating an affirmative response).

17 Q That's a yes? Do me a favor and try to say yes or
18 no.

19 A Okay.

20 Q What organizations are you affiliated with, other
21 than the Spinnaker HOA or your husband's SIPOA board?
22 Are you involved in any charitable organizations, attend
23 any churches?

24 A Yes. We attend church, Holy Spirit Catholic
25 Church right there on Johns Island. We're involved
0055

1 with Thoroughbred Owners Breeder Association called
2 TOBA. Yeah, not a whole lot.

3 Q Other than the case, the pressing case, your case
4 you brought against Seabrook Island, have you been a
5 party to any legal action at any point in your life?

6 A I was divorced.

7 Q Other than a family court action?

8 A Don't think so. I think we had a small claims
9 case in Maryland against a contractor.

10 Q What was the outcome of that case?

11 A We won it.

12 Q Have either you or your husband ever been arrested?

13 A No.

14 Q I'm going to hand you what we are going to mark as
15 Exhibit 4.

16 (Exhibit No. 4 was marked.)

17 BY MR. ALTMAN:

18 Q Have you ever seen what I've handed you as
19 Exhibit 4?

20 A Okay, no.

21 Q Do you share the common vision and core value
22 statements set fourth in Exhibit 4?

23 A Yes.

24 Q Do you believe that the actions you have taken are
25 in the best interest of the community in this case?
0056

1 A It's a business transaction, yes.

2 Q Have you or your husband considered the apparent
3 conflict of interest with a member of the SIPOA board of
4 directors, the foreclosing party in this case, bidding
5 on a Seabrook Island property that's being foreclosed?

6 A Phil Squire, as a member of the SIPOA Board of
7 Directors, did not bring that house to foreclosure, nor
8 did he cause it to come to foreclosure. He had nothing

9 to do with that, nor did I. Did that answer your
10 question?
11 Q It most certainly did not. So I'll ask it again.
12 And I'll try and be clearer. Did you or your husband
13 consider the apparent conflict of interest with a member
14 of the SIPOA board bidding on property that the board is
15 foreclosing?
16 A No, we did not. Because we do not see a conflict
17 of interest.
18 Q Have you since considered the apparent conflict of
19 interest in board members bidding on property that the
20 SIPOA board is foreclosing?
21 A I'm going to say no.
22 Q Have you discussed that potential conflict with
23 anybody affiliated with the SIPOA board or any third
24 party?
25 A No.

0057

1 Q Do you think it would be appropriate for every time
2 SIPOA forecloses a property, then a member of the board
3 notifies a spouse or family member that, hey, there's an
4 opportunity. Why don't you go ahead and bid at that
5 foreclosure sale?
6 A We never knew that SIPOA was foreclosing on that
7 property until I found it in May.
8 Q Okay.
9 A So SIPOA board members -- maybe there's a few
10 board members that know exact properties but not Phil.
11 He wasn't on anything that -- I mean, the treasurer
12 might know. The legal probably knows, you know, head
13 of legal probably, executive committee. He's not on
14 any of those. He did not know that property --
15 individual properties are never discussed in any kind
16 of form that I know of, other than maybe among the
17 executive committee. I believe that's what they're
18 called.
19 Q Well, in May of 2017, your husband certainly did
20 know because you told him, according to your testimony?
21 A Correct.
22 Q He knew that in May that SIPOA was foreclosing the
23 Kelley home?
24 A Correct.
25 Q And the two of you certainly knew that he sat on

0058

1 the board that was foreclosing that property, correct?
2 A Correct.
3 Q Okay. Did you or your husband speak with anybody
4 regarding the propriety of a board member or a board
5 member's family bidding on property that SIPOA was
6 foreclosing?
7 A No.
8 Q In hindsight, do you think it would be appropriate
9 for SIPOA board members to bid on any Seabrook property
10 the SIPOA board was foreclosing?

11 A No.
12 Q You think it would be appropriate?
13 A I find no conflict of interest in a board member
14 not being party to the action of bringing it to
15 foreclosure to be able to bid on a property. There's
16 3,000 properties on Seabrook Island.
17 Q Do you think it would have been appropriate if
18 Spinnaker had foreclosed their lien, that you would have
19 bid on that property as well?
20 A No. In that case, we would not have done that.
21 Q Why?
22 A Because if he was on the board, that would not
23 have been appropriate because he would have known about
24 it.
25 Q Tell me your distinction.
0059
1 A If Spinnaker had foreclosed on that property, I
2 mean he, as a board member or -- and I as a board
3 member, would have known that it was under foreclosure
4 and would have had action to bring it to foreclosure
5 specific to the property. It's a very big distinction.
6 Spinnaker did not foreclose on them. SIPOA did.
7 Q So your testimony is that -- I want to make sure I
8 understand because your husband is serving on both
9 boards.
10 A Correct. Had nothing to do with this.
11 Q One chose to foreclose, and the other one did not.
12 A Okay.
13 Q And your testimony is if Spinnaker had foreclosed,
14 it would have been inappropriate for your husband to
15 bid, but it was appropriate for him to bid with the
16 SIPOA foreclosure?
17 A Correct.
18 Q Fair enough. Let's go back, and let's continue on
19 with Exhibit 4. Honesty and respect and will treat each
20 other, our guests and employees as we wish to be
21 treated. Do you believe that you have fulfilled the
22 honestly and respect core value statement set forth in
23 Exhibit 4?
24 A Yes. I've treated our guests and employees as we
25 wish to be treated.
0060
1 Q What about each other, your neighbors, other
2 property owners, the Kelleys, have you treated them as
3 you would like to be treated?
4 A This is a business transaction. It's not a
5 personal issue.
6 Q This common vision and core value statement is not
7 for a business transaction. This is regarding the
8 community. Do you think this applies to you, Exhibit 4?
9 A What? I don't know.
10 Q I'm asking you. You've been a resident there.
11 You've owned property there since 2003. I just looked
12 at this form yesterday. Do you believe Exhibit 4 applies

13 to you and how you treat your neighbors? Have you ever
14 had cancer?

15 A No.

16 Q Has your husband?

17 A No.

18 Q You're fortunate. You understand that Mr. Kelley
19 was suffering from leukemia at the time these events
20 occurred?

21 A No, I did not know any of that.

22 Q Do you know it now?

23 A I do know from your motion.

24 Q Does the fact that Mr. Kelley was in and out of the
25 hospital going through chemotherapy throughout this

0061

1 course, have any impact, on a human level, regarding the
2 course you have chose in this case?

3 A I certainly feel very bad that he's sick. I don't
4 want anybody to suffer or be ill or have cancer. I
5 mean, truly. This is not personal to Mr. Kelley
6 whatsoever. So I did not know that. I've had plenty
7 of sick relatives. I've had to take care of elderly
8 relatives. I know that somebody has to handle their
9 business affairs. I believe there's a Ms. Kelley that
10 was on the title of this house. Somebody should have
11 been paying the bills. This isn't just a SIPOA not
12 paying the bills. It's also not paying the bills for
13 Spinnaker. I know, from being on the Spinnaker board,
14 that means every other Spinnaker owner has to pay and
15 support that house. We need paying owners in our
16 community. I do know that. It is nothing personal to
17 Mr. Kelley.

18 Q Can you think of anything more personal than
19 somebody taking possession of your house and putting
20 your belongings on the street without having the decency
21 to contact you?

22 MR. COBB: Object to the form.

23 Q Would you take that personally? If you got a phone
24 call from a housekeeper that said somebody is in your
25 house and has thrown out your belongings?

0062

1 A If somebody had foreclosed on my property starting
2 in December and getting titled to it in September and
3 then my belongings were thrown out, I actually think
4 that would be my fault. And I hope it never happens to
5 me.

6 Q I hope you never go through it.

7 (Exhibit No. 5 was marked.)

8 BY MR. ALTMAN:

9 Q I've put in front of you Exhibit 5. This is a
10 Seabrook Island Property Owners Association Board of
11 Directors of Conduct. Are you familiar with this
12 document?

13 A Vaguely.

14 Q Share with me your vague familiarity with it.

15 A I believe this is the first code of conduct that
16 the SIPOA board has ever had, and it was approved in
17 December of 2016.

18 Q And that means that your husband would have voted
19 to approve it. He was serving on the SIPOA board in
20 2016?

21 A That's correct. He voted to approve it, or the
22 board -- 12-member board voted to approve it. But I do
23 not believe it is part of -- I don't know what the word
24 is, bylaws or covenants of SIPOA until they had a
25 resolution that was approved by owners in February of
0063

1 2017 that referred to the code of conduct. I may not
2 be legally correct in that, but that's what I believe
3 is the case. Because I believe we voted on something.

4 Q Would you agree with me that that code of conduct
5 was in affect in May of 2017 when you came across the
6 foreclosure action?

7 A Yes.

8 Q You would agree with me this code of conduct
9 applies to your husband, as he was serving on the board
10 in May of 2017?

11 A Yes.

12 Q Do you see toward the middle of that first page of
13 Exhibit 5 that talks about loyalty, care and ethical
14 conduct?

15 A Yes.

16 Q Would you agree that those requirements apply to
17 your husband's service on the board?

18 A Yes.

19 Q And those include placing the interest of SIPOA as
20 a whole above personal and/or other interests?

21 A Placing the interest of SIPOA -- it's under
22 loyalty.

23 Q Correct.

24 A Correct.

25 Q And your husband was charged with fulfilling that
0064

1 element of the code of conduct?

2 A Yes.

3 Q And he voted for it?

4 A I actually don't know if he voted for this. I
5 don't have his voting record.

6 Q Is it possible he voted for it?

7 A It is possible.

8 Q Who -- you've attended these board meetings?

9 A Some of them.

10 Q Who runs the meetings?

11 A The other president of the board.

12 Q Who is that?

13 A Ed Huff right now.

14 Q Have you or your husband spoken with Mr. Huff
15 regarding this property and your participation in the
16 sale?

17 A We did not talk to him about the sale until after
18 the sale.
19 Q Tell me about the post sale conversation you had
20 with Mr. Huff?
21 A I think the first time was when we got your -- got
22 the motion to vacate the foreclosure.
23 Q Tell me about the conversation with Mr. Huff after
24 you received my motion to vacate.
25 A I believe he -- I had no conversation so I'm just
0065

1 going to say I don't know.
2 Q Tell me what your husband shared with you.
3 A He said that it was okay for Phil to call
4 Ms. Nichols here, and he didn't know -- I mean, he
5 didn't know much of what the issue was. I believe
6 that's it.
7 Q What issue are you referring to?
8 A The motion to vacate.
9 Q Other than Mr. Huff and your counsel, who have you
10 and your husband spoken to regarding this case?
11 A I asked the SIPOA staff member Allison Townsley in
12 May if she was aware that Ravenel Associates was now
13 our property manager for Spinnaker and that it appeared
14 from court documents that Spinnaker was not represented
15 at the hearing for SIPOA foreclosing on the property;
16 and therefore, I did not think Spinnaker was being
17 represented, and that's a shame.
18 Q And that was prior to --
19 A That was in May when I found out the property was
20 being foreclosed on.
21 Q Did you share with her your potential interest in
22 bidding on the Spinnaker property on the Kelley
23 property?
24 A Yeah. I probably did say, you know, maybe I'll
25 just bid on it.
0066

1 (Exhibit No. 6 was marked.)
2 BY MR. ALTMAN:
3 Q I'm going to hand you Exhibit 6, which is a
4 conflict of interest statement. Have you ever seen that
5 document before?
6 A No.
7 Q Do you know when your husband completed that
8 conflict of interest statement?
9 A I don't know.
10 Q Has he ever discussed it with you?
11 A Yes.
12 Q Okay. Tell me about those discussions.
13 A That he had to sign this form, and it asks if you
14 hold refundable equity in the Seabrook Island Club.
15 Q Did you and your husband discuss completing this
16 form prior to bidding on the Kelley property?
17 A No.
18 Q Do you believe the form should have been completed

19 prior to bidding?
20 A No. I believe this form is only filled out prior
21 to applying to the nominating committee.
22 Q Well, let's take a look at page two of that
23 document. And let's look at the final paragraph, and
24 I'll publish it to you. It reads: Therefore, every
25 person who chooses to run for the position of SIPOA
0067
1 director or nominating committee member, or who serves
2 as a member of the ARC or as a key employee should
3 recognize the completion of this form is just the
4 beginning of the continuing evaluation that they must do
5 as issues arise in the course of their duties. Do you
6 agree this form creates an ongoing duty to address
7 potential conflicts of interest?
8 A I do not. I think they're making a statement
9 only.
10 Q Fair enough. I'll read on. If a person in one of
11 these positions is confronted by an issue that a person
12 of ordinary prudence would recognize places them in the
13 position of having to choose between the best interest
14 of SIPOA and their own personal views, then that person
15 should disclose the conflict. Do you agree with me that
16 this document certainly seems to address an ongoing duty
17 regarding potential conflicts of interest?
18 A It talks about the interest on views.
19 Q If you would, tell me what you're referring to
20 regarding views.
21 A It says, in their own personal views. That means
22 that if your personal view is different than other
23 owners' views, then you have to put the owners' views
24 above your own.
25 Q Okay. This is not just about opinions. This is
0068
1 about financial gain and business and those sort of
2 things as well. And I'll refer to paragraph four that
3 talks about financial interest and business interest as
4 well.
5 A That's right. That's why we have a 12-member
6 board, and 11 members of them are members of the
7 Seabrook Island Club.
8 Q And you would agree with me that this document
9 creates an ongoing duty of your husband to disclose
10 potential conflicts of interest when his personal
11 conduct may conflict with the best interest of SIPOA?
12 A Right. He has no conflict of interest.
13 Q Did they disclose the potential conflict of
14 interest in this case?
15 A You'll have to ask him.
16 Q Are you aware of any disclosure by him?
17 A No.
18 Q Have you ever filed an ejectment action as to the
19 Kelley property?
20 A Excuse me?

21 Q Have you filed an ejectment or eviction action
22 relative to the Kelley property?
23 A No.
24 Q Have you listed the Kelley home on any site as for
25 rent?

0069

1 A No.
2 Q Other than the 1,500 to \$2,000 that you owe your
3 architect, what other expenses have you incurred with
4 regard to the Kelley property?
5 A We have changed out electrical plugs. So we've
6 bought some supplies in that regard. Of course there's
7 a pending, I believe, \$3,800 tax bill due next month.
8 I have purchased homeowner's insurance for the
9 property. I have signed up for the Seabrook Island
10 utility commission water and sewer bill. I do not
11 believe I've received one. I certainly have a legal
12 bill.
13 Q All right. I've got -- you've got a tax bill of
14 3,800. You've got 1,500 to 2,000 for your architect.
15 How much did you spend on plugs?
16 A I have a lock bill for changing the lock.
17 Q How much was that?
18 A I believe it was 125 to change the lock. Nothing
19 too terrible. The tax bills are a big chunk of change.
20 Q Other than your \$80,000 bid, can you give me a
21 ballpark as to how much money you've spent on the Kelley
22 property since the issuance of the master's deed in
23 September?
24 A No. I would have to look that up.
25 Q Is it under \$10,000?

0070

1 MR. COBB: Can I object to form and ask you
2 to clarify specifically. Are you speaking only about
3 construction or HOA dues?
4 MR. ALTMAN: I'm talking about everything.
5 BY MR. ALTMAN:
6 Q I want to know everything you've spent money on
7 associated with the Kelley home.
8 A I would have to add it up. I had to pay a
9 transfer fee to SIPOA on it. I will have to pay SIPOA
10 dues on it. I will have to pay Spinnaker dues on it.
11 These things -- a lot of things are on hold right now
12 because of this action.
13 Q I don't want to talk over you. I don't want to
14 know things you are going to have to pay. I'm asking
15 for things you have paid as of today's date.
16 A I would have to add them up.
17 Q Well, let's take a few moments. This is my chance
18 to ask it.
19 MR. COBB: Can I interject here? I do have
20 that list from my client under a work product e-mail.
21 I'm happy to provide that e-mail to her to refresh her
22 memory. It speaks specifically as to her actual

23 expenses to date as of October 26, 2017.

24 MR. ALTMAN: I'll step out and let's take a
25 break and give you guys a few moments.

0071

1 (Discussion off the record.)

2 BY MR. ALTMAN:

3 Q Before we went off the record, I had asked you,
4 Ms. Squire, and I understand you may not have all your
5 records in front of you. But I asked you to share with
6 me your out-of-pocket to date relative to the Kelley
7 property. I understand you may have some future
8 prospective costs, taxes and other things, but what I'm
9 asking you for is what you've expended to date. And I
10 believe you've had a moment to review a spreadsheet or
11 some correspondence with your lawyer. And if you could
12 share with me your expenses to date of which your
13 lawyer --

14 A My expenses to date are -- well, other than the
15 \$80,000 purchase price --

16 MR. COBB: I can try to blow it up.

17 Q If you want to break it down by item, I can add
18 them later.

19 A \$6,911 plus my legal fees.

20 Q Can you break that 6,911 figure down for me?

21 A I have half a percent transfer fee paid to SIPOA
22 on the \$80,000 purchase price. The Charleston County
23 RMC fee to record the deed, a locksmith and lock, cost
24 for us to do our demolition and electrical work.
25 That's our own cost.

0072

1 Q Is that for your time?

2 A Yes.

3 Q If you would -- if I can break this down further,
4 of that 6,911, how much of that is money that you've
5 paid to third parties, not a charge for you and
6 Mr. Squire's personal time?

7 A Less than \$3,000.

8 Q How much less?

9 A I believe it's at 2,691.

10 Q 2,691.

11 MR. ALTMAN: I may have a few followups, but
12 if you want to go ahead and ask your questions.

13 EXAMINATION BY MR. COBB:

14 Q Cherie, thank for being a trooper. It's a little
15 longer today than we thought, but we're almost done. I
16 just have a few questions to clarify a few points. You
17 had testified earlier to Mr. Altman's question related
18 to the formation of the entity that bid on the property
19 located at 749 Spinnaker; is that correct?

20 A Correct.

21 Q And in your file after your review, did you find
22 the articles he inquired about?

23 A Yes.

24 Q Would you please pull that out of your file and

25 state the date when those articles were filed with the
0073

1 South Carolina Secretary of State?

2 A Filed July 20th.

3 Q Okay.

4 MR. ALTMAN: Does that have a timestamp on
5 it?

6 THE WITNESS: Yes. 4:32 p.m.

7 MR. ALTMAN: I'm looking for my copy. If we
8 could, let's mark that.

9 MR. COBB: Let's mark that as Exhibit 7.
10 (Exhibit No. 7 was marked.)

11 BY MR. COBB:

12 Q At the foreclosure auction on July 20th, were you
13 required to put a check with the master-in-equity at
14 that time?

15 A Yes.

16 Q And what account was that check written out of?

17 A My -- it was a cashier's check.

18 Q And where did you take that money from?

19 A From our personal checking account.

20 Q And on that cashier's check, did you reference the
21 entity form that day?

22 A Yes. We did it under 749 Spinnaker.

23 Q Well, on the cashier's check, did it say 749

24 Spinnaker, or did it say 749 Spinnaker, LLC?

25 A I don't know.

0074

1 Q Okay. Was your intent to form the LLC upon being
2 the successful bidder?

3 A Yes.

4 Q And were you and Phil the sole founders of that
5 LLC?

6 A Yes.

7 Q And that LLC was served specifically as a real
8 estate holding company in the event you were successful
9 in the bid for this property?

10 A Yes.

11 Q At the bid, did you believe that anything could
12 happen that could destroy your bid between that day and
13 the 30-day afterwards, in terms of when the rest of the
14 money was due of the \$80,000 bid?

15 A What?

16 Q Let me re-ask it. When you bid on this property,
17 how much of a deposit did you give on July 20th?

18 A Five percent.

19 Q So five percent of 80,000?

20 A Yeah.

21 Q So 4,000?

22 A Yes.

23 Q When was the remaining \$76,000 due?

24 A It was due in 30 days. So I believe August 20th.

25 Q Okay. Any reason -- at that time, had you taken

0075

1 deed to the property on the day that you made that bid?
2 A No.
3 Q Okay. Do you remember speaking to someone who
4 referred you to me after you made that bid?
5 A Yes.
6 Q And who would that person have been?
7 A Richard Davis.
8 Q And do you remember reaching out to him? We had
9 met previously prior to that, correct?
10 A Correct.
11 Q And that was also through that same referral?
12 A Correct.
13 Q But on a totally different issue, correct?
14 A Correct.
15 Q Do you remember -- and I went back and checked my
16 text. Do you remember meeting with me on that Friday,
17 July 21st, the day after the bid?
18 A Correct.
19 Q Okay. And do you remember what the concern was on
20 that date that we discussed in general terms without
21 disclosing any attorney/client discussions or
22 communications?
23 A It was just the definition of subject to mortgage.
24 Q Okay. So were you concerned about the first
25 mortgage or service with Bayview or whoever the
0076

1 successor in interest of the mortgage was?
2 A Yeah. It was Chase at the time, but yes.
3 Q Okay. And at that time, did we have discussions
4 about a writ of ejectment or anything of that nature?
5 A What?
6 Q At that time, did we have any discussions about,
7 you know, the protocol about potentially evicting
8 somebody or the difference between vacant or evicted?
9 A No.
10 Q Why were you not worried about that issue at that
11 time?
12 A Because I didn't hold deed yet.
13 Q Okay. All right. Can you look back at Exhibit 1,
14 please?
15 A Okay.
16 Q And if you'll please go again back to paragraph 29
17 in Exhibit 1.
18 A Okay.
19 Q So when you reviewed this, did you -- were you
20 under any impression that you needed to seek legal
21 counsel, based off the clarity of the language in that
22 paragraph?
23 A No.
24 Q About how to handle that at that time?
25 A No.
0077

1 Q So when did you come back to see me about the issue
2 related to Mr. Kelley's claim?

3 A When the motion took.
4 Q Understood. And at that time, were you advised to
5 stop and cease and assist any and all action to the
6 property until this issue was resolved?
7 A Yes.
8 Q And did you do so?
9 A Yes.
10 Q And did you do so out of respect?
11 A Yes.
12 Q So in terms of the core values and the code of
13 conducts and the things that have been mentioned here
14 today, did you feel, out of respect, that, you know,
15 that would match and meet up with those core values?
16 A I did not think of it in those terms, but it's the
17 right thing to do.
18 Q Thank you. Okay. You had talked specifically
19 about the condition of the property when you took
20 possession of the property, which I think was roughly
21 around September 5th. Does that sound right?
22 A Correct.
23 Q Tell me exactly what was wrong with the exterior of
24 the property?
25 A The only thing we saw prior to bidding on the
0078

1 property was the exterior of the property. So
2 Spinnaker beach houses were originally built in wood.
3 And a lot of people have replaced the siding with
4 Hardie siding cement board. This house is the original
5 wood. It needs residing. There's a lot of rot.
6 There's one whole wall that's green, which green in and
7 of itself can be fixed. But, you know, the stairs are
8 original stairs and decks. And the upper stairs --
9 there's two open decks on the upstairs. Both of them
10 leak, so they leak into the downstairs. I mean, these
11 things are common, and on this house, everything is
12 original.
13 Q How did you actually gain entry into the interior
14 of the unit, and at what time approximately did you gain
15 that entry?
16 A The day after I received the master deed.
17 Q Which would have been September 6th?
18 A I believe September 5th, and I called a locksmith
19 on the 6th. And a locksmith came and changed the lock.
20 Q Okay. And I believe it was mentioned earlier that
21 the unit had been owned by Mr. Kelley or his family for
22 a period of 38 years. Does that sound correct?
23 A I did not know that at the time.
24 Q Is that what Mr. Altman informed you?
25 A Yes.
0079

1 Q When you walked in, did anything strike you about
2 somebody owning property that long? I mean, was
3 anything missing, even though it was partially
4 furnished?

5 A The house looks original.
 6 Q It had food in it. Was there, you know, roast beef
 7 in the refrigerator?
 8 A No.
 9 Q Was there a frozen pizza in the icebox?
 10 A No.
 11 Q Were there clothes in the closet?
 12 A No.
 13 Q What about the chest of drawers?
 14 A No clothes.
 15 Q What about walls, were there any personal effects
 16 like family photos or anything of that nature?
 17 A No.
 18 Q Your mom recently passed. Is that accurate?
 19 A Yes.
 20 Q And before your mom passed, she had broken her hip;
 21 is that correct?
 22 A Correct.
 23 Q When she broke her hip, what did you do to her
 24 home?
 25 A I secured it. That's all I did.
 0080
 1 Q Did you clean it?
 2 A I did.
 3 Q Why did you clean it?
 4 A I cleaned it so that when my mother returned to
 5 her home, it was cleaned and she could have a
 6 caregiver.
 7 Q And also did you not tell me she needed to be able
 8 to access through a wheelchair or walker?
 9 A Yes.
 10 Q So how long has your mom lived in that home?
 11 A She was in that house for 58 years.
 12 Q So you had been asked earlier about evidence about
 13 knowing about voluntarily vacating the property. Do you
 14 remember that testimony about the distinction between
 15 vacant and vacating?
 16 A Yes.
 17 Q Do you know if this was Mr. Kelley's primary or
 18 secondary residence?
 19 A Secondary residence.
 20 Q And how do you know that?
 21 A From the property tax bill. You pay a much lesser
 22 rate if you're a resident.
 23 Q And you've lived there since 2013 in terms of 20
 24 units down?
 25 A Correct.
 0081
 1 Q So during that time, did you ever see Mr. Kelley
 2 watering his grass, mowing his lawn, planting flowers,
 3 anything like that?
 4 A No.
 5 Q Anybody from his family there?
 6 A No.

7 Q Never grilled out burgers or had a community event
8 where you-all talked or chatted it up?
9 A No.
10 Q So for a period of four years, you never saw
11 Mr. Kelley at that time?
12 A No.
13 Q And wasn't it testified earlier that Mr. Kelley had
14 been sick for a period of sick months, if not longer?
15 A Correct.
16 Q Do you know if he had been sick for that entire
17 four-year period?
18 A I have no idea.
19 Q So when you went into the house, there was no
20 personal effects whatsoever?
21 A No.
22 Q No clothing?
23 A Correct.
24 Q Toothbrush?
25 A No.

0082

1 Q Shaving cream, razor, anything of that nature?
2 A No.
3 Q Diploma, maybe a school plaque or anything in
4 there?
5 A No.
6 Q So in the difference between vacant and vacated as
7 Mr. Altman described to you, what do you believe that
8 meant in terms of walking in there from an evidence
9 standpoint, you know, in terms of the difference between
10 vacated and vacant?
11 A When we -- I don't know if I'm answering your
12 question. When we walked in and there were no personal
13 belongings, there's no way for us to know that he
14 didn't take out everything that he wanted to take out.
15 Q And you had testified earlier that you had known
16 that he had been in the property on 07/24; is that
17 correct?
18 A Correct.
19 Q And you knew that indirectly by this Cameron Leyh,
20 who was the property manager at Spinnaker?
21 A Correct.
22 Q I guess she worked for Ravenel or she worked for
23 Spinnaker?
24 A She worked for Ravenel as Spinnaker's property
25 manager.

0083

1 Q In terms of the quality of furniture, was it fairly
2 new furniture? Was it well kept furniture?
3 A No. Everything in there is original. If you say
4 it's 40 years old, I would believe it.
5 Q So you go to the house, right? It's not been
6 maintained on the exterior. And the interior has some
7 old furniture in it. There's no clothing. There's no
8 food. There's no personal effects, pictures, anything

9 of that nature, so did you have any reason to believe
10 that Mr. Kelley was still using that property?
11 A No.
12 Q Do you have any reason to believe that he wouldn't
13 have just vacated that property at that time, based on
14 your entry of September 6th?
15 A No reason to believe.
16 Q Under Exhibit 2, the master-in-equity forms that
17 were provided, you had testified earlier that you had
18 done research on property records in this standpoint.
19 Why did you not go further deeper in that
20 master-in-equity forms when you were looking at it? Why
21 didn't you look for a writ of ejectment or seek and
22 assistance for ejectment to clear out the property?
23 A I didn't know any of this existed.
24 Q And were you just solely reliant on paragraph 29 of
25 Exhibit 1, the foreclosure order?
0084
1 A Yes.
2 Q Okay. I'm almost done, guys. Thank you for your
3 patience.
4 MR. ALTMAN: Take your time.
5 BY MR. ALTMAN:
6 Q Okay. Mr. Altman asked a pretty good question
7 earlier, and I liked the way he asked it. But he said,
8 what made you switch goals? You testified earlier that
9 your initial goal was kind of as a friend of the
10 Spinnaker HOA to review the liens on 749 Spinnaker,
11 correct?
12 A Correct.
13 Q Okay. And then you also talked about talking to
14 Allison -- I don't have her last name.
15 A Townsley.
16 Q And you said that at that point in time, you had
17 informed her that maybe you would just bid on it?
18 A Uh-huh (indicating an affirmative response).
19 Q So when was that transition? When did you go from
20 being a concerned member and former treasurer of
21 Spinnaker to a potential buyer of an investment
22 property?
23 A I don't think there was any conscious shift in
24 tactics or intent, other than we're always looking at
25 properties on Seabrook Island. We're investors.
0085
1 Q But your initial view, you're testifying today,
2 that that wasn't your position?
3 A Right. It wasn't. I wanted to make sure
4 Spinnaker was getting paid. I was on the Spinnaker
5 board prior to that, and we had a problem getting this
6 account all paid up. I'm sure that's public record
7 also.
8 Q Since this motion to vacate the foreclosure sale
9 has been filed, has there been any more legal action
10 taken against 749 Spinnaker?

11 A No.
12 Q Against the real property?
13 A Yes. The mortgage hasn't been paid.
14 Q Okay. And what did the mortgage holder or servicer
15 do because it wasn't paid?
16 A They filed a foreclosure notice.
17 Q Okay. You testified earlier about value, and you
18 mentioned that tax value, it's kind of all over the
19 board. Maybe it's worth more or less than tax value.
20 You said it just depends, right?
21 A Yes.
22 Q I believe the tax value was 296,000 and change that
23 Mr. Altman testified to in his question of your
24 evaluation. When you looked at this property, you said
25 you thought this property was worth 160 or 170,000. Is

0086

1 that because of the disrepair in terms of that
2 differential? You have to figure a 110,000 difference.
3 A Everything is based on a prior sale. So the most
4 recent prior sale was the same model unit with a much
5 better view. 749 in on the river side. The other one
6 is on the golf course side. We've been to the other
7 house. It's 770 Spinnaker, and I believe it sold for
8 180,000. We know the people that bought the property.
9 We know the contractor that is doing the work on it.
10 We've been in it. It's very much in -- it's, you know,
11 the same era or same age of the property. That one had
12 slightly less work to do.

13 Q Was the square footage of that 770 the same as 749?

14 A Yes.

15 Q The only difference was it had a better view
16 because it was golf course versus road side?

17 A Correct.

18 Q So in that situation, did you look at 749 as a
19 value added? I mean, based on the fact that you could
20 do these repairs, in terms of doing a lot of the manual
21 labor yourself. And then you could potentially flip it
22 or maintaining it as future investment that would have
23 appreciation value in terms of value added based off
24 your work?

25 A Yes. We thought it was a good investment

0087

1 opportunity. We haven't decided yet what we want to do
2 with it.

3 Q You had mentioned earlier you have two daughters,
4 correct?

5 A Yes.

6 Q Are you believing that one of your daughters may
7 come back and also live in the house in the event you
8 don't rent it?

9 A I think they might visit. Ours is kind of small.

10 Q Would you potentially rent it if you don't flip it?

11 A Yes. I also have a 90-year-old mother-in-law.

12 Q You did some independent research that was in your

13 file that was not covered in attorney/client work
14 product under rule four. Why did you do that
15 independent research?
16 A I starting going to the auctions.
17 Q No. The rule four. Did we make that exhibit?
18 It was highlighted. You said Phil highlighted it.
19 A Just because we wanted to understand the motion to
20 vacate.

21 MR. COBB: It's in that folder.
22 (Exhibit No. 8 was marked.)

23 BY MR. COBB:

24 Q Okay. All right. Again, why did you do
25 independent research?

0088

1 A When we saw the motion to vacate the foreclosure.

2 Q You wanted to understand about what the
3 justification on the motion of vacate was and not the
4 proper service.

5 A Right.

6 Q You mentioned that when you go online to the
7 Charleston County website that shows the pleadings, you
8 had talked about how the summons and complaint were on
9 the same line. And if you clicked the box to pull it
10 down for PDF, it was one document. Did you understand
11 what Mr. Altman said about the fact there were actually
12 two documents?

13 A I understand what he said.

14 Q And do you believe that both documents were served
15 on Mr. Kelley appropriately?

16 A Yes.

17 Q Do you feel like the affidavit was in terms of the
18 fact that it did not specifically state something?

19 A Yes.

20 Q Are you aware of any action that has been taken on
21 behalf of SIPOA in this case to correct that?

22 A Yeah, I believe, yes.

23 Q Under Exhibit 4, the core value statement for
24 SIPOA, it talks about actions and investment of the
25 community. You testified earlier about business

0089

1 actions. Do you think it's in the best interest of the
2 community to allow an individual not to pay?

3 A No.

4 Q For HOA dues?

5 A No. I'm a financial person. I think we all have
6 an obligation to pay our dues.

7 Q All right. Now, from a moral and ethical
8 standpoint, did you ever feel or know or believe or have
9 any idea that you were bidding against an individual who
10 had been sick with cancer somewhere up North?

11 A No.

12 Q Okay. You had talked a little bit about Phil and
13 his position on the SIPOA board. Are you aware if Phil
14 would have known about the foreclosure happening on 749

15 Spinnaker, in terms of a vote on the SIPOA board? I
16 mean, if he was on the board at that time, did he know
17 about the vote that was made for that specific property?
18 A To my knowledge, he did not know that 749
19 Spinnaker was --
20 Q Has it not been told that anything that comes to
21 the board in terms of addresses and names were redacted
22 from the votes?
23 A Right. They never vote on anything with a name in
24 it.
25 Q So unless Phil was on these other committees you

0090

1 mentioned earlier, you know, the legal and finance
2 committee, Phil wouldn't have known that Mr. Kelley's
3 property at that time would have been voted on by him if
4 he actually did vote for that to be foreclosed on?
5 A Correct.
6 Q So Phil wouldn't have found out that this property
7 was foreclosed on by SIPOA until you told him in May
8 after you did your independent research?
9 A Correct.
10 Q You know, under honor and respect under those same
11 core values, do you believe that, you know, that no one
12 should be allowed to bid on foreclosure property under
13 Court's mandate or Court process because you're living
14 under that core value statement?
15 A No.
16 Q So you don't think you should have been precluded
17 from a business investment?
18 A No.
19 Q And going back to Phil's position on the board.
20 What do you think Phil's position on the board, in terms
21 of conflict of interest, would have ultimately been for
22 an ordinary person? Because I think the language said
23 in the purview of --
24 MR. ALTMAN: What document are you referring
25 to?

0091

1 MR. COBB: Exhibit Number 6.
2 BY MR. COBB:
3 Q It's on page two.
4 A This one?
5 Q Exhibit 6, page two. Go to page two real quick.
6 Do you think that this document in any way should have
7 been filled out by Phil prior to y'all bidding on this
8 property at 749 Spinnaker?
9 A No.
10 Q Why?
11 A Number one, this is a document for owners that are
12 going before the nominating committee for nomination to
13 run for the board.
14 Q Okay.
15 A So it doesn't carry beyond that.
16 Q Okay. When you went to the foreclosure sale in .

17 July, were more than just you and Phil bidding on this
 18 property?
 19 A Absolutely.
 20 Q How many people were bidding on the property at
 21 that time? Do you remember?
 22 A Four, five, six.
 23 Q Was there a bidding war that happened on that
 24 property?
 25 A Yes.
 0092
 1 Q Did you bid more that was actually due under the
 2 liens plus attorney fees of that foreclosure?
 3 A Yes.
 4 Q How much did you bid?
 5 A 80,000.
 6 Q And are you familiar with where the surplus funds
 7 after the SIPOA is paid off will go to?
 8 A No. I understand that, according to the court
 9 order, it's determined by the Court.
 10 Q But after -- in terms of your research, who do you
 11 believe will be the rightful owner of those surplus
 12 funds?
 13 A I believe Spinnaker will get paid because they
 14 have a lien or at least I'm still hoping Spinnaker will
 15 get paid.
 16 Q But it's only 1,800. The majority is 60, 65,000?
 17 A If the mortgage company doesn't go for it, I
 18 believe it goes to Mr. Kelley.
 19 Q Why wouldn't the mortgage company go for it if they
 20 retain their lien against that property?
 21 A They want to get paid.
 22 Q But they have a lien on the property, correct?
 23 A Correct.
 24 Q And you're aware that that's all they can go after
 25 to start off with is that property, correct?
 0093
 1 A Correct.
 2 Q So again, I will ask you again, where would the
 3 surplus funds go to?
 4 A Probably Mr. Kelley.
 5 Q Last question. We talked a little bit about ethics
 6 and morality here. Do you believe that it would be a
 7 fair outcome, from a moral and ethical situation, for
 8 SIPOA to get paid, for Spinnaker to get paid, for
 9 Bayview to get paid and you to receive a return of all
 10 your out-of-pocket expenses to date, including legal
 11 fees, plus your original 80,000 with whatever interest
 12 would be payable due on the property at that time and
 13 then give the deed back to Mr. Kelley? Do you believe
 14 that would be a fair outcome in this situation?
 15 A No.
 16 Q Why?
 17 A Because I bought a property in good faith. I did
 18 nothing wrong. My husband did nothing wrong. I'm

19 sorry Mr. Kelley is sick. I'm sorry this happened to
20 him. He had seven months notice plus another month and
21 a half to resolve this.

22 Q But now that you know the other side of the story,
23 so to speak, that he was sick, that he did not get
24 service in terms of the affidavit based off the way it
25 should -- you know, it's being claimed it should have
0094 been done, do you not believe that outcome is one that
1 you can embrace at the end of the day? Would you be
2 okay if that were the ultimate outcome, in terms of a
3 moral, ethical outcome? I mean, could you sleep at
4 night?

5 A In the end, I'm not sure of what your question is.
6 Do I want to return the house to Mr. Kelley? I'm not
7 sure what your question is.

8 Q I'll stop. I asked a very poorly-worded question.
9 A It's a long question.

10 MR. ALTMAN: I understood your question fine.
11 MR. COBB: I'm going to stop. Thank you very
12 much. I appreciate it.

13 MS. NICHOLS: I don't have any questions.
14 FURTHER EXAMINATION BY MR. ALTMAN:

15 Q The good news for you is I've got to stop with you
16 in five minutes. Let me just run through a couple of
17 things with you. I'm going to hand you what's going to
18 be marked as Exhibit 9.
19 (Exhibit No. 9 was marked.)
20 BY MR. ALTMAN:

21 Q Does Exhibit 9 accurately reflect the proximity of
22 your house to the Kelley house?
23 A Yes.
24 Q Thank you. Now, you mentioned to your attorney
0095 that you and your husband are investors in real estate.
1 What other properties have you invested in?
2 A None. We made an offer on a house last year. We
3 looked at another foreclosure.
4 Q Other than the Kelley house and the house you
5 currently reside in, do you own or claim an interest in
6 any other property in Charleston County?
7 A Huh-uh (indicating a negative response).
8 Q That's a no?
9 A No.
10 Q Do you have any professional designations as far as
11 investor? Have you taken any classes, anything like
12 that?
13 A No.
14 Q All right. Now, I believe you testified earlier
15 that around May 20th, you were reviewing Spinnaker liens
16 when you came across the Kelley lien?
17 A Correct.
18 Q Okay. And your motivation at that time was to
19 ensure that Spinnaker assessments were properly paid; is
20

21 that correct?

22 A Correct.

23 Q At some point thereafter, you decided to pursue
24 bidding, at least on the Kelley house and potentially
25 other properties?

0096

1 A Correct.

2 Q Okay. Do you recall how many days passed before
3 you decided to pursue bidding at foreclosure sales? Was
4 it a week, two weeks, a day?

5 A No conscious shift of intent at all. Just going
6 along with it.

7 Q There's a document in your file. We can mark that
8 as Exhibit 10.

9 (Exhibit No. 10 was marked.)

10 BY MR. ALTMAN:

11 Q I'll publish to you it's foreclosure bidding
12 strategies and the risk of a full credit bid. Where did
13 you get this document from?

14 A My husband found it.

15 Q Was your husband also involved in this decision to
16 transition from trying to ensure that your neighborhood
17 homeowners' association liens were paid to actively
18 bidding at foreclosure sales?

19 A I'm sorry?

20 Q I'm trying to understand how you made the
21 transition. You're telling me that it just kind of
22 happened organically, but now I'm hearing from you that
23 your husband --

24 A Yeah, it just happened organically. We were
25 looking at this, and then we looked at other

0097

1 foreclosures. And then you'll see from the records you
2 now have from me, that I looked at all of them. And I
3 took extreme notes on every foreclosure that was
4 happening on each thing. And I was trying to
5 understand the process. So in going from one thing to
6 another, it was like, you know, maybe we should be
7 looking at foreclosures. It's quite an active business
8 out there.

9 Q And I appreciate that. What I'm trying to
10 understand is the sequence of these events. Around
11 May 20th, you're being protective of your community?

12 A Right.

13 Q Then there's a document in your file that you just
14 testified that your husband was investigating
15 foreclosure bidding strategies. Do you know when he
16 obtained that document?

17 A No.

18 Q Was it before you went to the first foreclosure
19 sale or after?

20 A After.

21 Q What was the first foreclosure sale you attended?

22 A Probably in May, but it's in here.

23 MR. ALTMAN: Let's mark this as 11.
24 (Exhibit No. 11 was marked.)

25 BY MR. ALTMAN:

0098

1 Q Eleven is an auction list from May 24th, 2017.
2 A That would have been the first one.
3 Q Did you and your husband attend that?
4 A No.
5 Q Who did?
6 A Just me.
7 Q Now, was Exhibit 10 obtained prior to or after the
8 May 24, 2017 auction?
9 A Did this document -- when did I obtain this
10 document?
11 Q Did your husband obtain Exhibit 10 prior to you
12 attending the May 24th, 2017 --
13 A I don't know.
14 Q Did you bid at the May 24, 2017 auction?
15 A No.
16 Q So somewhere between May 20th, when you were just
17 looking for Spinnaker liens and May 24th when you had
18 clearly decided to pursue foreclosure bidding by
19 attending the auction, this bulb went off in your head.
20 And you guys decided to pursue it, correct?
21 A I didn't go to this with any intent to buying any
22 of those properties.
23 Q Did you go to that auction to try and protect
24 Spinnaker liens?

25 A No.

0099

1 Q You went there to see how the foreclosure bid
2 process took place, correct?
3 A Correct.
4 Q You were interested in bidding on foreclosure
5 properties and were trying to educate yourself?
6 A Correct. But not for bidding on any of these.
7 Q But as of May 20th, you weren't at all interested
8 in bidding on foreclosed property. You were simply
9 looking for Spinnaker liens to make sure you were a good
10 neighbor?
11 A I had no idea what the process was at all.
12 Q And in that four-day period, you transitioned from
13 being a good neighbor and protecting the homeowners'
14 association to investigating the possibility of bidding
15 on foreclosed property to such degree that you attended
16 a foreclosure auction four days later; is that correct?
17 A I'm still a good neighbor.
18 Q I'm not questioning your neighboring. I'm
19 questioning your course of conduct between May 20th and
20 May 24th.
21 A I went to that foreclosure to see what it was
22 about.
23 Q But you testified earlier that prior to May 20th,
24 you had never considered bidding on foreclosed property?

25 A I didn't know anything about foreclosed
0100
1 properties.
2 Q And on May 20th or on or about May 20th, you
3 discovered the Spinnaker lien on the Kelley home. And
4 after that, you discovered the SIPOA, the board on which
5 your husband sits, was foreclosing on the Kelley home.
6 And four days after that, you're educating yourself on
7 the foreclosure bidding process by attending the
8 auction, correct?
9 A Correct.
10 Q Is that a correct sequence of events?
11 A Yep.
12 Q By May 24th, 2017, were you considering the
13 possibility of bidding on the Kelley home?
14 A I don't recall what I was thinking on May 24th,
15 but I was definitely looking at foreclosed properties.
16 Q Were there any properties you were looking at,
17 other than the Kelley home, as of May 24th, 2017?
18 A Yes.
19 Q Which ones?
20 A You can probably tell from my notes.
21 Q I can. Share them with me.
22 A I think I was very interested to find out the
23 process of whenever an HOA was closing on a process
24 because I know it's different. Because generally
25 there's a second lien.
0101
1 Q Who is Richard Davis?
2 A Just another Seabrook owner that we know.
3 Q Did you speak with Mr. Davis regarding the
4 foreclosure process?
5 A Don't think so.
6 Q Have you spoken to Mr. Davis about this case?
7 A Yeah.
8 Q Okay. Tell me about those conversations.
9 A Well, we purchased the property on July 20th. We
10 told him, and he said we should talk to Hal.
11 Q Why did you tell him on July 20th that you had
12 purchased the property?
13 A Because he's bought properties out of foreclosure
14 before.
15 Q Are you friends with Mr. Davis?
16 A Yeah.
17 Q Had he encouraged you to pursue bidding at
18 foreclosure sales prior to July 20th, 2017?
19 A No.
20 Q Did you discuss with him that you were bidding on
21 the Kelley house on July 20, 2017?
22 A No.
23 Q Why did you tell him afterwards that you had
24 purchased the house?
25 A Because we knew he had experience.
0102

1 Q What experience did you require post July 2017?
2 A Again, we were just trying to understand the
3 subject to mortgage statement of the foreclosure.
4 Q The surplus funds issue?
5 A No, not really surplus funds but subject to
6 mortgage.
7 MR. ALTMAN: Okay. Any follow-up questions?
8 MR. COBB: No. Thank you for your time
9 (The deposition of Cherie Squire concluded at
10 11:30 a.m. on November 8th, 2017.)
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0103

COURT REPORTER'S CERTIFICATION

1
2
3 I DO HEREBY CERTIFY THAT THE TESTIMONY CONTAINED
4 IN SAID DEPOSITION WAS, BY ME, REDUCED TO WRITING BY
5 MEANS OF A COMPUTERIZED TRANSCRIPTION. THE SAID
6 DEPOSITION IS A TRUE AND ACCURATE TRANSCRIPT OF THE
7 WHOLE OF THE TESTIMONY GIVEN BY SAID WITNESS, AS
8 AFORESAID.
9

10 I DO FURTHER CERTIFY THAT I AM NOT CONNECTED BY
11 BLOOD OR MARRIAGE WITH ANY OF THE PARTIES OR THEIR
12 ATTORNEYS OR AGENTS, AND THAT I AM NOT AN EMPLOYEE OF
13 EITHER OF THEM, NOR INTERESTED DIRECTLY OR INDIRECTLY
14 IN THE MATTER OF CONTROVERSY EITHER AS COUNSEL,
15 ATTORNEY, AGENT, OR OTHERWISE.

16 SIGNED THIS THE 15th DAY OF NOVEMBER, 2017.
17

18 AMANDA BARBAO

19 MY COMMISSION EXPIRES: 01/24/2023
20
21
22
23
24
25

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

Kristen N. Nichols, Esquire
Attorney for the Plaintiff

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

JUDGMENT OF FORECLOSURE
AND SALE

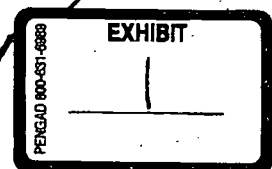
DEFICIENCY JUDGMENT DEMANDED

FILED
2017 MAY -5 AM 10:03
JULIE J. ARMSTRONG
CLERK OF COURT

A foreclosure hearing was held on Wednesday, April 19, 2017, at 10:00 a.m. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on December 19, 2016.
2. The Summons and Verified Complaint were filed on December 19, 2016.
3. Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.
4. Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.
5. Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.
6. The South Carolina Supreme Court Administrative Order 2011-05-02-01, dated May 2, 2011 does not apply to this foreclosure, in that the Plaintiff does not offer any form of foreclosure intervention because it is an HOA or POA.



7. The subject matter of this action is real and personal property located in Charleston County, South Carolina, and owned by Charles E. Kelley and Deborah L. Kelley, by virtue of a deed recorded on May 26, 2000, in Book F348, at Page 424.

8. The Plaintiff in this action filed a Notice of Lien for delinquent assessments, late fees, interest and costs by Seabrook Island Property Owners Association, recorded August 30, 2016, in Lien Book 0579 at Page 617.

9. This is an action for the foreclosure of a Lien for unpaid and past due Association Assessments. The obligation to pay Assessments is codified and established under the Governing Documents for Seabrook Island Property Owners Association, being recorded in the RMC Office for Charleston County, and any amendments thereto. The Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being the owner of 749 Spinnaker Beachhouse, Johns Island, South Carolina, is subject to the Governing Documents, together with all amendments thereto. As such, Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, is required to pay all assessments, together with attorney's fees and costs of collection.

10. This property is subject to the covenants, terms and conditions of The Governing Documents and has been subject to all special and regular assessments as prescribed by the Plaintiff. As of April 19, 2017, the past due assessments and related charges, in the amount of Five Thousand Sixty Dollars and 62/100 (\$5,060.62) Dollars together with reasonable attorney's fees and costs of this action were due; and these payments have not been made.

11. The sum of \$1,640.00 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the governing documents of Plaintiff. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplate completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond

the normal time.

12. According to the accounting of Plaintiff, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing, with interest, advances made by Plaintiff, and other costs and expenses of the action, including attorney's fees, all secured by the Lien, are as follows:

A Annual Assessments (2016, 2017)	\$4,280.00
B Late Interest through April, 2017	\$459.62
C Late Fees	\$321.00
D. Attorney's Fees	\$1,640.00
E. Attorney's Costs	\$1,213.00

TOTAL AMOUNT DUE AS OF April 19, 2017\$7,913.62

13. The property should be sold by this Court, subject to taxes, existing easements, covenants, conditions and restrictions of record, and those found in The Governing Documents, and other senior encumbrances (if any).

14. Plaintiff is seeking the foreclosure of the lien and has expressly demanded the right to a deficiency judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley pursuant to S.C. Code Ann. § 29-3-660. The Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

15. The mortgage to Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, Its successors and assigns, a Delaware Corporation is senior in priority to the Plaintiff's lien and as such; the sale shall be subject to this mortgage.

16. The following Defendant may claim a lien upon or subordinate legal interest in the subject property, and in the event there is a surplus from the sale of the subject property, these Defendant may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant and such lien or legal interest is as follows

Spinnaker Beach House Owners Association, may claim some interest in the subject property by virtue of the following:

- a. A Notice of Lien filed on November 5, 2015 in the amount of \$1,822.44, in Book 0515 at Page 655; and

- b. A pending foreclosure filed on February 2, 2016, in case number 2016-CP-10-0537.

IT IS THEREFORE ORDERED:

17. There is due to Plaintiff under the terms of The Governing Documents the sum of \$7,913.62, as set out in the Complaint and Findings of Fact. All additional costs of this action shall also be included in the debt due from Defendants, George Bennett a/k/a George G. Bennett and Theresa Bennett, and interest on any bid amount shall run at the rate of 7.50% per annum until paid in full.

18. The Nine Thousand Nine Hundred Twenty and 90/100 (\$9,920.90) Dollars shall constitute the total judgment debt due Plaintiff and shall bear interest at the rate of 7.50% per annum, and the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, being liable for the aforesaid debt, shall on or before the date of sale of the property hereinafter described, pay the Plaintiff, of Plaintiff's attorney, the amount of Plaintiff's debt aforesaid, together with any and all additional attorney's fees, costs and disbursement of this action.

19. Plaintiff shall have judgment against Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley in the amount set forth above. Such judgment shall be entered and docketed in the Clerk's office immediately and in the same manner as other judgments pursuant to §29-3-650 SC Code of Laws (1976 as amended). Upon sale of the subject property, the judgment shall be credited in the amount paid to Plaintiff from the proceeds of the sale. The Plaintiff may waive any rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale. §29-3-650 SC Code of Laws (1976 amended).

20. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. § 14-11-310. It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions, and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

21. On default of payment at or before the time of the sale of the Properties, the mortgaged Properties below described hereinafter shall be sold at public auction at the Charleston County

Courthouse, in the City of Charleston, and State of South Carolina on a sales day determined by the below signed Master in Equity, on the following terms:

- a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to the costs and expense of the action and then to the Plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse either make the required deposit at time of bid or to comply with the other terms of the bid within 30 days, then the properties may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.
- b. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 7.50%.
- c. The sales shall be subject to taxes and assessments, existing easements and restrictions, any other senior encumbrances, and also all other matters of record except for the liens and interests extinguished through this action, specifically the mortgage to Mortgage Electronic Registration Systems, Inc., It's successors and assigns, as nominee for Chase Mortgage Company, It's successors and assigns, a Delaware Corporation.
- d. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.
- e. Purchaser to pay for deed preparation, costs of recording the deed and the satisfaction of mortgage, and transfer taxes on the deed.
- f. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity or Special Referee.

22. Personal or deficiency judgment having been demanded, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. § 15-39-720 (1976).

23. Plaintiff may waive any of its rights, including its right to a deficiency judgment, in accordance with Rule 71 of the South Carolina Rules of Civil Procedure prior to sale.

24. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the purchaser a deed to the properties sold. Plaintiff or any other party to this action may become a

purchaser at such sale. If, upon such sale being made, the purchaser should fail to comply with the terms thereof within 20 days after the date of sale, then the Master in Equity may advertise the said Properties for sale on the next or some other subsequent sales day at the risk of the highest bidder and so forth from time to time thereafter until a full compliance shall be secured.

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

26. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this sale and to any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest accrued thereon (including attorney's fees and costs) or so much thereof as the purchase money will pay on the same.

NEXT: Any surplus should be held pending further Order of this Court.

27. If a deficiency exists after the sale, an Order of Deficiency Judgment may be entered without further notice or hearing.

28. In the event the successful bidder is someone other than the Defendants in possession of the Properties, the Sheriff of this county is ordered and directed to eject and remove from the Property the occupant(s) of the Properties sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet, and peaceable possession of said Properties without delay, and to keep said successful bidder or his assigns in such peaceable possession.

29. In the event the successful bidder is someone other than the Defendant(s) in possession of the Properties, and the occupants have voluntarily vacated the Properties or have been ejected from the Properties leaving furniture, fixtures or other items not subject to Plaintiff's Lien, the Purchaser is authorized to remove from the Properties all furnishing, fixtures and other items not subject to Plaintiff's Lien. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the Properties by placing said personal property on the public street or highway or by any other means.

30. The Defendants named herein, and all persons whosoever claiming under Defendants, are forever barred and foreclosed or all right, title, interest, equity of redemption or lien in the said mortgaged property so sold, or any part thereof.

31. In accordance with Rule 77(d) S.C.R.C.P., the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure and Sale upon all parties not in default for failure to appear in this action.

32. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of this action, and the name of the grantee. The Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

33. The undersigned will retain jurisdiction to all necessary acts incident to this foreclosure, including but not limited to the issuance of a Writ of Assistance.

34. The following is a description of the Property herein ordered to be sold:

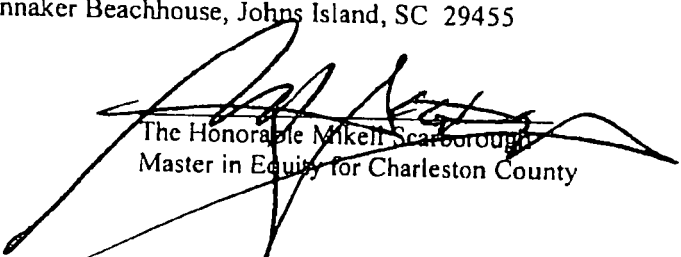
ALL that certain lot, piece, or parcel of land, with the buildings and improvements thereon, situate, lying and being on Seabrook Island, Charleston County, South Carolina, and shown and designated as Lot 749, Spinnaker Beachhouses, Seabrook Island, Charleston County, S.C. , on a plat by E. M. Seabrook, Jr., C.E. and L. S., of Lots 734 through 754, inclusive, dated March 18, 1979, and recorded in the RMC Office for Charleston County in Plat Book AM, Page 111.

This being the same property conveyed to Charles E. Kelley and Deborah L. Kelley herein by deed of conveyance from Gary L. Smith and Sandra L. Smith dated May 24, 2000 and recorded in the R.M.C. Office for Charleston County, SC on May 26, 2000 in Book F348 at Page 424.

TMS No. 147-05-00-072

Property Address: 749 Spinnaker Beachhouse, Johns Island, SC 29455

April 13, 2017
Charleston, South Carolina


The Honorable Mikell Scarborough
Master in Equity for Charleston County

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

(07941-00167 KNN)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

RECORD OF HEARING

2017 MAY -5 AM 10:00
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

Pursuant to the Order of Reference granted in the above entitled action, a foreclosure hearing was held herein on April 19, 2017, at 10:00 AM, before The Honorable Mikell Scarborough, Master in Equity.

Plaintiff's attorney is Kristen N. Nichols of the firm of Turner Padgett Graham & Laney P.A.

According to the Complaint filed by Plaintiff (the "Complaint"), the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, have failed to pay assessment fees pursuant to governing documents of Seabrook Island Property Owners Association.

The original Lis Pendens was filed on December 19, 2016.

Proof of service was filed herein and shows that service of the Summons and Complaint was properly made upon the Defendants.

Defendants, Charles Kelley a/k/a Charles E. Kelley, Deborah Kelley a/k/a Deborah L. Kelley, and Spinnaker Beach House Owners Association, did not file an Answer and are in default.

Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation filed an Answer on February 9, 2017.

Pursuant to South Carolina Supreme Court Administrative Order 2011-05-02-01, the attorney for the Plaintiff certified that that the property is an HOA or POA, and said order does not apply to

this foreclosure; therefore Plaintiff has complied with the certification requirements and proceeded with the prosecution of this action as permitted by the Order.

Plaintiff's attorney presented or will present copies of the following documents:

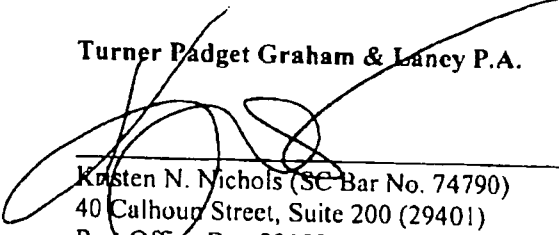
1. Affidavit of Attorney's Fees and Costs
2. Notice of Hearing and Certificate of Mailing
3. Promissory Note
4. Mortgage
5. Affidavit Verified Statement of Account

Plaintiff established the total debt amount secured by the Notice of Lien, recorded August 30, 2016, is \$5,060.62, exclusive of attorney's fees and costs. Plaintiff established that the assessments are due for failure to make the 2016 payment, and all subsequent payments, including late interest and fees.

Pursuant to South Carolina Code Sections 29-3-650 and 29-3-660, Plaintiff specifically demands and is entitled to a personal or deficiency judgment, unless heretofore or hereafter released, against Defendant, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley, hereby obligated for the above-described debt, in the event the proceeds of the sale of the property are insufficient to pay in full the indebtedness, including costs of collection. Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

Plaintiff asks that the lien be foreclosed, that the property be sold at public auction in accordance with law, and that the sale be made subject to taxes and assessments, existing easements or restrictions, and any other senior encumbrances.

Turner Padget Graham & Lancy P.A.


Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadget.com

Charleston, South Carolina
April 16, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF
ATTORNEY'S FEES AND COSTS**

(07941-00167 KNN)

The undersigned being duly sworn, deposes and says as follows:

1. I am an attorney with the law firm of Turner Padget Graham & Laney P.A. and am over the age of 18.
2. I am the attorney for the Plaintiff in the above-referenced matter, and this firm has been representing the Plaintiff in this particular matter since August, 2016.
3. I was retained to collect an amount due from the Borrowers as evidenced by a Notice of Lien recorded August 30, 2016.
4. I, or one of my colleagues, along with highly trained and efficient non-attorney professionals, have been responsible for preparing correspondence regarding the enforcement of the Lien, Demand Letter, a Summons and Verified Complaint, Lis Pendens, Certificate of Compliance with Administrative Order, Affidavit of Default, Order of Reference, Record of Hearing, proposed Judgment of Foreclosure and Sale, Form 4, this Affidavit of Attorney's Fees and Costs, and other supporting correspondence and Affidavits in regard to the pleadings; and will further prepare other documents necessary to bring this matter to conclusion through judicial sale of the property.
5. Pursuant to the governing documents of Seabrook Island Property Owners Association, Plaintiff is entitled to recover all of its expenses and actual attorney's fees and costs in connection with Plaintiff's enforcement of the Lien. This foreclosure is being handled on an hourly basis of \$250.00 per hour for attorney time and \$125.00 per hour for non-attorney professionals.



6. Costs and expenses incurred in connection with this foreclosure action are in the amount of \$1,213.00, as shown below.

Notice of Lien (recording costs).....	\$10.00
Title Abstract.....	\$278.00
Filing Fee.....	\$150.00
Service.....	\$625.00
Reference Fee.....	\$125.00
Motion Fee (reference).....	<u>\$25.00</u>
TOTAL COSTS	\$1,213.00

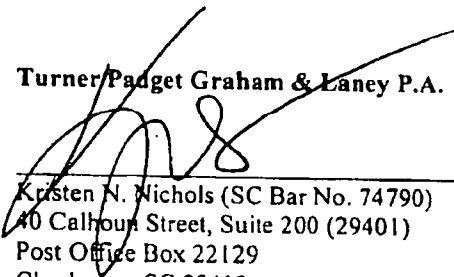
7. I, Kristen N. Nichols, the primary attorney, have practiced law for more than 10 years. I have handled an extensive number of mortgage foreclosure cases, including contested cases and cases involving resolution of title issues. I concentrate my practice in the areas of commercial and consumer foreclosure, bankruptcy and creditor's rights litigation.

8. In determining recoverable attorney's fees, I have found that courts generally award attorney's fees of \$1,640.00 or more for similar residential foreclosure cases in South Carolina. The fee I am requesting in this case is in line with those awards. This sum is contemplated in language contained in the mortgage previously offered into evidence in this action.

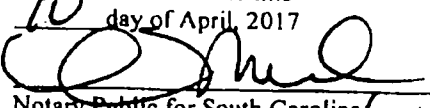
9. I believe that an attorney's fee, in the amount of \$1,640.00, and costs in the amount of \$1,213.00, are reasonable in connection with this debt collection, and that Plaintiff is entitled to these amounts pursuant to the provisions of the Loan Documents.

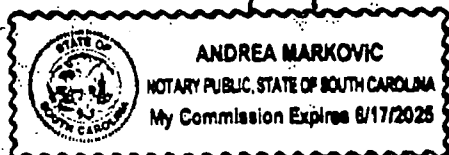
AND FURTHER THE AFFIANT SAITH NOT.

Turner Padget Graham & Laney P.A.


Kristen N. Nichols (SC Bar No. 74790)
40 Calhoun Street, Suite 200 (29401)
Post Office Box 22129
Charleston, SC 29413
(843) 576-2800 telephone
(843) 577-1659 fax
KNichols@turnerpadget.com

SWORN to before me this
10 day of April, 2017


Notary Public for South Carolina
My Commission Expires: 6/17/25



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley a/k/a Deborah L. Kelley; Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation; and Spinnaker Beach House Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2016-CP-10-6750

**AFFIDAVIT OF VERIFIED
STATEMENT OF ACCOUNT
Deficiency Judgment Demanded**

(07941-00167 KNN)

PERSONALLY APPEARED before me the undersigned Heather Paton, on behalf of the above-captioned Plaintiff, who, being duly sworn, deposes and says as follows:

I am a duly authorized representative of the Plaintiff and am authorized to make this Affidavit on behalf of the said Plaintiff.

I am familiar with the account forming the basis for the within action, that all the matters alleged therein are true of my own knowledge or upon the business records of the Plaintiff, except for those allegations upon information and belief, and as to those, affiant believes them to be true.

The total outstanding account balance of the Defendants, past due and payable to the Plaintiff pursuant to the Note between the parties, exclusive of attorney's fees and costs of collection for this action, is stated below, said sum including all just credits given:

A.	Annual Assessments (2016, 2017)	\$4,280.00
B.	Late Interest through April 2017	\$459.62
C.	Late Fees	\$321.00
TOTAL AMOUNT DUE AS OF April 19, 2017		\$5,060.62

SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION

Heather Paton
Heather Paton
Executive Director

SWORN to before me this
27 day of March, 2017
Alison Jousley
Notary Public for South Carolina
My Commission Expires: 9/11/2018





BP0579617

PGS:

3.

After recording return to:
Kristen N. Nichols
Turner Padgett Graham & Laney
PO Box 22129
Charleston, SC 29413

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

NOTICE OF LIEN

Claimant:	Seabrook Island Property Owners Association
Record Owner(s):	Charles Kelley and Deborah Kelley
Property Address:	749 Spinnaker Beachhouse
Subdivision and Lot:	Spinnaker Beachhouses Lot 749
Tax Map Number:	147-05-00-072
Amount Due as of July 31, 2016:	\$2,755.89

This Notice of Lien is made for assessments and other allowable charges levied against the property above and remaining unpaid as of the date of this Notice of Lien. This amount includes attorneys' fees, costs, charges, late fees, and interest applicable to such assessments. Additionally, this Notice of Lien is levied for all accruing, but unpaid, future assessments, both regular and special, any and all allowable interest, delinquent charges as applicable, costs, and attorneys' fees until the date of payment.

IN WITNESS WHEREOF, Seabrook Island Property Owners Association has hereunto set its hand and seal this 29th day of August, 2016.

Kathryn Annahan
WITNESS

LE Mc
WITNESS

Kristen N. Nichols
Seabrook Island Property Owners Association
By: Kristen N. Nichols
Its: Attorney



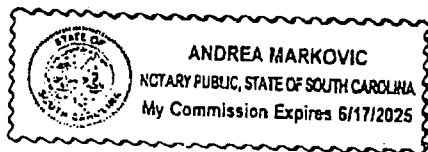
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me the undersigned, who states that she saw the within Seabrook island Property Owners Association by its Attorney, Kristen N. Nichols, sign, seal, and deliver the within Notice of Lien, and that she with the other witness witnessed the execution thereof.

Rakyn Shanahan
WITNESS

SWORN to before me this
29 day of August, 2016

[Signature]
Notary Public for the State of South Carolina
My Commission Expires: 6/17/25



RECORDER'S PAGE

NOTE: This page MUST remain
with the original document



Filed By:

TURNER PADGET GRAHAM & LANEY

PO BOX 22129

CHARLESTON SC 29413

RECORDED

Date: August 30, 2016

Time: 2:48:52 PM

Book

Page

DocType

0579

617

Notice/Ln

Charlie Lybrand, Register
Charleston County, SC

MAKER:

KELLEY CHARLES AL

of Sats:

of Pages:

3

of References:

RECIPIENT:

SEABROOK ISLD POA

Note:

Original Book:

Original Page:

Recording Fee \$ 10.00

Extra Reference Cost \$ -

Extra Pages \$ -

Postage \$ -

Chattel \$ -

TOTAL \$ 10.00

DRAWER

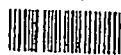
Drawer 1

CLERK

KLH---



0579
Book



617
Page



08/30/2016
Recorded Date



3
Pgs



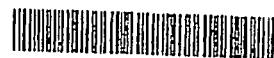
Original Book



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14:48:52
Recorded Time

Master-In-Equity Forms

Instructions

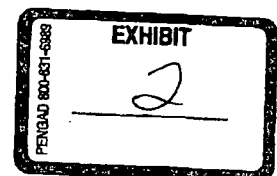
The forms listed on this site are meant to be a helpful starting point for your drafting needs; they are a sampling of the types of pleadings and proposed orders frequently seen in the Master-in-Equity's Office.

If you are a young attorney, please do not hesitate to ask for help. Our office is filled with people who have a lot of experience doing what you want to do. You will also find the bar is filled with experienced attorneys who are willing to lend a hand if you ask.

Feel free to copy and use as many of these forms as you need. If the link is not highlighted, we hope to have it on-line in the very near future. Check back with us as we hope to add to the database frequently.

If you have any questions or comments about the forms available on this site, please call Laura Dukes Beck at (843)958-5075.

Title	File Type
Master Referral Form	  
Master Order for Trial	  
Revised Scheduling Order	  
Motion and Order Information Form and Coversheet	  
Order of Reference	  
Order of Default and Order of Reference	  
Consent Order of Reference	  
Lis Pendens	  
Summons	  
Certificate of Service	  
Complaint for Foreclosure of Mortgage	  
Transcript of Testimony	  
Affidavit of Indebtedness and Authorization to Testify	  
Affidavit of Default	  
Affidavit of Service	  
Master's Decree and Judgment of Foreclosure of Real Estate	  
Supplemental Order of Foreclosure	  
Motion for Writ of Assistance	  
Writ of Assistance	  
Petition and Proposed Order for Appraisal after Deficiency Judgment	  
Motion for Attorney's Fees and Costs	  
Affidavit of Non-Military Service	  
Order Vacating Sale	  



STATE OF SOUTH CAROLINA)
COUNTY OF _____)
_____))
PLAINTIFF(S))
VS.)
_____))
DEFENDANT(S))

CIVIL CASE NUMBER _____

MOTION FOR WRIT OF ASSISTANCE

The Motion of the Plaintiff would respectfully show unto this Honorable Court:

1. The Plaintiff above named commenced a foreclosure action against the Defendant(s) above named for the purpose of foreclosing a mortgage covering the following described real property:

Enter legal description here:

Property Address:

TMS # _____

2. That a Master's Report and Judgment of Foreclosure and Sale was issued by this Court on _____, 20__, and the subject property was sold at public auction in accordance therewith on _____, 20__, and the successful bidder at said sale was Plaintiff.

3. The proceedings in regard to the foreclosure action are preserved in the Office of the Clerk of Court/RMC Office for Charleston County.

4. The Defendant(s) or others claiming through them still occupy the subject premises and have within the premises certain items of personal property and furniture which they have failed and refused to remove from the premises, although they have been informed that the property is now owned by the Plaintiff herein.

5. The Plaintiff is informed and believes that it is entitled to possession of the property as the successful bidder at the said sale in accordance with the Master's Report and Judgment of Foreclosure and Sale, which states:

It is further ordered, adjudged and decreed that in the event the successful bidder is other than the defendant(s) in possession herein, the Sheriff of Charleston County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and to put the successful bidder 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.

6. Jurisdiction to issue a Writ of Assistance was reserved to the Master in Equity in the Master's Report and Judgment of Foreclosure and Sale, which provided:

The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

7. The Plaintiff is entitled to a Writ of Assistance to remove the said Defendant(s), together with any and all persons whosoever claiming there under, and all their personal belongings from the subject premises, and to put the Movant in full, quiet and peaceable possession thereof, and to keep the Plaintiff in such possession.

WHEREFORE, the Plaintiff prays that this Court do issue its Writ of Assistance to the Sheriff of Charleston County requiring the ejection and removal of said Defendant(s) together with any and all persons whosoever claiming under them, and all of their possessions from the subject property forthwith.

STATE OF SOUTH CAROLINA

CIVIL CASE NUMBER

COUNTY OF _____

WRIT OF ASSISTANCE

PLAINTIFF(S)

VS.

DEFENDANT(S)

TO THE SHERIFF OF CHARLESTON COUNTY, SOUTH CAROLINA:

Pursuant to Rule 53, SCRPC, the above entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a Final Judgment and Writ of Assistance in the cause.

FINDINGS OF FACT

1. By order of this Court dated _____, 20____, the Court decreed that:
 10. That in the event the successful bidder is other than the Defendant in possession herein, the Sheriff of Charleston County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or its assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or its assigns in such peaceable possession.
2. The successful bidder was the Plaintiff, which complied with its bid in full and obtained a deed to the subject property.
3. There is personal property apparently formerly belonging to the Defendants in the subject premises, _____ Road, Charleston, South Carolina, 294_____

NOW, THEREFORE, upon motion of _____, Esquire, of the law firm of _____, attorneys for the Plaintiff in the above entitled action,

IT IS ORDERED that you do eject and remove from the premises the occupant of the property sold, together with all personal property located thereon, put the successful bidder or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or its assigns in such peaceable possession.

AND IT IS SO ORDERED.

Mikell R. Scarborough
Master-in-Equity for Charleston County

Charleston, South Carolina
____, 20____

WE SO MOVE:

Attorneys for the Plaintiff

CANDIDATE BIOGRAPHIES

Board of Directors

William Bane



Our family 'discovered' Seabrook Island in the summer of 1980, after Merrill Lynch transferred us to Atlanta where I was Manager of Equity Trading. We bought our lot on SIR in 1986 and continued to vacation here for the next 30 years, renting in many of the regimes and some private homes. We began construction on our home in 2010 and moved here full-time the following year. Having spent so much time on the Island, and with two of our sons here in Charleston, retiring full-time to Seabrook was like coming home.

Since moving to Seabrook, I've served on the Club's House Committee and am finishing my third year on the General Operating and Maintenance Committee. In March, I joined the newly-reorganized ARC. I'm a community garden plotter, member of the Exchange Club, Men's Book Club, and enjoy woodworking, sporting clays, and bicycling. I also try to help Carol (a geographically challenged, serial SING trip planner) figure directions. We haven't lost anyone yet....that I know of!

Over the past 35 years I've seen Seabrook transition through many stages. As a stock trader, I am able to make good business decisions fairly quickly. It is important for the board to continue to make the right decisions. I believe I have the skill set to listen to our problems, and, with fellow board members, help solve them.

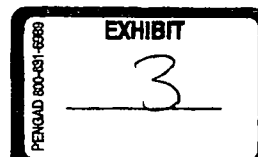
Edward Houff



After several holidays and vacations at Kiawah/Seabrook properties, and after a longer-term rental on Seabrook, my wife and I purchased our first Seabrook house and knew that we were here to stay. When we decided to retire, we moved to our present house on Coon Hollow Road.

I grew up in rural Maryland and worked on extended family dairy farms until college graduation. I then became a Marine officer and remained on active duty for the next 12 years. I received the Leadership Award from the USMC Officers Basic School, served in Viet Nam as an artillery forward observer and fire direction officer. Stateside, I held leadership positions as the Executive Officer of the Marine Barracks at the Submarine Base in New London CT, as the Commanding Officer of a field artillery battery in the 2nd Marine Division, and as Commanding Officer of a composite field artillery battery with the Special Mission Force at the Naval Base at Guantanamo Bay, Cuba. The Marine Corps selected me to attend law school, from which I graduated in 1977. I then spent three years at Camp Lejeune NC as a military prosecutor, defense counsel and judge. I left the Marine Corps in 1980 and spent the next 21 years in private law practice; founding my own firm in 1989, defending products liability cases. I then spent 5 years as the General Counsel of a publicly traded company in Houston TX. I returned to private practice in 2006. I was one of the founders of a mediation group in Baltimore and have handled numerous civil and criminal cases and appeals pro bono as requested by various courts. I have taught law school advanced seminar classes and served on the law school's Board of Visitors. I was a member of the Board of Directors of the Corolla Light Community Association at the North Carolina Outer Banks for three years, and was asked to chair ad hoc working groups to solve specific issues in other community associations where we lived in Baltimore.

Through these experiences, leadership by example became an ingrained ethic, and I acquired the ability to listen and the patience to find common ground among diverse interests. I have the skills and will to help us move our community forward.



Symphony Orchestra League and served as a Co-Chairperson for last year's Designer Show House. I serve on the Seabrook Island Club Long Range Planning Committee and am active along with my wife in our church, Johns Island Presbyterian Church.

My work career has been within a diversified family business that dates back to 1935 and is involved in manufacturing and distribution. I work closely with family members to help shape our strategic vision and oversee the operations of these businesses. In addition I had the privilege of serving on my local School Board for seven years and served as President for two years. I have also been on the Board of our Trade Association for nine years and served as Chairman for one year. Working within a family business and with public service boards has taught me to set aside personal agendas and shape a consensus based on common sense and common goals. I believe that this is a skill set that I can bring to service as a Board Member of the SIPOA.

I look forward to working with the various committees within the SIPOA, COVAR, SIC and the Town Council to help build on the successes of the past and the promise of the future.

Roy Sessions



I was born in Houston in 1937 and raised in the New Orleans area. After attending college and medical school at LSU, I interned in San Francisco. Being a Naval Medical Officer followed - I retired his commission as a Lt Commander. Surgical residency training at Washington University School of Medicine in St. Louis was next, followed by my first academic job in 1969 at Houston's Texas Medical Center, where I became vice chairman of my department. In 1981, I was appointed Professor of Head and Neck Surgery at Memorial Sloan Kettering Cancer Center in NYC, and Cornell Medical School. In 1989, I became Professor (with tenure) and Chairman of Head and Neck Surgery at Georgetown University School of Medicine, in Washington DC, where I remained until 1999, when I returned to NYC as a Departmental Chair at Beth Israel Medical Center, and Interim Director of the Beth Israel Cancer Center. I retired in 2008 and my wife, Mary and I moved to this area, where we've since been

happy full-timers. Our 4 children are all involved in their own careers. Although retired, I teach two days a week at The Medical College of Charleston, write periodic blogs for Psychology Today, and contribute a monthly essay for the Tidelines Seabrook Community Blog.

During my active academic career, I have been responsible for over 140 scientific publications and 5 cancer related textbooks. My most recent book - *The Cancer Experience* - was published in 2012 by Roman and Littlefield, and is a psychosocial discussion designed to reach both lay and care givers alike.

Values based leadership has been important throughout my life, and if honored to be on the board, will continue to be so.

Philip Squire



I have been a Seabrook owner for 13 years. After renting out our villa for 4 years we used it as a second home until we moved to Seabrook full time in 2013. My wife Cherie and I enjoy Seabrook's beauty, the charms of Charleston and the many friends we have made.

My qualifications include being a villa owner for the past 13 years and the only villa owner running for the board. I maintain a comprehensive database of Seabrook property values, and understand current price and sales trends.

I have served on the General Operating and Maintenance Committee (GOMC) for 3 years and am currently on a subcommittee examining flood mitigation.

I also served on the Spinnaker HOA board for 3 years as non-resident and on the COVAR board for 2 years where I was rental affairs chair. In addition I also was an

HOA board member in my previous community in Maryland where I was the architectural review chairman.

I am active in Seabrook Island affairs attending most SIPOA board meetings and many Town council meetings.

I have a thorough understanding of Seabrook's financial position and issues and knowledge of Seabrook's infrastructure and needs.

I also have extensive experience with the SIPOA's nominating process and procedures.

My background is in civil engineering, construction management and consulting on international construction projects. I have degrees in engineering from Drexel University and the University of California at Berkeley and an MBA in finance and strategic planning from the Wharton School at the University of Pennsylvania.

My wife and I have two daughters, both engineers. Our interests include RVing, racing thoroughbreds and travel.

Nominating Committee

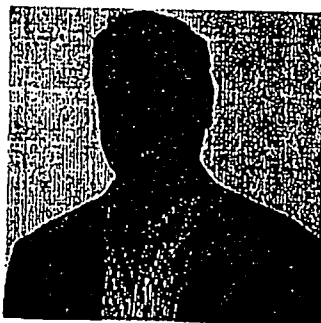
Kathleen Buchman



Seabrook Island captured our hearts when we vacationed here in 1994. Since that time we've purchased 3 properties. We've lived here full-time for over 2 years now. I joined the Council of Villa Associations/Regimes (COVAR) in 2013, and I'm currently Secretary/Membership Chair on the COVAR Board. I also serve on the SIPOA Activities Committee, where I've helped with the Lake House Field Project, and July 4th festivities. Most recently, I chaired the Holiday Tree Lighting event. I'm an avid Lake House Fitness Center participant. I enjoy playing golf and participating in the Seabrook Island Book Club conversations.

Before retiring, I was a senior vice president in a large healthcare system. In my 20 years there, I interviewed many candidates for executive and manager level positions. In addition to implementing many leadership development projects, I was responsible for initiating the system's first executive development program. Those experiences taught me that it is important to recognize and seek out people who demonstrate the skills necessary for success in a leadership role. I have strong relationship building skills and I am so grateful and privileged to have made many wonderful friends here on Seabrook Island!

George Conbeer



My wife Barbara and I moved to Seabrook from Chicago in 2010. We have three grown children, and we're looking forward to sharing our beautiful island with the next generation in the not-too-distant future.

I retired in 2012 from a diverse career that began with computer sales for IBM, morphed into financial services with both large organizations (Bank of Boston, Bank of America, Comdisco) and small companies, and culminated as CEO of a drug development company and as a partner in a boutique financial services company. Along the way, I participated as founder, employee and investor in over a dozen startup companies. Currently I sit on two corporate boards, and I serve as an advisor to several other companies.

COMMON VISION AND CORE VALUES STATEMENT (SIPOA & CLUB)

Seabrook Island is a private residential community with lifestyle amenities for all ages where homeowners control their own destiny and, with their guests share a unique sense of belonging in a natural forested, oceanfront environment. Recreation and leisure facilities are provided for the use and enjoyment of the Seabrook Island community.

Fiscal Responsibility

We each assume responsibility for our respective financial well being.

Efficiency

We expect those who manage to provide and measure quality services and facilities in a timely and cost-effective manner.

Governance and Staff

All actions and decisions will be taken in the best interest of the community.

Honesty and Respect

Truth and integrity are the cornerstones of our community. We will treat each other, our guests and employees as we wish to be treated.

Facilities

We will have well maintained facilities and the responsibility for maintenance extends to homeowners, guests and employees.

Environment

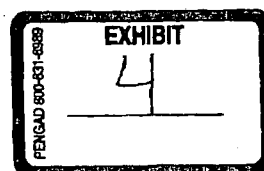
We will take pride in caring for and protecting our natural environment.

Community Culture

We will establish a positive environment of teamwork through communication, partnerships and the sharing of resources.

Quality of Life

We foster volunteerism, the arts, wellness, continuing education and other cultural pursuits to contribute to the diverse interests of our community.



Approved 12/19/16

**SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION
BOARD OF DIRECTORS CODE OF CONDUCT**

WHEREAS, the Board of Directors ("Board") of Seabrook Property Owners Association ("SIPOA") has the authority to make decisions on behalf of the Seabrook Island community; and

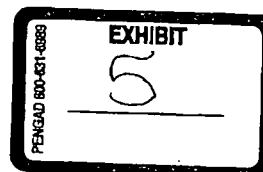
WHEREAS, the Board has the responsibility to make decisions for the benefit of the SIPOA community as a whole and to use best efforts to ensure that SIPOA members maintain confidence and respect for the Board as an institution of governance; and

WHEREAS, in exercise of such authority and responsibility, each Board Member has responsibility and accountability pertaining to fiduciary duties and ethical obligations, including but not limited to the following:

- *Fiscal*. Managing prudently SIPOA's financial needs, resources, and assets; and
- *Loyalty*. Placing the interest of SIPOA as a whole above personal and/or other interests; and
- *Care*. Exercising the skill, diligence and decision making that a reasonable person would exercise under similar circumstances; and
- *Ethical Conduct*. Maintaining a high standard of ethical conduct in the performance as a SIPOA Board Member; and
- *Conflicts of Interest*. Avoiding conflicts that have the potential to improperly influence a Board Member's decisions on matters before the SIPOA Board, including but not limited to conflicts arising from personal interests, business relationships, outside interests, and/or relationships with other entities or organizations.

NOW THEREFORE, BE IT RESOLVED THAT the Board hereby adopts the following rules of conduct and standards of behavior that are applicable to all Board Members from and after the date of adoption as noted below (the "Code of Conduct"):

1. The recitals to this resolution are incorporated in this Code of Conduct.
2. This Code of Conduct is in addition to, and is not intended to replace, the fiduciary duties of Board Members prescribed by the South Carolina Nonprofit Corporation Act.
3. Board Members shall act in the best collective interest of SIPOA as a whole regardless of personal interest(s) and real or potential conflicting interests of any formal or informal subgroups of Property Owners with which the Board Member may be affiliated in any other capacity.
4. Board Members shall use sound judgment as a basis for decision-making, taking into consideration all available accurate and truthful information, circumstances and resources.
5. Board Members shall disclose all personal, professional and/or official interests or relationships with any company, individual, or subgroup of Property Owners, who may be seeking any affiliation or business relationship with SIPOA, at or prior to the time that any action that may be affected by such relationship is considered by the SIPOA Board.



6. After the Board takes an action on a matter before the Board, Board Members shall not take a public position that is contrary to, critical of, or that disparages such Board decision, even if the Board Member disagrees with such decision, while such Board Member remains on the SIPOA Board.
7. Board Members shall not use or publicly support the use by others of any means of public advocacy of a position for or against a matter that is currently before the Board, or a duly authorized Board Committee, for action, unless such advocacy occurs in the setting of an officially set Board meeting or other Board authorized forum at which debate may occur.
8. Board Members shall support open, fair, and public Board elections, and shall take no action by any means to subvert or improperly influence the outcomes of the nomination and/or election procedures as contemplated by SIPOA's Bylaws.
9. Board members shall not knowingly misrepresent facts to any members of the community regarding a matter that is before the Board, for any purpose, including but not limited to the purposes of advancing a personal interest or influencing any members of the community to advance a Board Member's personal interest.
10. Board Members shall not reveal to any non-Board Member, Property Owner or third party any privileged or confidential information, discussions, or comments that occurred on any matter at any meeting of the Executive Committee of the Board or at a duly convened Executive Session.
11. Board members shall conduct themselves at all official SIPOA meetings, including but not limited to Board meetings, annual meetings of the Property Owners and Board Committee meetings, in a manner consistent with Roberts Rules of Order.
12. Board members shall treat all Board Members, Property Owners, SIPOA officers, SIPOA employees, SIPOA contractors and SIPOA guests courteously and in a manner consistent with the best interests of SIPOA, and shall not personally attack or disparage such individuals, verbally or otherwise.
13. Board Members shall not defame any other Board Members, Property Owners, SIPOA officers, SIPOA employees, SIPOA contractors or SIPOA guests: any and all such defamatory actions shall be deemed to be outside the scope of the Board Member's authority.
14. Board Members shall not in any way ridicule, harass, threaten, or otherwise attempt to intimidate any Board Members, Property Owners, SIPOA officers, SIPOA employees, SIPOA contractors or SIPOA guests: any and all such actions shall be deemed to be outside the scope of the Board Member's authority.
15. Individual Board Members (except Committee Chairs who have been delegated authority to take such action) may not interfere with or direct the activities of SIPOA employees, SIPOA contractors or SIPOA guests: all communications from Board Members regarding the activities of SIPOA employees, SIPOA contractors and/or SIPOA guests must be made to the Executive Director.
16. Board Members shall recuse themselves from any Board decision where such Board Members have a conflict of interest, or a potential conflict of interest, that may improperly influence such Board Member's decision, including but not limited to conflicts arising from personal interests, business relationships, outside interests, affiliations and/or other relationships with other entities or organizations.

AND BE IT FURTHER RESOLVED THAT the Board hereby adopts the following enforcement procedures regarding the Code of Conduct:

1. Alleged violations of the Code of Conduct shall, upon submission of a written complaint by an observer of the violation to the Executive Director, be brought to the Board for hearing. The Executive Director

- shall promptly transmit all such written complaints to the Executive Committee, and the Executive Committee shall provide written notice to the alleged violator of the date and time of such hearing along with a copy of the written complaint.
2. A quorum of the Board for any such hearing shall be all of the Directors then holding office, exclusive of the alleged violator.
 3. A hearing on a Board Member's first alleged violation of this Code of Conduct shall be held by the Board of Directors in Executive Session. If at least 75% of the Directors then holding office (exclusive of the alleged violator) find the alleged action to be a violation of the Code of Conduct, then the violator shall at the discretion of the Board, either: (i) receive a private reprimand in Executive Session, or (ii) receive a public reprimand in open session. For purposes of clarity, a public reprimand must be authorized through a vote of at least 75% of the Directors then holding office (exclusive of the alleged violator) taken in open session, and the basis for the violating director's public reprimand must be reflected in the Board Minutes.
 4. A hearing on a Board Member's subsequent alleged violation of this Code of Conduct shall be held by the Board of Directors, and the Board shall choose, in its discretion, whether such hearing shall be held in Executive Session or open session. If at least 75% of the Directors then holding office (exclusive of the alleged violator) find the alleged action to be a violation of the Code of Conduct, then the violator shall, at the Board's sole discretion, either: (i) receive a private reprimand in Executive Session, (ii) receive a public reprimand in open session, or (iii) be removed from the SIPOA Board by the Board. For purposes of clarity, a public reprimand or removal of the violating director must be authorized through a vote of at least 75% of the Directors then holding office (exclusive of the alleged violator) taken in open session, and the basis for the violating director's public reprimand or removal must be reflected in the Board Minutes.
 5. For purposes of clarity, and notwithstanding the approval threshold for director removal contained in S.C. Code Ann. Section 33-31-808(i), any removal of a violator of this Code of Conduct from the SIPOA Board shall require approval of at least 75% of the Directors then holding office (exclusive of the alleged violator).
 6. Any reprimand, public or private, shall be delivered by the President of the Board, or the next senior officer present, if the violation is committed by the President.
 7. Notwithstanding anything to the contrary herein, any hearing on any alleged violation shall be held in an open session of the Board instead of Executive Session upon the written request of the alleged violator, submitted to the Executive Committee prior to the date of the hearing.
 8. All results of action taken on alleged violations of this Code of Conduct, except for private reprimands issued in Executive Session, shall be included in the Board Minutes.

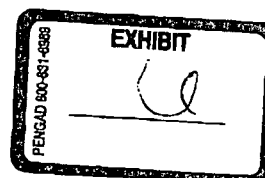
AND BE IT FURTHER RESOLVED THAT:

This Code of Conduct shall apply to current and future Board Members from the date of the adoption of these resolutions forward. Notwithstanding the foregoing, the power of the Board to remove a violating Board Member from the Board is subject to the provisions of S.C. Code Ann. Section 33-31-808(i).

[print last name: _____]

**SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION
CONFLICT OF INTEREST STATEMENT**

1. NAME: _____
2. POSITION – are you (circle as appropriate):
- | | | | |
|----|---|-----|----------------------|
| a. | a Director? | YES | |
| b. | an Officer? | YES | position held: _____ |
| c. | a Key Employee? | YES | position held: _____ |
| d. | a candidate for the Board | YES | |
| e. | a candidate for the Nominating Committee? | YES | |
| f. | a candidate for the ARC? | YES | |
| g. | a member of the ARC? | YES | |
3. I affirm the following:
- I have received a copy of the SIPOA Conflict of Interest policy _____ (initial)
- I have read and understand the policy _____ (initial)
- I agree to comply with the policy _____ (initial)
- I understand the requirements of SIPOA's tax-exempt [501(c)(4)] status _____ (initial)
4. Do you or any of your immediate family members (spouse, "declared domestic partner," dependent children, or dependent parents): (i) do business with SIPOA; or (ii) serve as a Director, officer, partner or trustee, or have a direct or indirect financial interest (other than as a shareholder of a de minimis [five percent {5%} or less] interest in a publicly or privately held company) in any corporation, association, partnership, trust or other entity that does business with SIPOA? YES NO
- a. If YES, describe any and all material facts relating to such business: (attach separate sheet as needed).
- b. If YES, has the financial interest previously been disclosed as required in the Conflict of Interest policy? YES NO
- c. Do you hold refundable equity in the Seabrook Island Club (SIC)? YES NO
- d. Do you currently hold a position of governance in SIC (e.g. Board of Governors, committee chair, etc.)? YES NO If yes, what position? _____
- e. Are you employed by SIC, Seabrook Island Real Estate or any real estate company doing business on Seabrook Island? YES NO
If yes, which and in what capacity? _____
5. Are you aware of any other situations that would present a conflict of interest? YES NO
If yes, provide details: (attach separate sheet as needed).



6. Recognition of Continuing Duty to Evaluate Conflict of Interest if Elected to the SIPOA Board or Nominating Committee, Appointed to the ARC, or Employed by SIPOA:

I recognize and accept the following as it relates to potential conflicts of interest should I be elected as a SIPOA Director, a member of the Nominating Committee, appointed to the ARC or employed as a SIPOA Key Employee:

South Carolina law relating to non-profit corporations such as SIPOA requires that a Director discharge the duties of the office in good faith, with the care that an ordinarily prudent person in a like position would exercise, and in a manner that the Director reasonably believes to be in the best interests of the corporation.

In essence, a conflict of interest exists whenever an organization insider (such as a Director), who has a duty to promote one interest (the best interest of SIPOA) instead chooses to promote an interest that is in competition with the organization. While some situations with the potential for conflict are apparent (such as are listed in this form), not all potentially conflicting situations can be predicted.

Therefore, every person who chooses to run for the position of SIPOA Director or Nominating Committee member, or who serves as member of the ARC or as a Key Employee should recognize that the completion of this form is just the beginning of the continuing evaluation that they must do as issues arise in the course of their duties. If a Person in one of these positions is confronted by an issue that a person of ordinary prudence would recognize places them in the position of having to choose between the best interests of SIPOA and their own personal views, then that Person should disclose the conflict and consider whether discharging the duties of the office "in good faith" requires them not to participate in the resolution of that issue.

NAME (print): _____

Signature: _____ Date: _____

Date of Review by SIPOA Executive Committee _____

Filing ID: 170720-1639207

Filing Date: 07/20/2017

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws Section 33-44-202 and Section 33-44-203.

1. The name of the limited liability company (Company ending must be included in name*)

749 Spinnaker LLC

*Note: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."

2. The address of the initial designated office of the limited liability company in South Carolina is
727 Spinnaker Beachhouse Villa

(Street Address)

Johns Island, South Carolina 29455

(City, State, Zip Code)

3. The initial agent for service of process is

Philip Squire

(Name)

(Signature of Agent)

And the street address in South Carolina for this initial agent for service of process is:
727 Spinnaker Beachhouse, here

(Street Address)

Johns Island

South Carolina 29455

(City)

(Zip Code)

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

(a)

Philip Squire

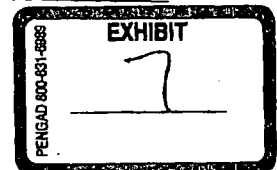
(Name)

727 Spinnaker Beachhouse Villa

(Street Address)

Johns Island, South Carolina 29455

(City, State, Zip Code)



Form Revised by South Carolina Secretary of State, August 2016

SC Secretary of State
Mark Hammond

749 Spinnaker LLC

Name of Limited Liability Company

(b)

Cherie Squire

(Name)

727 Spinnaker Beachhouse Villa

(Street Address)

Johns Island, South Carolina 29455

(City, State, Zip Code)

5. ☐ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____
6. ☐ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a)

(Name)

(Street Address)

(City, State, Zip Code)

(b)

(Name)

(Street Address)

(City, State, Zip Code)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time _____

749 Spinnaker LLC

Name of Limited Liability Company

9. Any other provisions not consistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

Philip Squire

Signature of Organizer

Date: 07/20/2017

Cherie Squire

Signature of Organizer

Date: 07/20/2017

RULE 4 PROCESS

(a) **Summons: Issuance.** The summons shall be issued by plaintiff or plaintiff's attorney. Copies of the original summons shall be served upon each defendant.

(b) **Same: Form.** The summons shall be signed by the plaintiff or his attorney, contain the name of the State and county, the name of the court, the file number of the action, and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify him that in case of his failure to do so judgment by default will be rendered against him for the relief demanded in the complaint.

(c) **By Whom Served.** Service of summons may be made by the sheriff, his deputy, or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action. Service of all other process shall be made by the sheriff or his deputy or any other duly constituted law enforcement officer or by any person designated by the court who is not less than eighteen (18) years of age and not an attorney in or a party to the action, except that a subpoena may be served as provided in Rule 45.

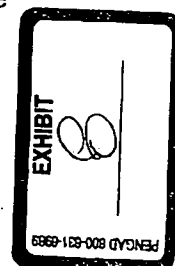
(d) **Summons: Personal Service.** The summons and complaint must be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Voluntary appearance by defendant is equivalent to personal service; and written notice of appearance by a party or his attorney shall be effective upon mailing, or may be served as provided in this rule. Service shall be made as follows:

Note:

This Rule 4(a) differs from the Federal Rule by continuing the present State practice of the plaintiff or his attorney issuing the summons, rather than having it issued by the Clerk of Court. The second sentence requires only copies of the original summons to be served with the complaint on each defendant. Rule 4(b) is substantially identical to the Federal Rule, being modified only to conform to State practice as set out in Rule 4(a). The first sentence of Rule 4(c) continues present State practice. The second sentence makes more definite the requirement of Code § 15-9-1030 that an official person must serve all other process such as rules and orders, except subpoenas. Rule 4(d) conforms to present State and Federal Practice, and states specifically, as does Code § 15-9-70, that voluntary appearance is equivalent to personal service. It also preserves Circuit Rule 17 as to notice of appearance.

Note to 1986 Amendment:

Rule 4(c), as originally adopted, could be construed to broaden the definition of "process" and unduly restrict those who could serve process and other orders. These amendments conform to prior practice which permitted other law enforcement officials, and those appointed by the court to serve process. Orders which are not necessary to establish jurisdiction of person or property, including temporary restraining orders, are not required to be served by the sheriff unless ordered by the court. The age requirement is changed to conform to similar language in Rule 45(c).



(d)(1) **Individuals.** Upon an individual other than a minor under the age of 14 years or an incompetent person, by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or

Rules 4(d)(1) through 4(d)(8) conform to the present State practice and the Federal practice, which refers matters of service of process generally to local State practice. Rule 4(d)(1) preserves the requirements of Code § 15-9-520.

(d)(2) Minors, Incompetents and Persons Confined. Upon a minor under the age of 14 years, a person judicially declared incapable of conducting his own affairs, or an incompetent person by delivering a copy of the summons and complaint to such minor, or incompetent personally and also a copy to (a) the guardian or committee of such person, or if there be none such within the State upon (b) a parent or other person having the care and control of such person, or (c) any competent person with whom he resides or (d) in whose service he is employed. If the individual upon whom service is made is a minor between the ages of 14 and 18, who lives with a parent or guardian, a copy of the summons and complaint shall likewise be served upon said parent or guardian, if said parent or guardian resides within the State. Service on imprisoned persons or persons confined in a state hospital or similar institution, in or out of this State, shall be made by delivering a copy of the summons and complaint to the confined person personally; and service shall be made by the sheriff of the county in which the person is imprisoned or confined. In cases of persons imprisoned, and patients in a state hospital or similar institution, personal service of process may be made by the superintendent of the institution or by the director of the prison system or by assistants duly designated by the superintendent or the director in writing for the purpose of making service of process, instead of the sheriff. The superintendent or the director or their designated assistants shall not be entitled to any costs therefore. Service on confined or imprisoned persons shall also conform to the provisions of § 15-9-510, S.C. Code, 1976.

Note:

Rule 4(d)(2) preserves and conforms to present practice under Code §§ 15-9-480 and 15-9-490. Service on persons confined in State penal or mental facilities will continue to conform also to Code §§ 15-9-500 and 15-9-510.

Note to 1986 Amendment:

In Rule 4(d)(2), the reference to Sec. 15-9-500 is deleted because that provision has been repealed.

Note to 1995 Amendment:

Rule 4(d)(2) is amended to add a provision for the service of the summons and complaint on persons confined in a prison or state hospital. The language is drawn from S.C. Code Ann. § 15-9-500 (1976) (repealed) which governed this situation prior to the adoption of the Rules of Civil Procedure in 1985.

(d)(3) Corporations and Partnerships. Upon a corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

Note:

This rule 4(d)(3) conforms to both the Federal Rule and preserves and supplements Code §§ 15-9-210 through 15-9-330. Rules 4(d)(7) and 4(d)(8) preserve other forms of statutory service on particular classes of defendants, such as non-resident motorists.

summons and complaint to the Attorney General, or when another official is designated to be served by the statute permitting such action by delivering a copy of the summons and complaint to that official and sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia.

(B) When Unconstitutionality of Statute Is Asserted. In any action attacking the Constitutionality of a State statute when the State, officer or agency is not made a party, a copy of the summons and complaint shall be sent by registered or certified mail to the Attorney General.

(d)(5) State Officer or Agency. Upon an officer or agency of the State by delivering a copy of the summons and complaint to such officer or agency and by sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia. If the agency is a corporation the copy shall be delivered as provided in paragraph (3) of this subdivision of this rule.

(d)(6) Governmental Subdivision. Upon a municipal corporation, county or other governmental or political subdivision subject to suit, by delivering a copy of the summons and complaint to the chief executive officer or clerk thereof, or by serving the summons and complaint in the manner prescribed by statute for the service of summons and complaint or any like process upon any such defendant.

Note:

These Rules 4(d)(4) through 4(d)(6) conform to the Federal Rules and clarify State practice concerning service on the State, its officers or agencies, and on political subdivisions.

(d)(7) Statutory Service. Service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule is also sufficient if the summons and complaint are served in the manner prescribed by statute.

(d)(8) Service by Certified Mail. Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pursuant to Rule 4(c), including a sheriff or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service is effective upon the date of delivery as shown on the return receipt. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing the acceptance by the defendant. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed by an unauthorized person. If delivery of the process is refused or is returned undelivered, service shall be made as otherwise provided by these rules.

(d)(9) Service by Commercial Delivery Service. Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pursuant to Rule 4(c) by a commercial delivery service which meets the requirements to be considered a designated delivery service in accordance with 26 U.S.C. § 7502(f)(2). Service is effective upon the date of delivery as shown in the delivery record of the commercial delivery service. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a delivery record showing the acceptance by the defendant which includes an original signature or electronic image of the signature of the person served. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the delivery receipt was signed by an unauthorized person. If delivery of the process is refused or is returned undelivered, service shall be made as otherwise provided by these rules.

Note:

- to service on particular individuals or corporations, partnerships and unincorporated associations. Rule 4(d)(8) is the new Federal Rule permitting service of summons and complaint by registered or certified mail.

Note to 2013 Amendment:

Rule 4(d)(9) authorizes service of process to be made by a qualifying commercial delivery service and is similar to service by registered or certified mail.

(e) Same: Other Service. Whenever a statute or an order of court provides for service of a summons and complaint or of a notice, or an order upon a party not an inhabitant of or found within the State, service shall be made under the circumstances and in the manner prescribed by the statute, rule, or order.

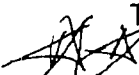
Note:

This catch-all provision is the same as the Federal Rule, and is necessary to cover unusual cases, principally when a court orders service on a person or party.

The phrase "in lieu of summons" is deleted from Rule 4(e) as originally adopted to avoid the implication that an action can be commenced other than by service of summons and complaint.

(f) Territorial Limits of Effective Service. All process other than a subpoena may be served anywhere within the territorial limits of the State, and, when a statute so provides, beyond the territorial limits of the State. A subpoena may be served within the territorial limits provided in Rule 45.

Note:

 This Rule 4(f) modifies the Federal Rule to cover service outside the State.

(g) Proof and Return. The person serving the process shall make proof of service thereof promptly and deliver it to the officer or person who issued same. If served by the sheriff or his deputy, he shall make proof of service by his certificate. If served by any other person, he shall make affidavit thereof. If served by publication, the printer or publisher shall make an affidavit thereof, and an affidavit of mailing shall be made by the party or his attorney if mailing of process is permitted or required by law. Failure to make proof of service does not affect the validity of the service. The proof of service shall state the date, time and place of such service and, if known, the name and address of the person actually served at the address of such person, and if not known, then the date, time and place of service and a description of the person actually served. If service was by mail, the person serving process shall show in his proof of service the date and place of mailing, and attach a copy of the return receipt or returned envelope when received by him showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also make proof of any further service on the defendant pursuant to paragraph (8) of subdivision (d) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed by the clerk with the pleadings and become a part of the record. If service was by commercial delivery service, the person initiating the service of process shall make an affidavit identifying the process or other documents served and shall attach to the affidavit a delivery record of the commercial delivery service which shall contain the date, time, and place of delivery, the name of the person served, and include an original signature or electronic image of the signature of the person served. The affidavit and delivery record and any other proof shall be promptly filed by the clerk with the pleadings and become a part of the record.

Note:

sentence conforms to the new Federal Rule on service by mail, as well as Rule 4(d)(8).

Note to 1994 Amendment:

This amendment to Rule 4(g) deletes "of and" following the word "envelope" to make the sentence read correctly.

Note to 2013 Amendment:

This amendment to Rule 4(g) details the proof required when a party serves process utilizing a commercial delivery service.

(h) Proof of Service Without the State. When the service is made out of the State the proof of such service may be made, if within the United States, by affidavit before:

- (1) Any person in this State authorized to make an affidavit;
- (2) A commissioner of deeds for this State;
- (3) A notary public who shall affix thereto his official seal; or
- (4) A clerk of a court of record who shall certify the same by his official seal; and,
- (5) If made without the limits of the United States, before a consul, vice-consul or consular agent of the United States who shall use in his certificate his official seal.

~~AA~~
(i) Amendment. At any time in its discretion and upon terms as it deems just, the court may, by written order, allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

Note:

Rule 4(h) replaces Code § 15-9-90, in the same language, and follows the Federal Rule.
Rule 4(i) is same as Federal Rule and Code § 15-9-100.

(j) Acceptance of Service. No other proof of service shall be required when acceptance of service is acknowledged in writing and signed by the person served or his attorney, and delivered to the person making service. The acknowledgement shall state the place and date service is accepted.

Note:

This Rule 4(j) is the same as the Federal Rule and follows State practice.

Commentary

Foreclosure Bidding Strategies and the Risks of a Full Credit Bid

by John H. Kuhl and Douglas P. Snyder

With the volume of foreclosures taking place in today's market, the foreclosure process is something which lenders should carefully analyze before embarking on a program of "taking back" properties. The typical foreclosure sale involves a single bidder, the foreclosing lender, who acquires the property by credit bidding its debt. It is tempting to believe that the foreclosure process is one in which the foreclosing lender simply takes the necessary steps to convert its deed of trust into ownership of the property. While this reflects the result in many situations, the lender's strategy in foreclosing is significant in preserving other remedies that may be available.

By law, a foreclosure sale is a public auction of the property. The rights of the foreclosing lender prior to, during and following the foreclosure sale are governed by this concept of a public auction which is designed to bring the highest price for the property to satisfy the lender's debt. The public auction approach should be used by lenders in adopting bidding strategies which will most likely produce cash from foreclosure sales and will not impair the lender's other rights against other collateral, the borrower and other parties.

Bidding Procedures

The foreclosing lender has the right to credit bid up to the full amount of its debt, including permitted foreclosure costs and attorney's fees. All other bidders must bid in cash or a cash equivalent, such as cashier's checks or checks drawn by a financial institution. The trustee holding the foreclosure may require each bidder to be "qualified" by showing the trustee his or her funds.

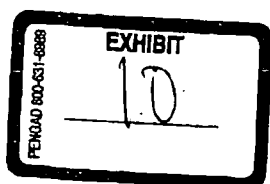
When bidding commences, each bid is deemed to be an irrevocable offer to purchase the property. Each higher bid cancels all prior bids. If the bidding is postponed for any reason, all bids are canceled and bidding starts over when the sale is reconvened.

The foreclosure sale is complete when bidding has stopped and the trustee announces completion of the sale by fall of the gavel or in another customary manner. At this time, the deeds of trust of the foreclosing lender and any junior lienholders are extinguished by operation of law, and the successful bidder is entitled to a trustee's deed to the property. If the successful bidder is any party other than the foreclosing lender, the cash proceeds of the sale are paid first to the foreclosing lender up to the amount of its debt, including the costs of the sale, next to any junior lienholders to the extent of their debts, and any excess amounts to the borrower.

Bidding Strategies

Many foreclosing lenders simply bid the full amount of their debt - a "full credit bid" - without analyzing the value of the property or potential claims it may have against other collateral, the borrower or other parties relating to the loan. This procedure can be hazardous to a lender who may want to pursue a deficiency claim against the borrower or its general partners (following judicial foreclosure) or against separate guarantors. Claims relating to the loan or the property which otherwise could be pursued against these parties may be barred if the lender has acquired the property with a full credit bid at foreclosure. The lender also must be careful to protect its rights to rents which may be held by a receiver, or to other security such as a letter of credit, by "under bidding" at least to the extent of such rents or other additional security.

Careful analysis must be given to foreclosure bidding strategy. The foreclosing lender should know what it believes the fair market value of the property to be, based on the value which could be realized at resale following foreclosure. Even if there are no other bidders at the foreclosure sale, the foreclosing lender should not bid more than the property's fair market value. If other bidders appear, the foreclosing lender may want to start bidding at a lower level in order to encourage cash bidders to make bids. If a cash bid is made, the lender must consider the alternatives of receiving the net proceeds of the cash bid versus making a higher credit bid and taking the property into ownership. In most instances, a full credit bid should not be made unless competitive bidding has driven the price up to this level and the lender believes it is supported by value in the property.



KOREK LAND COMPANY, INC.

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www.korekland.com • mail@korekland.com

Of course, these recommendations assume that the foreclosing lender will send a representative to the foreclosure sale who is in a position to implement a bidding strategy. If active bidding is anticipated, it is generally preferable for the lender to send a representative to the sale, rather than rely on the alternative of asking the trustee to enter the lender's bids.

Full Credit Bid Illustration

A recent case illustrated the danger of purchasing at foreclosure with a full credit bid. In *Western Federal Savings & Loan Association v. Sawyer*, 10 Cal.App.4th 1615 (1992), the lender made a loan to a purchaser of real property. After the borrower defaulted on the loan, the lender foreclosed and acquired the property by making a full credit bid at the trustee's sale. The lender, having discovered that the loan application and appraisal contained several misrepresentations, brought suit against the borrower. At trial the jury ruled that the borrower was part of a conspiracy to fraudulently induce the lender to make the loan and awarded damages to the lender.

The appellate court, relying on the California Supreme Court case of *Cornelison v. Kornbluth*, 15 Cal.3d 590 (1975), reversed the trial court's decision. In *Cornelison*, a lender sought recovery for waste. The Supreme Court refused to decide whether waste had occurred, holding that even if liability existed, the plaintiff could not recover damages because it had made a full credit bid at the trustee's sale. Specifically, the Supreme Court ruled that the measure of the lender's damages would be equal to the amount of the impairment of the security, which is the excess of the indebtedness over the value of the security. By entering a full credit bid, the Supreme Court concluded that the lender established the value of the security as being equal to the outstanding indebtedness and, therefore, no impairment of the security (and no damages) existed.

The court in *Western Federal* followed *Cornelison*, ruling that the lender could not recover damages for the alleged fraud since its full credit bid established the value of the security as equal to the outstanding indebtedness.

The *Western Federal* case illustrates the risks of making a full credit bid at foreclosure. This result emphasizes the need to treat the foreclosure process as a public auction in which the proceeds will be used to satisfy the foreclosing lender's debt. The debt will be deemed satisfied to the extent of the successful bid.

Written by John H. Kuhl and Douglas P. Snyder who are partners in the law firm of Cox, Castle & Nicholson. Cox, Castle & Nicholson is a nationally recognized Century City and Orange County based law firm that specializes in complex real estate transactions and litigation. For additional information call (310) 284-2267.

GUEST COMMENTARIES WELCOME, and may be printed at the sole discretion of Korek Land Company.

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FORECLOSURE BIDDING STRATEGIES & THE RISKS OF A FULL CREDIT BID, By John H. Kuhl & Douglas Snyder

May 24, 2017

1st & 3rd Tues - 11am - CC Judicial center
100 Broad St

MASTER'S AUCTION LIST

****THIS OFFICE DOES NOT WARRANT THE STATUS OF THE TITLE**** by 4pm → 5% in cash or certified funds then 30 days for remainder

For more information on foreclosures

<http://www.charlestoncounty.org/Departments/Master-In-Equity/bidding.php>

update
6/5

Date of Sale	Plaintiff	Defendant	TMS# & Address	Judgment	Lien	Attorney	Special Items
06-01-17 14-07487	The Bank of New York Mellon	Carol L. Lovejoy	6041200403 9002 Palmetto Dr, Unit 419	\$754,880.37 PL 1 st Bid \$758,510.00	1 st	Riley Pope & Laney 803-799-9993	Isle of Palms
06-01-17 16-04195	NationStar Mortgage	Joann N. Dolezal	1910000469 5660 Dixie Plantation Rd	\$191,885.61 PL 1 st Bid \$192,521.75	1 st	Riley Pope & Laney 803-799-9993	Hollywood
06-01-17 16-04737	NationStar Mortgage	Brian Jones	31001000161 415 Parkdale Dr., Unit 16-F	\$121,300.84 PL 1 st Bid \$87,078.20	1 st	Ronald C. Scott 803-252-3340	Chas
06-01-17 16-05164	US Bank	Glenn S. Feavel	1190000030 6481 Spring Grove Rd	\$168,073.16 PL 1 st Bid \$169,179.62	1 st	Riley Pope & Laney 803-799-9993	Adams Run
06-01-17 17-00758	United Mortgage Resolution Fund 3 LLC	Edward Rivers	3521600120 9 Carson Dr	\$70,639.73 PL 1 st Bid \$30,000.00	2 nd	Grimsley Law Firm 803-233-1177	Chas Subj. to 1 st Mtg
06-06-17 15-04386	Bank of America	Johnny Townsend, Jr.	4710100263 5410 Pennsylvania Ave	\$78,478.09	1 st	John S. Kay 803-726-2700	N. Chas
06-06-17 13-00450	The Bank of New York Mellon	Kerri T. Middleton	4691000083 2230 Cambridge Ave	\$71,120.15	1 st	John S. Kay 803-726-2700	N. Chas
06-06-17 15-05133	Bayview Loan	Anika Sims	2870000159 3886 New Hope Rd	\$66,639.87	1 st	Riley Pope & Laney 803-799-9993	Johns Isl
06-06-17 15-05174	CIT Bank	Sadie L. Murphy	4590903132 2 Judith St	\$479,710.85	1 st	Brock & Scott 888-726-9953	Chas 1 (one) year right of redemp (non-IRS)
06-06-17 16-06209	Citibank, N.A.	The Estate of Eloise Chrise	3131400035 1717 Sailfish Dr	\$70,694.72	1 st	Finkel Law Firm 843-577-5460	Johns Isl
06-06-17 11-01648	Deutsche Bank	Anthony Wright	6220000012 5387 Halfway Creek Rd	\$456,728.26		RT&T 803-744-4444	Huger
06-06-17 16-06709	FNMA	Brenda L. Shifflett	4861400029 8804 Deerwood Dr	\$42,690.21	1 st	Finkel Law Firm 843-577-5460	N. Chas
06-06-17 13-02788	Green Tree Servicing	William Palmer	2810000057 3631 Ambor St	\$172,757.85	1 st	John S. Kay 803-726-2700	Johns Isl
06-06-17 15-04014	Marsh View HOA	Wayne William Gordon Smith	2850700013 119 Winding River Dr	\$5,045.57	HOA	Stephanie C. Trotter 803-724-5002	Johns Isl
06-06-17 14-01830	Allyson Martin, Derrick Cleary, Jackie Muse	David A. Farrington	0850000027 7654 Point of Pines Rd	\$98,899.98	1 st	H. Wayne Unger, Jr. 843-869-2389	Edisto Island
06-06-17		James Brown	3510200064	\$235,863.59	1 st	Brock & Scott	Chas

11/19/2007
\$223,968
95852d
at \$163,800

2007 212,450
2007 214,555



14-06460	Reverse Mortgage Solutions		1817 Wallace Ln			888-726-9953	1 (one) year right of redemp (non-IRS)
06-06-17 16-02372	South Carolina State Credit Union	Duane A. Goodman	4691200065 2010 Grayson St	\$31,874.73		D. Ryan McCabe 803-724-5000	N. Chas
06-06-17 16-01635	US Bank	Paul D. Hendrickson	4851000408 7941 New Ryder Rd	\$159,351.30		Brock & Scott 888-726-9953	N. Chas
06-06-17 11-07494	US Bank	Darren L. Jenkins	3091600035 8 San Miguel Rd	\$70,481.99	1 st	Riley Pope & Laney 803-799-9993	Chas
06-06-17 16-01039	Vanderbilt Mortgage	Norma J. Jones	1970000125 5215 Maybank Hwy	\$122,723.15	1 st	Crawford & von Keller 803-790-2626	Wadmalaw
06-06-17 16-02440	Wells Fargo	David A. Bradham	0970000055 7980 Hickman Hill Rd	\$159,281.08	1 st	Brock & Scott 888-726-9953	Hollywood
06-06-17 16-03785	Wells Fargo	Barbara Singleton Ford	5560000084 470 Maggie Rd Ext	\$126,252.23	1 st	RT&T 803-744-4444	Mt. Plea
06-06-17 14-04007	Wells Fargo	Amy E. Cone	4631402025 56 Dunneman Ave	\$448,297.95	1 st	Riley Pope & Laney 803-799-9993	Chas
06-06-17 07-06-17 14-03309	Ocwen Loan Servicing	Troy E. White	4860900080 2890 Salamander creek Ln	\$188,200.82	1 st	Brock & Scott 888-726-9953	N. Chas
06-06-17 07-06-17 16-01378	US Bank	Deborah K. Allred	4860600084 2744 Donner Ave	\$146,319.19	1 st	Brock & Scott 888-726-9953	N. Chas
06-06-17 07-06-17 16-03413	US Bank	Mary Finn Creech	4081500021 4121 Oak Ridge Dr	\$94,753.44	1 st	Riley Pope & Laney 803-799-9993	N. Chas
06-06-17 07-06-17 15-00311	Wells Fargo Bank	Darryl L. Smalls	3581100050 2936 Cathedral Ln	\$188,049.61		Brock & Scott 888-726-9953	Chas
06-20-17 16-06405	BB&T	Kierstin Allman	3930000170 3805 Annapolis Way	\$171,665.21	1 st	Grimsley Law Firm 803-233-0797	Ladson
06-20-17 16-06855	Barberry Woods POA	Stephen D. Hardman	3120000302 2967 Split Hickory Ct	\$8,215.44		Simons & Dean 843-762-9132	Johns Isl Regime Fee Subj to Senior Lien
06-20-17 16-01388	Colony North Management Group	Christopher B. Young	4840800244 7812 Expedition Dr	\$4,263.37		Stephanie C. Trotter 803-724-5002	N. Chas Regime Fee
06-20-17 17-00212	Deutsche Bank	Wayne R. Hazel	2791400073 1747 Main Rd	\$176,407.15	1 st	Brock & Scott 888-726-9953	Johns Isl
06-20-17 14-07602	SRP 2011-6, LLC	Alluette K. Jones	4601601013 142 Coming St	\$269,105.16		Clawson & Staubes 843-577-2026	Chas
06-20-17 15-01092	Wilmington Trust	Elizabeth Hart	4691000197 2237 Suffolk St	\$159,450.22	1 st	Brock & Scott 888-726-9953	N. Chas

06-20-17 16-02852	Wells Fargo	Bonnie L. Michaels	3551400029 2094 Vestry Dr	\$180,774.70	1 st	Brock & Scott 888-726-9953	Chas
06-20-17 Reopen 07-20-17 16-2851	The Bank of New York Mellon	Cole A. Gaitther	3150000071 2205 Shoreline Dr	\$2,310,750.90	1 st	Brock & Scott 888-726-9953	Johns Isl 120 days right of redemp (IRS)
06-20-17 Reopen 07-20-17 16-04652	Caliber home Loans, Inc.	Sterling S. Sligh	2480400136 5220 Old Washington Course	\$381,933.51	1 st	Brock & Scott 888-726-9953	Hollywood 120 days right of redemp (IRS)
06-20-17 Reopen 07-20-17 16-05718	Seabrook Island POA	Raymond Gauthier	1470200068 2776 Little Creek Rd	\$16,521.28		Kristen N. Nichols 843-576-2800	Johns Isl Regime Fee
06-20-17 Reopen 07-20-17 16-06750	Seabrook Island POA	Charles Kelley	1470500072 749 Spinnaker Beachhouse	\$7,913.62		Kristen N. Nichols 843-576-2800	Johns Isl Regime Fee
06-20-17 Reopen 07-20-17 16-05576	Tarpon Pond Cottages HOA	William Henry Carter	1471500043 541 Cobby Creek Ln	\$8,704.70		Caper G. Barr, IV 843-577-5083	Seabrook Isl Regime Fee
06-20-17 Reopen 07-20-17 16-03601	Wilmington Savings Fund Society, FSB	John M. Drinkard	3550500163 2052 Country Lake Ct	\$257,588.54	1 st	John J. Hearn 803-744-4444	Chas

Bidding on Foreclosures

Thank you for your interest in foreclosure sales. This page was prepared in an effort to answer the most frequently asked questions about this process. If you have further questions, please contact the Master-in-Equity Office at (843)958-5070.

If you are interested in bidding on a piece of property in Charleston County, which is being foreclosed upon and is scheduled to be auctioned for sale in the near future, the following are some things you may find helpful to know:

When real property is ordered to be foreclosed in Charleston County, a judge called the Master in Equity will issue an order directing the mortgaged premises (or part thereof as required to satisfy the claims established) be sold by or under direction of the Master.

The judgment (often called a Master's Order of Foreclosure & Sale) will contain a legal description of the property being sold, a provision for the necessary legal advertisement, the time and location of the sale, and notice of any senior liens, taxes or other rights to which the property to be sold is subject.

All Master's Order of Foreclosure & Sale and related documents can be viewed on the county's home page, www.charlestoncounty.org, click on **Clerk of Court**, click on **Search court records**, click on **Circuit Court Search** located under the Navigation Menu on the left hand side of the screen, click on **Accept**, enter the Case Number or the Defendant's name or the TMS#, click on **Search**, click on the **blue hyperlink case number**, click on **Actions**, look for Master/Master's Order of Foreclosure & Sale, click on **page icon**  and the document will appear.

All legal ads in the newspaper also will have the terms of the sale and are run for three consecutive weeks in a local newspaper, usually the Post and Courier.

Pre-registration is not required to bid. Sales are held the 1st and 3rd Tuesday of each month at 11 a.m. If a deficiency judgment has been demanded (also referred to as Reopens), the bidding remains open for (30) days. Sales are held at the Charleston County Judicial Center located at 100 Broad Street (see monitors located in the lobby and on the second floor for the court room location).

The Master's Office has no knowledge of the physical condition of any of the properties listed. We do not have keys, nor do we guarantee title. The Master's Deed is not a Warranty Deed. Interested bidders should satisfy themselves as to the quality of title to be conveyed by obtaining a title search before bidding on a property. If any property taxes are due they will be the responsibility of the successful bidder.

If you are the successful bidder, you have until 4:00 pm the day of the sale to pay 5% of your bid in cash or certified funds made payable to the Charleston County Master in Equity. You have 30 days from the date of the sale to fully comply with the Terms of the Sale. Failure to comply will



Contact

Master-In-Equity

Charleston County Judicial
Center



100 Broad Street, Suite
266

Charleston, SC 29401

Phone: (843)958-5070

Fax: (843)958-5077

Office Hours:

Mon. - Fri. 8:30am - 5pm



All Departments

result in the forfeiture of your deposit, loss of your right to bid at future auctions, and the responsibility for associated cost for the re-sale of the property.

DEFICIENCY SALES (*Reopens*)

Some Plaintiffs seek a deficiency judgment against the Defendant. This means the Plaintiff is not only foreclosing its mortgage but is also seeking a personal money judgment against the Defendant. The Plaintiff has the right to waive its demand for a deficiency judgment up until 7 days before the original sale. If a deficiency judgment has been demanded, the bidding remains open for (30) days. On the 30th day after the initial sale the property is again auctioned and the highest bid is accepted. The Plaintiff makes only one bid at the initial sale and is not allowed to bid again. If no higher bid is made at the second sale, then the Plaintiff's bid prevails.

If you have any questions that have not been answered above or by reviewing the documents, then please consult an attorney. This office is unable to give legal advice.

*waive
by
June 13th*

*July 20th
2nd auction.*

Municipalities

[City of Charleston](#)
[City of Folly Beach](#)
[City of North Charleston](#)
[City of Isle of Palms](#)
[Town of Awendaw](#)
[Town of Hollywood](#)
[Town of James Island](#)
[Town of Kiawah Island](#)
[Town of Lincolnville](#)
[Town of McClellanville](#)
[Town of Meggett](#)
[Town of Mount Pleasant](#)
[Town of Ravenel](#)
[Town of Rockville](#)
[Town of Seabrook Island](#)
[Town of Sullivan's Island](#)

Additional Resources

[Arts & Entertainment](#)
[CARTA Transit System](#)
[County Library](#)
[County Parks](#)
[Transportation](#)
[Sales Tax](#)
[School District](#)
[Sex Offenders Search](#)
[Identity Theft Info](#)
[Traffic Cam](#)
[Make-A-Wish Car Donation](#)
[United Way 24hr hotline](#)
[Visitor Information](#)

Social Media



E-mail your comments or questions about this site to
publicinfo@charlestoncounty.org
Report technical problems with this site to
webmaster@charlestoncounty.org

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EXHIBIT I

Approved 12/19/16

**SEABROOK ISLAND PROPERTY OWNERS ASSOCIATION
BOARD OF DIRECTORS CODE OF CONDUCT**

WHEREAS, the Board of Directors ("Board") of Seabrook Property Owners Association ("SIPOA") has the authority to make decisions on behalf of the Seabrook Island community; and

WHEREAS, the Board has the responsibility to make decisions for the benefit of the SIPOA community as a whole and to use best efforts to ensure that SIPOA members maintain confidence and respect for the Board as an institution of governance; and

WHEREAS, in exercise of such authority and responsibility, each Board Member has responsibility and accountability pertaining to fiduciary duties and ethical obligations, including but not limited to the following:

- *Fiscal*. Managing prudently SIPOA's financial needs, resources, and assets; and
- *Loyalty*. Placing the interest of SIPOA as a whole above personal and/or other interests; and
- *Care*. Exercising the skill, diligence and decision making that a reasonable person would exercise under similar circumstances; and
- *Ethical Conduct*. Maintaining a high standard of ethical conduct in the performance as a SIPOA Board Member; and
- *Conflicts of Interest*. Avoiding conflicts that have the potential to improperly influence a Board Member's decisions on matters before the SIPOA Board, including but not limited to conflicts arising from personal interests, business relationships, outside interests, and/or relationships with other entities or organizations.

NOW THEREFORE, BE IT RESOLVED THAT the Board hereby adopts the following rules of conduct and standards of behavior that are applicable to all Board Members from and after the date of adoption as noted below (the "Code of Conduct"):

1. The recitals to this resolution are incorporated in this Code of Conduct.
2. This Code of Conduct is in addition to, and is not intended to replace, the fiduciary duties of Board Members prescribed by the South Carolina Nonprofit Corporation Act.
3. Board Members shall act in the best collective interest of SIPOA as a whole regardless of personal interest(s) and real or potential conflicting interests of any formal or informal subgroups of Property Owners with which the Board Member may be affiliated in any other capacity.
4. Board Members shall use sound judgment as a basis for decision-making, taking into consideration all available accurate and truthful information, circumstances and resources.
5. Board Members shall disclose all personal, professional and/or official interests or relationships with any company, individual, or subgroup of Property Owners, who may be seeking any affiliation or business relationship with SIPOA, at or prior to the time that any action that may be affected by such relationship is considered by the SIPOA Board.

6. After the Board takes an action on a matter before the Board, Board Members shall not take a public position that is contrary to, critical of, or that disparages such Board decision, even if the Board Member disagrees with such decision, while such Board Member remains on the SIPOA Board.
7. Board Members shall not use or publicly support the use by others of any means of public advocacy of a position for or against a matter that is currently before the Board, or a duly authorized Board Committee, for action, unless such advocacy occurs in the setting of an officially set Board meeting or other Board authorized forum at which debate may occur.
8. Board Members shall support open, fair, and public Board elections, and shall take no action by any means to subvert or improperly influence the outcomes of the nomination and/or election procedures as contemplated by SIPOA's Bylaws.
9. Board members shall not knowingly misrepresent facts to any members of the community regarding a matter that is before the Board, for any purpose, including but not limited to the purposes of advancing a personal interest or influencing any members of the community to advance a Board Member's personal interest.
10. Board Members shall not reveal to any non-Board Member, Property Owner or third party any privileged or confidential information, discussions, or comments that occurred on any matter at any meeting of the Executive Committee of the Board or at a duly convened Executive Session.
11. Board members shall conduct themselves at all official SIPOA meetings, including but not limited to Board meetings, annual meetings of the Property Owners and Board Committee meetings, in a manner consistent with Roberts Rules of Order.
12. Board members shall treat all Board Members, Property Owners, SIPOA officers, SIPOA employees, SIPOA contractors and SIPOA guests courteously and in a manner consistent with the best interests of SIPOA, and shall not personally attack or disparage such individuals, verbally or otherwise.
13. Board Members shall not defame any other Board Members, Property Owners, SIPOA officers, SIPOA employees, SIPOA contractors or SIPOA guests: any and all such defamatory actions shall be deemed to be outside the scope of the Board Member's authority.
14. Board Members shall not in any way ridicule, harass, threaten, or otherwise attempt to intimidate any Board Members, Property Owners, SIPOA officers, SIPOA employees, SIPOA contractors or SIPOA guests: any and all such actions shall be deemed to be outside the scope of the Board Member's authority.
15. Individual Board Members (except Committee Chairs who have been delegated authority to take such action) may not interfere with or direct the activities of SIPOA employees, SIPOA contractors or SIPOA guests: all communications from Board Members regarding the activities of SIPOA employees, SIPOA contractors and/or SIPOA guests must be made to the Executive Director.
16. Board Members shall recuse themselves from any Board decision where such Board Members have a conflict of interest, or a potential conflict of interest, that may improperly influence such Board Member's decision, including but not limited to conflicts arising from personal interests, business relationships, outside interests, affiliations and/or other relationships with other entities or organizations.

AND BE IT FURTHER RESOLVED THAT the Board hereby adopts the following enforcement procedures regarding the Code of Conduct:

1. Alleged violations of the Code of Conduct shall, upon submission of a written complaint by an observer of the violation to the Executive Director, be brought to the Board for hearing. The Executive Director

shall promptly transmit all such written complaints to the Executive Committee, and the Executive Committee shall provide written notice to the alleged violator of the date and time of such hearing along with a copy of the written complaint.

2. A quorum of the Board for any such hearing shall be all of the Directors then holding office, exclusive of the alleged violator.
3. A hearing on a Board Member's first alleged violation of this Code of Conduct shall be held by the Board of Directors in Executive Session. If at least 75% of the Directors then holding office (exclusive of the alleged violator) find the alleged action to be a violation of the Code of Conduct, then the violator shall at the discretion of the Board, either: (i) receive a private reprimand in Executive Session, or (ii) receive a public reprimand in open session. For purposes of clarity, a public reprimand must be authorized through a vote of at least 75% of the Directors then holding office (exclusive of the alleged violator) taken in open session, and the basis for the violating director's public reprimand must be reflected in the Board Minutes.
4. A hearing on a Board Member's subsequent alleged violation of this Code of Conduct shall be held by the Board of Directors, and the Board shall choose, in its discretion, whether such hearing shall be held in Executive Session or open session. If at least 75% of the Directors then holding office (exclusive of the alleged violator) find the alleged action to be a violation of the Code of Conduct, then the violator shall, at the Board's sole discretion, either: (i) receive a private reprimand in Executive Session, (ii) receive a public reprimand in open session, or (iii) be removed from the SIPOA Board by the Board. For purposes of clarity, a public reprimand or removal of the violating director must be authorized through a vote of at least 75% of the Directors then holding office (exclusive of the alleged violator) taken in open session, and the basis for the violating director's public reprimand or removal must be reflected in the Board Minutes.
5. For purposes of clarity, and notwithstanding the approval threshold for director removal contained in S.C. Code Ann. Section 33-31-808(i), any removal of a violator of this Code of Conduct from the SIPOA Board shall require approval of at least 75% of the Directors then holding office (exclusive of the alleged violator).
6. Any reprimand, public or private, shall be delivered by the President of the Board, or the next senior officer present, if the violation is committed by the President.
7. Notwithstanding anything to the contrary herein, any hearing on any alleged violation shall be held in an open session of the Board instead of Executive Session upon the written request of the alleged violator, submitted to the Executive Committee prior to the date of the hearing.
8. All results of action taken on alleged violations of this Code of Conduct, except for private reprimands issued in Executive Session, shall be included in the Board Minutes.

AND BE IT FURTHER RESOLVED THAT:

This Code of Conduct shall apply to current and future Board Members from the date of the adoption of these resolutions forward. Notwithstanding the foregoing, the power of the Board to remove a violating Board Member from the Board is subject to the provisions of S.C. Code Ann. Section 33-31-808(i).

EXHIBIT J

SIPOA CONFLICT OF INTEREST POLICY

Approved by SIPOA Board of Directors November 16, 2015

CONFLICTS OF INTEREST. It is the policy of SIPOA that the conduct of its affairs be carried out so as to be free of influence resulting in disadvantage to SIPOA that may arise in consequence of interests or relationships of SIPOA's Directors or Key Employees as defined herein. For purposes of this policy, a "Key Employee" of SIPOA is defined as SIPOA's Executive Director, Assistant Executive Director, Director of Operations and Maintenance, Director of Administrative Services, Director of the Lake House and such additional employees as the Directors of SIPOA may from time to time designate. In accordance with this policy, Directors and Key Employees shall disclose relevant relationships and interests. In particular:

- a. SIPOA Directors and Key Employees shall, not later than March 1st of each year, in a signed statement, disclose if they or any of their Immediate Family Members as defined herein: (i) do business with SIPOA and all material facts relating to such business; or (ii) serve as a Director, officer, partner or trustee, or have a direct or indirect financial interest (other than as a shareholder of a *de minimis* [five percent {5%} or less] interest in a publicly or privately held company) in any corporation, association, partnership, trust or other entity that does business with SIPOA and all material facts relating to such business. For purposes of this policy, an "Immediate Family Member" is defined as a spouse, a "declared domestic partner," dependent children, or dependent parents.
- b. SIPOA Directors and Key Employees shall timely disclose whether they or any of their Immediate Family Members: (i) do or propose to do business with SIPOA and all material facts relating to the business, or (ii) serve as a Director, officer, partner or trustee, or have a direct or indirect financial interest (other than as a shareholder of a *de minimis* interest in a

publicly or privately held company) in any corporation, association, partnership, trust or other entity that does or proposes to do business with SIPOA and all material facts relating to the business.

- c. Confidential Information of SIPOA shall not be used for personal gain by Directors or Key Employees. For purposes of this policy, the term "Confidential Information" shall include all information, transcribed in any form of media which the SIPOA considers proprietary and confidential. Excluded from such definition is information which: (i) was known to recipient prior to receiving any of the Confidential Information from SIPOA, (ii) after disclosure to the recipient has become publicly known through no wrongful act of the recipient, (iii) was received by recipient without breach of this Agreement from a third party without restriction as to the use and disclosure of the information, (iv) the recipient can demonstrate was independently developed by him or her without use of the Confidential Information, or (v) was ordered to be publicly released by the requirement of a government agency or court.
- d. Directors and Key Employees may not participate in discussion(s) of the Board relative to matters where the Board has determined that the relationship or interest of the Director or Key Employee could disadvantageously influence the selection of a contractor or vendor.
- e. Directors and Key Employees shall not, for themselves or on behalf of their Immediate Family Members, attempt to use their positions with SIPOA to obtain employment with, or special consideration from, SIPOA or its contractors or vendors.
- f. No owner of property on Seabrook Island may accept full-time employment with SIPOA nor be eligible to work for SIPOA as a full-time employee.

- g. In addition to Directors and Key Employees, (i) members of the Architectural Review Committee shall, not later than March 1st of each year, in a signed statement, disclose relevant relationships and interests as specified in paragraphs a and b of this policy; and (ii) candidates for the Board and Nominating Committee shall, not later than 120 days prior to the Annual Meeting of Property Owners of the year of their candidacy, in a signed statement, disclose relevant relationships and interests as specified in paragraphs a and b of this policy. **Unless subsequently elected, this form shall be destroyed once the official election results are announced.**

In the event SIPOA determines that any transaction has been entered under circumstances contrary to this policy, SIPOA shall have the right to recover any damages and expenses it incurs in consequence of such transaction from the Director(s) or Key Employee(s) whose failure to comply with the requirements of this policy resulted in such damages or expenses to SIPOA.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06750

Seabrook Island Property Owners
Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E.
Kelley; Deborah Kelley a/k/a
Deborah L. Kelley; Mortgage
Electronic Registration Systems,
Inc., its successors and assigns, as
nominee for Chase Mortgage
Company, its successors and assigns,
a Delaware Corporation; and
Spinnaker Beach House Owners
Association,

Defendants.

**DEFENDANTS CHARLES KELLEY'S
AND DEBORAH KELLEY'S NOTICE AND
MOTION FOR RECONSIDERATION**

2018 JAN -8 PM 3:56
JULIE J. ARMSTRONG
CLERK OF COURT
RY

FILED

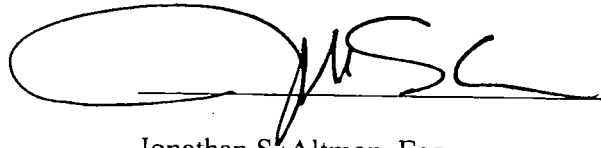
Please take notice that pursuant to SCRPC Rule 59(e), Defendants Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley (hereinafter collectively referred to as "Defendants Kelley") hereby submit this motion for reconsideration of the Court's order dated December 13, 2017 and filed on December 15, 2017 (hereinafter the "Order"). Kelley seeks reconsideration of the order to correct clear errors and to prevent a manifest injustice.

These errors include the Court's finding that, "*It is undisputed that the Affidavits of Service for the Kelleys which were filed on January 5, 2017, contained a scrivener's error in that they failed to indicate to that the Complaint was served, along with the Certificate of Exemption from ADR, Lis Pendens, and Summons.*" [emphasis added.] The record reflects that Kelley's contention that the Complaint was not served upon them and that the absence of the Complaint from the original Affidavit of Service was not a scrivener's error. In her affidavit, Deborah

Kelley makes specific reference to *"the absence of the Complaint from the documents provided."* Charles Kelley attests to his *"searching for the papers provided to me by Mr. Stoner and having located the Certificate of Exemption from ADR, Certificate of Compliance, Lis Pendens, and Summons."* Charles Kelley further stated that he had been *"unable to locate any lawsuit or Complaint."* Contrary to the order issued, the affidavits filed by Kelley attest that the Complaint was absent from the pleadings served upon them by Plaintiff's process server.

For the above mentioned reasons, Kelley respectfully seeks the Court's reconsideration of its findings and the correction of errors therein to prevent a manifest injustice in this case.

Date: January 8, 2018

A handwritten signature in black ink, appearing to read 'JSC', with a large, loopy initial 'J' and a stylized 'SC'.

Jonathan S. Altman, Esq.
Derfner & Altman, LLC
575 King Street, Suite B
Charleston, SC 29403
(843) 723-9804

*Attorney for Defendants Charles
and Deborah Kelley*

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

) Civil Action No. 2016-CP-10-6750

Seabrook Island Property Owners
Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee
for Chase Mortgage Company, its
successors and assigns, a Delaware
Corporation; and Spinnaker Beach House
Owners Association,

Defendants.

(07941-00167 KNN)

**Plaintiff's Reply in Opposition to
Defendants' Charles Kelley a/k/a
Charles E. Kelley and Deborah Kelley
a/k/a Deborah L. Kelley's Motion to
Reconsider the Order Denying Motion Set
Aside Entry of Default and Vacate Judgment
of Foreclosure Sale and Master's Deed**

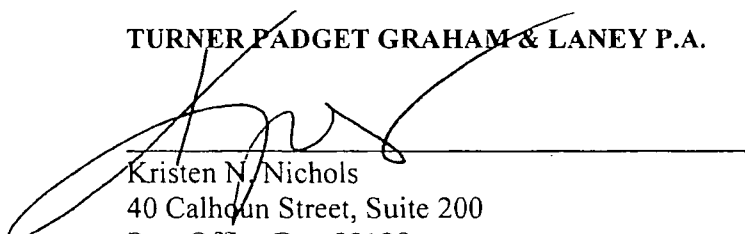
COMES NOW Plaintiff, Seabrook Island Property Owners Association (hereinafter, "SIPOA"), by and through its undersigned attorneys, and hereby responds in opposition to the Motion to Reconsider the Order Denying Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Master's Deed ("Motion to Reconsider") filed by counsel for the Defendants, Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley. In reply, SIPOA would show the following:

Pursuant to South Carolina Rule of Civil Procedure 59(e), a motion brought to alter or amend a judgment must be served not later than ten (10) days after receipt of written notice of the order. The Order Denying the Defendant's Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure and Master's Deed was entered by the Court on December 15, 2017. Defendants' Motion to Reconsider was filed on January 8, 2018, which is after the expiration of

the ten-day time period required by the South Carolina Rules of Civil Procedure, and, therefore, the Motion to Reconsider is untimely and improper. Thus, the Plaintiff respectfully requests that the Kelley Defendants' Motion to Reconsider the Order Denying Motion to Set Aside Default and Vacate the Judgment of Foreclosure Sale and Master's Deed be denied and that Plaintiff be allowed to collect from the surplus funds all attorneys' fees and costs associated with the defense of the motion.

Respectfully submitted,

TURNER PADGET GRAHAM & LANEY P.A.



Kristen N. Nichols
40 Calhoun Street, Suite 200
Post Office Box 22129
Charleston, South Carolina 29413-2129
Telephone: 843-576-2836
Facsimile: 843-577-1659 (direct fax)
Email: knichols@TurnerPadget.com

ATTORNEYS FOR DEFENDANT SEABROOK
ISLAND PROPERTY OWNERS ASSOCIATION

Charleston, South Carolina
January 16, 2018

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS
)

COUNTY OF CHARLESTON

) Civil Action No. 2016-CP-10-6750

Seabrook Island Property Owners
Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee
for Chase Mortgage Company, its
successors and assigns, a Delaware
Corporation; and Spinnaker Beach House
Owners Association,

Defendants.

CERTIFICATE OF SERVICE

FILED
2018 JAN 22 PM 3:30
JULIE J. AINSWORTH
CLERK OF COURT

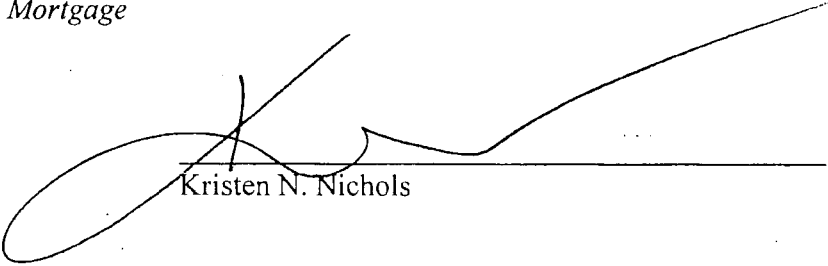
I hereby certify that on this 10th day of January, 2018 a copy of the above and foregoing **Plaintiff's Reply in Opposition to Motion** to has been mailed to all parties of record, postage prepaid and properly addressed as follows:

Jonathan S. Altman, Esq.
575 King Street, Suite B
Charleston, SC 29403
Attorney for Charles and Deborah Kelley

Hal Cobb, Esq.
300 W. Coleman Blvd, Suite 106
Mount Pleasant, SC 29464
Attorney for Third Party Bidder

Louise M. Johnson, Esq.
PO Box 2065
Columbia, SC 29202
*Attorney for MERS, its successors and
assigns, as nominee for Chase Mortgage
Company*

Spinnaker Beach House Owners Association
101 Rice Bent Way, Unit 11
Columbia, SC 29229


Kristen N. Nichols

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Seabrook Island Property Owners
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.
Kelley; Deborah Kelley a/k/a
Deborah L. Kelley; Mortgage
Electronic Registration Systems,
Inc., its successors and assigns, as
nominee for Chase Mortgage
Company, its successors and assigns,
a Delaware Corporation; and
Spinnaker Beach House Owners
Association,)

Defendants,)

v.)

749 Spinnaker, LLC,)

Intervening Party.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2016-CP-10-06750

**OPPOSITION OF CHARLES KELLEY
AND DEBORAH KELLEY'S MOTION
FOR RECONSIDERATION**

FILED
2018 JAN 25 PM 3:23
JULIE J. ARMSTRONG
CLERK OF COURT

Third party bidder and Intervening Party, 749 Spinnaker, LLC, by and through their undersigned attorney, hereby submits this Response in Opposition of Defendants' Motion for Reconsideration.

INTRODUCTION

Post-trial motions "shall be made promptly after the jury is discharged, or in the discretion of the court not later than ten days thereafter." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14, 602 S.E.2d 772, 775 (2004). In actions tried without a jury or with an advisory jury, a party may move

the court to amend its findings for judgment or for a new trial not later than ten days after receipt of written notice of entry of judgment. *Id.*

For the following reasons, 749 Spinnaker, LLC respectfully requests this Court deny Defendants Charles Kelley a/k/a Charles E. Kelly and Deborah Kelley a/k/a Deborah L. Kelley Motion for Reconsideration.

ARGUMENT

1. **Defendants' Motion for Reconsideration were filed later than 10 days after entry of judgment.**

According to the South Carolina Rules of Civil Procedure, a motion must be presented in writing and must state the grounds and set forth the relief sought within ten days after the receipt of written notice of the entry of the order. Rule 59(e), SCRPC. Defendants Charles Kelley a/k/a Charles E. Kelly and Deborah Kelley a/k/a Deborah L. Kelley (hereinafter referred to as "Defendants"), did not file their Motion for Reconsideration within the ten-day time period as required by the South Carolina Rules of Civil Procedure.

On December 15, 2017, the Order on the Defendants' Motion to Set Aside Entry of Default and Vacate Judgment of Foreclosure Sale and Master's Deed was denied by Judge Mikell R. Scarborough. The judge determined that the service of the Summons and Complaint was proper, as well as the Entry of Default as to the Defendants, and the entry of the foreclosure order and subsequent foreclosure sale. In response to this, the Defendants filed their Motion for Reconsideration on the basis that the Defendants never received the Complaint. However, the Motion was filed on January 8, 2018, and, therefore, was not filed within the ten-day time period required by the South Carolina Rules of Civil Procedure. Therefore, this Motion for Reconsideration cannot be considered valid.

2. **Defendants' argument could have been raised prior to the issuance of the judgment.**

Third party bidder, 749 Spinnaker, LLC, respectfully disagrees with Defendants' attempt to raise the issue that the Defendants never received the served Complaint. Under SCRCP rule 59(e), motions may not be used to "raise arguments that could have been raised prior to the issuance of the judgment, nor may they be used to argue a case under a novel legal theory that the party had the ability to address in the first instance. *Pac. Ins. Co. v. Am. Nat. Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998). A motion under 59(e) is not authorized to enable a party to complete presenting his case after the court has ruled against him. *Id.*

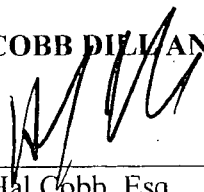
If a party relies on newly discovered evidence that could have been raised prior to the entry of judgment, the party must produce a "legitimate reason for not presenting" the evidence during the earlier proceeding. *Small v. Hunt*, 98 F.3d 789, 298 (4th Cir. 1996) (quoting *RGI, Inc. v. Unified Indus., Inc.*, 963 F.2d 658, 662 (4th Cir. 1992)). Furthermore, reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly. *Wright et al., supra*, § 2810.1, at 124. The Defendants' claim that they never received the Complaint that was served on them is an issue that could have been raised prior to the issuance of the disputed Order and therefore should not be raised now.

CONCLUSION

The Motion to Reconsider was not filed within the ten-day requirement provided by Rule 59(e) of the South Carolina Rules of Civil Procedure. Additionally, the argument that the Defendants pose to reconsider the judgment could have been raised prior to this Motion. For the foregoing reasons, third party bidder, 749 Spinnaker, LLC respectfully requests this Court deny Defendants' Motion for Reconsideration.

RESPECTFULLY SUBMITTED,

COBB DILL AND HAMMETT, LLC



Hal Cobb, Esq.

S.C. Bar No. 100575

300 W Coleman Blvd., Suite 106

Mt. Pleasant S.C. 29464

Phone: (843) 327-5777

Facsimile: (843) 353-2583

hcobb@cdhlawfirm.com

Attorney for third party bidder

January 11, 2018
Mount Pleasant, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Seabrook Island Property Owners
Association,)

Plaintiff,)

v.)

Charles Kelley a/k/a Charles E.
Kelley; Deborah Kelley a/k/a
Deborah L. Kelley; Mortgage
Electronic Registration Systems,
Inc., its successors and assigns, as
nominee for Chase Mortgage
Company, its successors and assigns,
a Delaware Corporation; and
Spinnaker Beach House Owners
Association,)

Defendants,)

v.)

749 Spinnaker, LLC,)

Intervening Party.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2016-CP-10-06750

CERTIFICATE OF SERVICE

FILED
2018 JAN 25 PM 3:24
JULIE J. ARMSTRONG
CLERK OF COURT

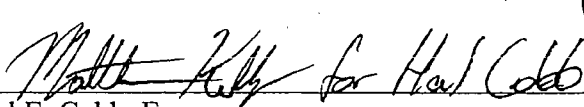
I, the undersigned do hereby certify that I have served a copy of Opposition of Charles Kelley and Deborah Kelley's Motion for Reconsideration on the individuals below named by depositing with United States Postal Service to the addresses and of the parties and counsel below stated.

Jonathan S. Altman
Derfner & Altman
575 King Street
Charleston, SC 29403

Kristen N. Nichols
Turner Padget Graham & Laney, P.A.
40 Calhoun Street, Suite 200
Charleston, SC 29401

Respectfully submitted,

COBB DILL & HAMMETT LAW FIRM, LLC


Hal E. Cobb, Esq.

S.C. Bar No.: 100575

Cobb Dill & Hammett Law Firm, LLC

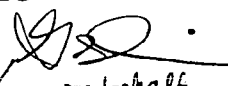
300 W. Coleman Blvd. Suite 106

Mt. Pleasant, SC 29464

Telephone: (843) 327-5777

Facsimilia: (843) 225-2485

ATTORNEY FOR DEFENDANT


on behalf
of
Matthew Z. Kelly

Dated January 25, 2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No.: 2016-CP-10-06750

Charles Kelley a/k/a Charles E. Kelley and
Deborah Kelley a/k/a Deborah L. Kelley,

.....Appellants,

v.

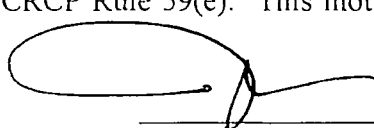
Seabrook Island Property Owners Association,
Mortgage Electronic Registration Systems, Inc.,
its successors and assigns, as nominee for
Chase Mortgage Company, its successors and assigns,
a Delaware corporation, Spinnaker Beach House Owners Association,
and 749 Spinnaker, LLC,

.....Respondents.

NOTICE OF APPEAL

Charles Kelley a/k/a Charles E. Kelley and Deborah Kelley a/k/a Deborah L. Kelley (hereinafter "Appellants") appeal the order of The Honorable Mikell R. Scarborough, Master in Equity for Charleston County, dated December 13, 2017. Appellants received notice of the entry of this order on December 28, 2017 and filed a motion for reconsideration pursuant to SCRCF Rule 59(e). This motion was denied on February 12, 2018.

February 15, 2018


Jonathan S. Altman, Esquire
Derfner & Altman, LLC
575 King Street, Suite B
Charleston, SC 29403

Attorney for Appellants

FILED
2018 FEB 20 PM 2:20
JULIE J. ARMSTRONG
CLERK OF COURT

Kristin Nichols, Esquire
Turner Padget Graham & Laney, PA
P.O. Box 22129
Charleston, SC 29413

Attorney for Seabrook Island Property Owners Association

Hal E. Cobb, Esq.
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Mt. Pleasant, SC 29464

Attorney for 749 Spinnaker, LLC

Stephanie C. Trotter, Esq.
McCabe Trotter & Beverly, PC
P.O. Box 212069
Columbia, SC 29221

Attorney for Spinnaker Beach House Owners Association

Louise M. Johnson, Esq.
Scott and Corley, PA
P.O. Box 2065
Columbia, SC 29202

*Attorney for Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee for Chase
Mortgage Company, its successors and assigns, a
Delaware Corporation*

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Seabrook Island Property Owners
Association,

Plaintiff,

v.

Charles Kelley a/k/a Charles E. Kelley;
Deborah Kelley a/k/a Deborah L. Kelley;
Mortgage Electronic Registration Systems,
Inc., its successors and assigns, as nominee
for Chase Mortgage Company, its
successors and assigns, a Delaware
Corporation; and Spinnaker Beach House
Owners Association,

Defendants.

) IN THE COURT OF COMMON PLEAS

)

) Civil Action No. 2016-CP-10-6750

**Order on Defendants' Charles Kelley a/k/a
Charles E. Kelley and
Deborah Kelley a/k/a Deborah L. Kelley
Motion to Set Aside Entry of Default and
Vacate Judgment of Foreclosure Sale and
Master's Deed**

FILED
DEC 15 PM 2:31
CLERK OF COURT

This matter is before the Court upon motion of the Defendants, Charles Kelley and Deborah Kelley (the "Kelley Defendants") to Set Aside Entry of Default and Vacate Judgment of Foreclosure Sale and Master's Deed. A hearing was held on November 27, 2017. Present at the hearing were counsel for Plaintiff, counsel for the Kelley Defendants, and counsel for the third party bidder, 749 Spinnaker, LLC. For the reasons set forth below, the Court denies the Kelley Defendants' motion.

FACTS

Plaintiff filed the Lis Pendens, Summons and Complaint for the foreclosure of a lien on property located at 749 Spinnaker Beachhouse ("Subject Property"), with the Clerk of Court for Charleston County on December 19, 2016. The Kelley Defendants were personally served at their residence, located at 101 Alder Street, Punxsutawney, PA, (the "Alder Street Address") on December 22, 2016. The Affidavits of Service for the Kelley Defendants were filed on January

5, 2017; however, said Affidavits contained a scrivener's error in that the affiant failed to indicate that the Complaint was served along with the Certificate of Exemption from ADR, Lis Pendens, and Summons. Upon realization of this error, Plaintiff, by and through counsel, contacted the process server to verify that all of the pleadings, including the Complaint, were received and served on the Kelley Defendants. The process server submitted Amended Affidavits of Service, which were filed with the Clerk of Court for Charleston County on October 4, 2017, wherein he explained the scrivener's error and verified that the Complaint was properly served on Kelley Defendants. The Kelley Defendants failed to contact the Plaintiff, counsel for the Plaintiff, and/or formally respond to the pleadings, and as a result, they were placed in default by order of the Court on March 9, 2017.

In addition to the Summons and Complaint, the Kelley Defendants received a letter from counsel for the Plaintiff, dated August 24, 2016, sent both certified and regular mail and addressed to them at the Alder Street Address, that they had a balance due and owing the Plaintiff, and that a lien would be filed if they failed to satisfy the arrearage within the time specified. They did not respond to the letter or exercise their right to cure. The Kelley Defendants were mailed a copy of the Notice of Hearing at the Alder Street Address on March 21, 2017, and a copy of the Certificate of Service was filed with the Court on March 23, 2017. They did not respond and were not present at the hearing on April 19, 2017. The Kelley Defendants were mailed a copy of the Notice of Sale and filed Judgment of Foreclosure and Sale on May 10, 2017, and copy of the Certificate of Service was filed with the Court on May 12, 2017. The Subject Property was advertised for sale in The Post and Courier on May 30, 2017; June 6, 2017; and June 13, 2017, as indicated by the Affidavit of Publication filed with the Clerk of Court on Jun 21, 2017. The Subject Property was sold on July 20, 2017 to 749 Spinnaker,



LLC, the Master's Order of Sale and Disbursements was filed with the Clerk of Court on August 23, 2017, and the Master's Deed was recorded on September 5, 2017, in Book 0664 at page 088 in the Office of the RMC/ROD for Charleston County. The Kelley Defendants did not attempt to contact Plaintiff or counsel for Plaintiff regarding the sale of the subject property, yet they do not dispute that the Alder Street address is their home address where they reside and receive their mail.

STANDARD OF REVIEW

The determination of whether to set aside an entry of judgment and vacate a foreclosure sale is a matter within the discretion of the trial court. *Wells Fargo Bank, N.A. v. Turner*, 378 S.C. 147, 150; 662 S.E.2d 424, 425 (Ct. App. 2008).

DISCUSSION

The Kelley Defendant bring their motion pursuant to Rule 60(b) alleging Plaintiff failed to effect proper service per Rule 4(b) of the South Carolina Rules of Civil Procedure, which requires that the summons and complaint be served together. It is undisputed that the Affidavits of Service for the Kelley Defendants, which were filed on January 5, 2017, contained a scrivener's error in that the affiant failed to indicate that the Complaint was served along with the Certificate of Exemption from ADR, Lis Pendens, and Summons. It is also undisputed that upon discovery of the scrivener's error, the process server submitted Amended Affidavits of Service, wherein he explained the scrivener's error and verified that the Complaint was properly served on Kelley Defendants in compliance with Rule 4 SCRPC. As a result of the Kelley Defendant failure to respond or otherwise appear in the action after receipt of the Summons and Complaint, they were placed in default, and the Subject property was foreclosed and sold to the third-party bidder, 749 Spinnaker, LLC. Although the original Affidavit contained a scrivener's error, it's



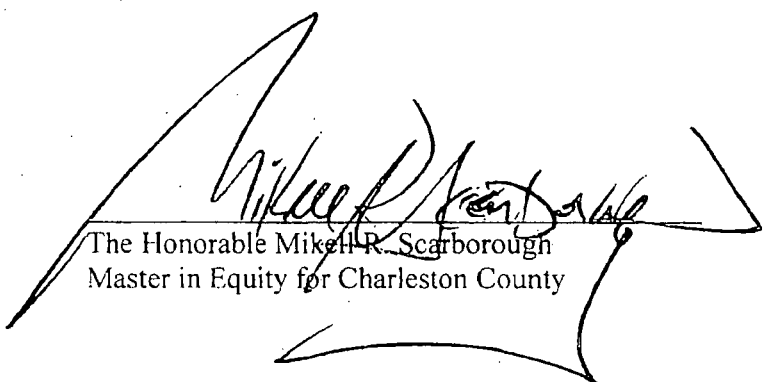
correction filed with this Court is sufficient evidence that SIPOA complied with SCRCF Rule 4. The Kelley Defendants have failed to provide any evidence contradicting the service of process other than affidavits where they admit being served with all documents, but "believe" that the Complaint was omitted.

CONCLUSION

Based on the foregoing facts, the service of the Summons and Complaint was proper, the Entry of Default as to the Kelley Defendants was proper, and the entry of the foreclosure order and subsequent foreclosure sale were properly executed pursuant to South Carolina law. Thus, the Kelley Defendants' Motion to Set Aside Default and Vacate the Judgment of Foreclosure Sale and Master's Deed is denied, and

IT IS SO ORDERED!

Charleston, South Carolina
12/13, 2017


The Honorable Mikell R. Scarborough
Master in Equity for Charleston County

Turner | Padget

Kristen N. Nichols

Writer's Direct Dial: (843) 576-2836
Writer's Direct Fax: (843) 577-1659
Email: knichols@turnerpadget.com

August 25, 2016

NOTICE OF CONSUMER'S RIGHT TO CURE

*Via certified mail return receipt requested
and U.S. Mail*

Mr. Charles Kelley
Ms. Deborah Kelley
101 Alder Street
Punxsutawney, PA 15767

Certified Article Number

9414 7266 9904 2072 2667 61

SENDERS RECORD

COPY

Re: Seabrook Island Property Owners Association
749 Spinnaker Beachhouse
Amount due as of **July 31, 2016: \$2,755.89**
TPGL File Number: 07941.00167

Dear Charles Kelley and Deborah Kelley:

Enclosed you will find a copy of a Notice of Lien in favor of Seabrook Island Property Owners Association against the above-described property, which has been sent to the Charleston County Register of Deeds Office for recording. You will also find enclosed a copy of the notice required by the Fair Debt Collection Practices Act.

You are currently due and owing for community association assessments and related charges in the amount of **\$2,755.89** broken down as follows:

Assessments:	\$2,021.00
Interest:	\$133.32
Late Fees and Other Charges:	\$151.57
Attorneys' Fees:	\$450.00

TOTAL DUE as of July 31, 2016: \$2,755.89

Seabrook Island Property Owners Association is entitled to the collection of these sums pursuant to the governing documents of the community. Please be advised that interest and attorney's fees will continue to accrue on the total amount due, and unless this matter is resolved,

This communication is from a debt collector, is an attempt to collect a debt and any information obtained will be used for that purpose.

Charles Kelley and Deborah Kelley
749 Spinnaker Beachhouse
August 25, 2016
Page 2

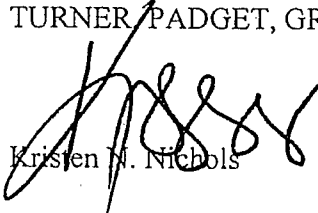
Seabrook Island Property Owners Association may initiate a foreclosure or other collection proceeding against you without further notice.

Please send your payment, in certified funds, to 40 Calhoun Street, Suite 200, Charleston, SC 29401 within twenty (20) days after the receipt of this notice, unless you, the Debtor, dispute the validity of the debt or some portion thereof. Seabrook Island Property Owners Association must be paid in full and will not accept partial payments.

Should you wish to discuss this matter, please do not hesitate to contact our office directly via the telephone number or e-mail address listed above. We will look forward to working with you toward an amiable resolution of this matter.

Yours very truly,

TURNER PADGET, GRAHAM & LANEY, P.A.



Kristen M. Nichols

cc: SIPOA
Enclosures – As stated

This communication is from a debt collector, is an attempt to collect a debt and any information obtained will be used for that purpose.

NOTICE REQUIRED BY THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. Section 1692, As Amended

1. As of July 31, 2016 you, Charles Kelley and Deborah Kelley, owe \$2,755.89. Because of interest, late charges, attorney fees and other charges that vary from day to day, the amount due on the day you pay may be greater

2. Seabrook Island Property Owners Association is the Creditor to whom the debt is owed.

3. The debt described in this notice will be assumed to be valid by the Creditor's law firm unless you, the Debtor, within thirty (30) days after the receipt of this notice, dispute the validity of the debt or some portion thereof.

4. If you, the Debtor, notify the Creditor's law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain verification of the debt, and a copy of the verification will be mailed to you, the Debtor, by the Creditor's law firm.

5. If the Creditor named in this notice is different from the original Creditor, and if you, the Debtor, make a written request to the Creditor's law firm within the (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.

6. This notice should not be construed as a thirty (30) day grace period. If, in writing, you request proof of the debt or the name and address of the original creditor within the thirty (30) day period that begins with your receipt of this notice, the law requires the Creditor's law firm to suspend its efforts (through litigation or otherwise) to collect the debt until the Creditor's law firm mails the requested information to you.

7. This notice pertains to your dealings with the Creditor's law firm as a debt

THIS COMMUNICATION IS FOR THE PURPOSE OF COLLECTING A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

collector. It does not affect your dealings with the court, and in particular it does not change the time by which you must answer the complaint if we serve one on you. The summons that would be attached to the complaint would be a command from the court, not from the Creditor's law firm, and you would have to follow its instructions even if you dispute the validity or amount of the debt. The advice in this notice also does not affect the Creditor's law firm's relations with the court. The Creditor's law firm may file papers in any such suit according to the court's rules and the judge's instructions.

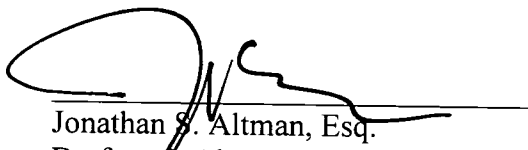
8. This is an attempt to collect a debt, and any information obtained will be used for that purpose. However, if you have previously received a discharge in bankruptcy, this notice is not and should not be construed as an attempt to collect a debt but only as an attempt to enforce a lien.

**THIS COMMUNICATION IS FOR THE PURPOSE OF COLLECTING A DEBT. ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,



Jonathan S. Altman, Esq.
Derfner & Altman, LLC
575 King Street, Suite B
Charleston, SC 29403
Telephone: (843) 723-9804

Attorney for Appellants

July 9, 2018

RECEIVED
JUL 11 2018
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

RECEIVED
JUL 11 2018
SC Court of Appeals

Appellate Case No.: 2018-000260

Seabrook Island Property Owners Association,.....Respondent,

v.

Charles Kelley a/k/a Charles E. Kelley; Deborah Kelley
a/k/a Deborah L. Kelley; Mortgage Electronic Registration
Systems, Inc., its successors and assigns as nominee for
Chase Mortgage Company, its successors and assigns, a
Delaware Corporation; and Spinnaker Beach House Owners Association,.....Defendants,

Of whom Charles Kelley a/k/a Charles E. Kelley and
Deborah Kelley a/k/a Deborah L. Kelley are the.....Appellants,

And of which Mortgage Electronic Registration Systems, Inc.,
its successors and assigns as nominee for Chase Mortgage Company,
its successors and assigns, a Delaware Corporation; and Spinnaker
Beach House Owners Association are also.....Respondents.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Respondents Seabrook Island Property Owners Association, Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware corporation, Spinnaker Beach House Owners Association, and 749 Spinnaker, LLC, by depositing a copy of it in the United States Mail, postage prepaid, on July 10, 2018, properly addressed to their attorney(s) of record as follows:

Kristin Nichols, Esquire
Turner Padget Graham & Laney, PA
P.O. Box 22129
Charleston, SC 29413

R. Hawthorne Barrett, Esq.
Turner Padget Graham & Laney, PA
P.O. Box 1473
Columbia, SC 29202

Attorneys for Seabrook Island Property Owners Association

Hal E. Cobb, Esq.
Cobb, Dill & Hammett, LLC
300 W. Coleman Blvd. #106
Mt. Pleasant, SC 29464

Attorney for 749 Spinnaker, LLC

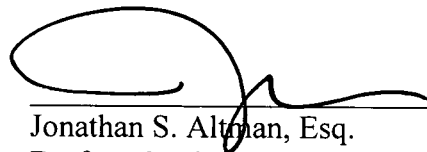
Stephanie C. Trotter, Esq.
McCabe Trotter & Beverly, PC
P.O. Box 212069
Columbia, SC 29221

Attorney for Spinnaker Beach House Owners Association

Louise M. Johnson, Esq.
Scott and Corley, PA
P.O. Box 2065
Columbia, SC 29202

Attorney for Mortgage Electronic Registration Systems, Inc., its successors and assigns, as nominee for Chase Mortgage Company, its successors and assigns, a Delaware Corporation

July 10, 2018



Jonathan S. Altman, Esq.
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Charleston, SC 29403
(843) 723-9804

Attorney for Appellants