

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Case No. 2018-002165

RECEIVED

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

JAN 07 2019

Curtis G. Clark, Special Referee

SC Court of Appeals

Case No.: 2011-CP-24-01448

Wilmington Savings Fund Society, FSB.....Respondent,

v.

Stan J. Kimball, Carole Kimball and Bank of America.....Defendants,

Of whom Stan J. Kimball is the.....Appellant.

RESPONDENT'S MOTION TO DISMISS

RILEY POPE & LANEY, LLC

Damon C. Wlodarczyk, Esquire
Riley, Pope & Laney, LLC
2838 Devine Street
Post Office Box 11412 (29211)
Columbia, South Carolina 29205
Telephone: (803)799-9993
Facsimile: (803) 239-1414

Attorneys for Respondent

Respondent hereby submits its Motion to Dismiss pursuant to Rule 240 of the South Carolina Appellate Court Rules and shows this Honorable Court the following:

This case involves the foreclosure of a mortgage on residential property located in Greenwood County, South Carolina. Appellant was a mortgagor of the property. On October 13, 2018, Curtis G. Clark, Special Referee for Greenwood County, granted the Fourth Supplemental Special Referee's Report and Judgment of Foreclosure and Sale in which Respondent waived deficiency judgment. [Exhibit 1]. The Order was served on Appellant by prior foreclosure counsel on October 19, 2018. [Exhibit 2]. A Notice of Sale filed October 18, 2018, provided for a November 5, 2018 sale date. [Exhibit 3]. A subsequent Notice of Sale was filed on November 12, 2018, providing for a December 3, 2018 sale. [Exhibit 4].

Appellant filed a Notice of Appeal dated December 3, 2018, in which he alleges that he is appealing "Order(s) [Judgment(s)]" dated November 5, November 28, November 30, and December 3. No Orders or Judgments were included with the Notice of Appeal. The Notice of Appeal stated Appellant received "Notice of Entry of Order(s) on 03 December 2018; no hearing was held." In response to this Court's deficiency notice filed December 12, 2018, Appellant filed an unsigned, unfiled Fourth Supplemental Special Referee's Report and Judgment of Foreclosure and Sale on December 21, 2018.

Respondent now seeks to have this matter dismissed on procedural grounds.

ARGUMENT

I. This Appeal should be dismissed as the October 13, 2018 final Order was not timely appealed.

"A party intending to appeal must serve and file a notice of appeal and otherwise comply with these rules." Rule 203(a), SCACR. "The requirement of service

of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *USAA Prop. & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) (quoting *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004)).

The final order for judgment and sale was filed on October 13, 2018, and served by mail on October 19, 2018. All subsequent motions, orders, and notices were ministerial to conclude the sale. [Exhibit 5]. Appellant has not timely appealed from the appropriate order issued in this matter and the Notice of Appeal was served more than 30 days after it was served. Additionally, Appellant fails to even reference the October 13th Fourth Supplemental Special Referee’s Report and Judgment of Foreclosure and Sale as one of the Orders being appealed. As such, Respondent requests the Court dismiss this matter.

II. This Appeal should be dismissed because even if the Appellant had timely appealed, the Notice of Appeal was not timely filed with the trial court per Rule 203(d)(1)(B).

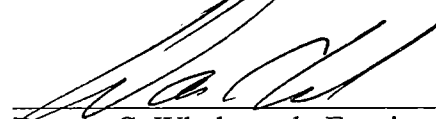
The failure to comply with the procedural requirements for an appeal divests a court of appellate jurisdiction.” *State v. Brown*, 358 S.C. 382, 387, 596 S.E.2d 39, 41 (2004). The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served.” Rule 203(d)(1)(B), SCACR.

In this matter, Appellant served the appeal on prior counsel of record “on or about” December 4 or 5, 2018, according to the Certificate of Service filed with this Court on December 21, 2018. However, Appellant failed to timely file the Notice of Appeal with the lower Court within ten (10) days after service on Respondent’s prior

counsel, and as such failed to comply bring this matter under the Court's jurisdiction.

[Exhibit 5]. As such, Respondent asks the Court to dismiss this matter.

RILEY POPE & LANEY, LLC



Damon C. Wlodarczyk, Esquire, SC Bar 70460

Riley, Pope & Laney, LLC

2838 Devine Street

Post Office Box 11412 (29211)

Columbia, South Carolina 29205

Telephone: (803)799-9993

Facsimile: (803) 239-1414

damonw@rplfirm.com

Attorneys for Respondent

Columbia, South Carolina

January 4, 2019

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-24-01448

Wilmington Savings Fund Society, FSB, doing business as
 Christiana Trust, not in its individual capacity but solely as
 legal title Trustee for BCAT 2014-9TT

Stan J. Kimball; Carole Kimball; Bank of America, N.A.
 DEFENDANT(S)

PLAINTIFF(S)

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

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

Filed CP 8th Jud Cr Greenwood, SC
 2018 OCT 28 9:11:19

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), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order ends does not end the case. *Fourth supplemental Receiver's Reported Judgment & Additional Information for the Clerk: foreclosure of the Sale. Any deficiency is waived.*

INFORMATION FOR THE JUDGMENT INDEX

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

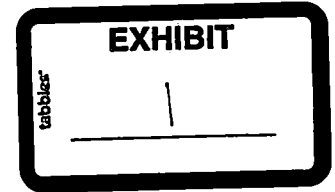
| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled (List amount(s) below) |
|--|--|--|
| | | N/A |

If applicable, describe the property, including tax map information and address, referenced in the order:
 All that certain piece, parcel or lot of land together with improvements thereon, situate, lying and being in the County of Greenwood, State of South Carolina, known and designated as Lot No. 14 of Heathwood Subdivision, Phase I as shown on plat of survey prepared by Newby-Proctor & Associates dated October 29, 1989 which is recorded in the Office of the Clerk of Court for Greenwood County in Plat Book 58 at Page 91, said plat being incorporated herein by reference. For a more full and accurate description reference is hereby specifically made to the aforesaid plat.

This being the same property conveyed to Else Kimball and Carole Kimball as joint tenants with rights of survivorship by deed of James E. Ford, III and Patricia W. Ford, dated July 28, 1998 and recorded July 30, 1998, in the Register of Deeds Office for Greenwood County, State of South Carolina, in Book 530 at Page 247.

Thereafter subject property was conveyed to Stan J. Kimball by deed of Else Kimball dated May 25, 2004, recorded June 1, 2004 in the Register of Deeds for Greenwood County, in Book 846 at Page 248.

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



details. E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Curtis's Clark
Circuit Court Judge Special Referee
Greenwood County

2096
Judge Code

October 13, 2018
Date

For Clerk of Court Office Use Only

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

Stan J. Kimball 101 Barrett Drive Greenwood,
SC 29649
Stan J. Kimball PO Box 1779 Greenwood, SC
29648

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

ATTORNEY(S) FOR THE DEFENDANT(S)

ATTORNEY(S) FOR THE PLAINTIFF(S)

CLERK OF COURT

Court Reporter: N/A

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

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

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

Wilmington Savings Fund Society, FSB,
doing business as Christiana Trust, not in its
individual capacity but solely as legal title
Trustee for BCAT 2014-9TT,

Plaintiff.

v.

Stan J. Kimball; Carole Kimball; Bank of
America, N.A.,

Defendant(s)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2011-CP-24-01448

FOURTH SUPPLEMENTAL SPECIAL
REFEREE'S REPORT
AND JUDGMENT OF FORECLOSURE AND
SALE

DEFICIENCY WAIVED

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

CB
#1

Pursuant to the said reference, a hearing was held on September 12, 2013, attended by Brock & Scott PLLC, attorney for the Plaintiff, and a *Special Referee's Order and Judgment of Foreclosure and Sale* was entered on September 12, 2013 (hereinafter: "Original Judgment"). All findings of fact, conclusions of law, orders and judgments contained in the Original and Supplemental Judgments remain binding and in effect except as expressly modified herein below. Subsequent to said original hearing, the Defendant Stan Kimball filed several motions, bid at several foreclosure sales and failed to comply with said bids, and filed several separate bankruptcy actions. The most recent bankruptcy action was dismissed by order of the Bankruptcy Court on August 28, 2018 and this case was restored to the active docket on September 26, 2018. The Plaintiff now wishes to proceed to foreclosure sale and a fourth supplemental hearing was held on October 11, 2018, for the purpose of updating the

CID413087

DID200284

debt due to the Plaintiff and setting a foreclosure sale date, a hearing was held, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice); the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$8,126.00 is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.
2. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorney's fees, secured by the Note and Mortgage, is as follows:

CGC
#2

| | | | |
|---------------------------------------|------------|----------------|---------------|
| Principal due as of today's date: | 10/11/2018 | | \$ 104,069.71 |
| Accrued interest from: | 09/01/2011 | to: 10/11/2018 | \$ 37,216.89 |
| Accruing at: | | | 6% per annum |
| Advancements to Escrow | | | \$ 16,047.88 |
| Late charges: | | | \$ 526.51 |
| Credits: | | | \$ (886.31) |
| Costs of collection prior to hearing: | | | \$ 5,810.83 |
| Attorney's fees: | | | \$ 8,126.00 |

File reference: 14-22033

Total Debt secured by note and mortgage, including interest to date is \$172,684.13. Interest for the period from the date shown in (b) above through the date of this judgment, at above stated rate, to be added to the above stated "Total Debt" to comprise the amount of the Judgment debt entered herein, and interest after the date of Judgment at the rate of 6% per annum, pursuant to the terms of the note and mortgage on the judgment debt should be added to such judgment debt to comprise the amount of the Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

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

CGC
#3

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

1. The Plaintiff should have judgment of foreclosure of its mortgage; and the mortgaged property should be ordered sold at public auction after due advertisement.
2. That there is due to the Plaintiff on its note and mortgage the sum of \$172,684.13, representing the Total Debt due to the Plaintiff as outlined above, together with interest thereon at the rate provided in the note to the date hereof.
3. That the amount due in the preceding paragraph (the "Total Debt") and later accrued interest and costs shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter at the rate of 6% per annum.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That the Defendants liable for the aforesaid mortgage debt shall, prior to the date and time of the sale of the subject property, hereinafter described, pay to the Plaintiff, or the Plaintiff's attorney, the amount of the Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

File reference: 14-22033

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

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

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 6% per annum.

CB
of

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

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

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

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

5. That the undersigned Special Referee will, by advertisement according to law, give notice of the time and place of sale and the terms thereof; and that he will execute to the purchaser, or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. Upon such sale being made, should the successful bidder, or his assignee, fail to

comply with the terms thereof within thirty (30) after the date of sale, then the undersigned Special Referee may re-advertise the premises for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

6. That in the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.

7. That the undersigned Special Referee shall apply the proceeds of the sale as follows:

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

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

NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRPC.

CG
#5

8. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whomsoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

9. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Greenwood County Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

File reference: 14-22033

10. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants in possession herein, the Sheriff of Greenwood County may be ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

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

CGC
86

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

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND TOGETHER WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF GREENWOOD, STATE OF SOUTH CAROLINA, KNOWN AND DESIGNATED AS LOT NO. 14 OF HEATHWOOD SUBDIVISION, PHASE I AS SHOWN ON PLAT OF SURVEY PREPARED BY NEWBY-PROCTOR & ASSOCIATES DATED OCTOBER 29, 1989 WHICH IS RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR GREENWOOD COUNTY IN PLAT BOOK 58 AT PAGE 91, SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE. FOR A MORE FULL AND ACCURATE DESCRIPTION REFERENCE IS HEREBY SPECIFICALLY MADE TO THE AFORESAID PLAT.

THIS BEING THE SAME PROPERTY CONVEYED TO ELSE KIMBALL AND CAROLE KIMBALL AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP BY DEED OF JAMES E. FORD, III AND PATRICIA W. FORD, DATED JULY 28, 1998 AND RECORDED JULY 30, 1998, IN THE REGISTER OF DEEDS OFFICE FOR GREENWOOD COUNTY, STATE OF SOUTH CAROLINA, IN BOOK 530 AT PAGE 247.

THEREAFTER SUBJECT PROPERTY WAS CONVEYED TO STAN J.

File reference: 14-22033

**KIMBALL BY DEED OF ELSE KIMBALL DATED MAY 25, 2004,
RECORDED JUNE 1, 2004 IN THE REGISTER OF DEEDS FOR
GREENWOOD COUNTY, IN BOOK 846 AT PAGE 248.**

CURRENT ADDRESS OF PROPERTY: 101 Barrett Drive, Greenwood, SC 29649

TMS: 6836-126-692

AND IT IS SO ORDERED.

Curtis G. Clark
The Honorable Curtis G Clark
Special Referee for Greenwood County

#7

Date: October 13, 2018

Greenwood, South Carolina

File reference: 14-22033

BROCK & SCOTT PLLC

Consumer Hotline
844-856-6646
Phone:
803-454-3540

3800 Fernandina Road, Suite 110, Columbia, SC 29210
ConsumerContact@brockandscott.com
www.brockandscott.com
Date: October 19, 2018

Fax:
803-454-3541

Dear Stan J. Kimball
PO Box 1779
Greenwood, SC 29648

RE: Wilmington Savings Fund Society, FSB, doing business as Christiana Trust, not
in its individual capacity but solely as legal title Trustee for BCAT 2014-9TT v.
Stan J. Kimball, *et al.*
County: Greenwood
Case Number: 2011-CP-24-01448
B&S File No.: 14-22033

Dear Sir or Madam,
Enclosed for service upon you, please find a copy of the:

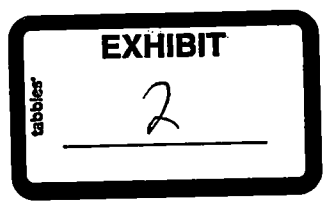
- Special Referee's Filed Order and Judgment of Foreclosure and Sale
- Notice of Sale

You are receiving this because you served an Answer or other formal appearance in this case,
either *pro se* or as attorney for a named party.

Respectfully,
Sara Howell
Brock & Scott, PLLC

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU: ARE A DEBTOR IN AN ACTIVE BANKRUPTCY CASE; ARE UNDER THE PROTECTION OF A BANKRUPTCY STAY; OR, HAVE RECEIVED A DISCHARGE IN BANKRUPTCY AND YOU HAVE NOT REAFFIRMED THE DEBT, THIS NOTICE IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSTRUED AS AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY.

Enclosures



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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-24-01448

Wilmington Savings Fund Society, FSB, doing business as
 Christiana Trust, not in its individual capacity but solely as
 legal title Trustee for BCAT 2014-9TT

Stan J. Kimball; Carole Kimball; Bank of America, N.A.

PLAINTIFF(S)

DEFENDANT(S)

Filed CP 8th Jud Cr Greenwood, SC
 2018 OCT 31 4:11:19

Submitted by: Brock & Scott, PLLC

Westpark Center
 3800 Fernandina Road Suite 110
 Columbia, SC 29210

Attorney for: Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order ends does not end the case. *Fourth supplemental Return's Reported Judgment & Additional Information for the Clerk: Final order of Sale. Any deficiency is waived.*

INFORMATION FOR THE JUDGMENT INDEX

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

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

If applicable, describe the property, including tax map information and address, referenced in the order:
 All that certain piece, parcel or lot of land together with improvements thereon, situate, lying and being in the County of Greenwood, State of South Carolina, known and designated as Lot No. 14 of Heathwood Subdivision, Phase I as shown on plat of survey prepared by Newby-Proctor & Associates dated October 29, 1989 which is recorded in the Office of the Clerk of Court for Greenwood County in Plat Book 58 at Page 91, said plat being incorporated herein by reference. For a more full and accurate description reference is hereby specifically made to the aforesaid plat.

This being the same property conveyed to Else Kimball and Carole Kimball as joint tenants with rights of survivorship by deed of James E. Ford, III and Patricia W. Ford, dated July 28, 1998 and recorded July 30, 1998, in the Register of Deeds Office for Greenwood County, State of South Carolina, in Book 530 at Page 247.

Hereafter subject property was conveyed to Stan J. Kimball by deed of Else Kimball dated May 25, 2004, recorded June 1, 2004 in the Register of Deeds for Greenwood County, in Book 846 at Page 248.

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

details. E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Curtis's Clark
~~Circuit Court Judge~~ Special Referee
Greenwood County

209B
Judge Code

October 13, 2018
Date

For Clerk of Court Office Use Only

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

Stan J. Kimball 101 Barrett Drive Greenwood,
SC 29649
Stan J. Kimball PO Box 1779 Greenwood, SC
29648

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

ATTORNEY(S) FOR THE DEFENDANT(S)

ATTORNEY(S) FOR THE PLAINTIFF(S)

CLERK OF COURT

Court Reporter: N/A

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

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

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

Wilmington Savings Fund Society, FSB,
doing business as Christiana Trust, not in its
individual capacity but solely as legal title
Trustee for BCAT 2014-9TT.

Plaintiff.

v.

Stan J. Kimball; Carole Kimball; Bank of
America, N.A..

Defendant(s)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2011-CP-24-01448

FOURTH SUPPLEMENTAL SPECIAL
REFEREE'S REPORT
AND JUDGMENT OF FORECLOSURE AND
SALE

DEFICIENCY WAIVED

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

CB
11

Pursuant to the said reference, a hearing was held on September 12, 2013, attended by Brock & Scott PLLC, attorney for the Plaintiff, and a *Special Referee's Order and Judgment of Foreclosure and Sale* was entered on September 12, 2013 (hereinafter: "Original Judgment"). All findings of fact, conclusions of law, orders and judgments contained in the Original and Supplemental Judgments remain binding and in effect except as expressly modified herein below. Subsequent to said original hearing, the Defendant Stan Kimball filed several motions, bid at several foreclosure sales and failed to comply with said bids, and filed several separate bankruptcy actions. The most recent bankruptcy action was dismissed by order of the Bankruptcy Court on August 28, 2018 and this case was restored to the active docket on September 26, 2018. The Plaintiff now wishes to proceed to foreclosure sale and a fourth supplemental hearing was held on October 11, 2018, for the purpose of updating the

CID413087

DID200284

debt due to the Plaintiff and setting a foreclosure sale date, a hearing was held, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. Having considered the nature, extent and difficulty of the services rendered (the field of mortgage foreclosures being a specialized area of practice); the time involved in reviewing the various loan documents, performing the title search, preparing the pleadings and preparing for and attending hearings; the professional standing of the Plaintiff's attorney; the fee customarily charged in this jurisdiction for similar services; and the beneficial results obtained for the Plaintiff, I find that the sum of \$8,126.00 is a reasonable attorney's fee for the Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional, unanticipated circumstances delaying conclusion beyond the normal time.

CG
#2

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

| | | | |
|---------------------------------------|------------|----------------|---------------|
| Principal due as of today's date: | 10/11/2018 | | \$ 104,069.71 |
| Accrued interest from: | 09/01/2011 | to: 10/11/2018 | \$ 37,216.89 |
| Accruing at: | | | 6% per annum |
| Advancements to Escrow | | | \$ 16,047.88 |
| Late charges: | | | \$ 526.51 |
| Credits: | | | \$ (886.31) |
| Costs of collection prior to hearing: | | | \$ 5,810.83 |
| Attorney's fees: | | | \$ 8,126.00 |

Total Debt secured by note and mortgage, including interest to date is \$172,684.13. Interest for the period from the date shown in (b) above through the date of this judgment, at above stated rate, to be added to the above stated "Total Debt" to comprise the amount of the Judgment debt entered herein, and interest after the date of Judgment at the rate of 6% per annum, pursuant to the terms of the note and mortgage on the judgment debt should be added to such judgment debt to comprise the amount of the Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

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

CGC
#3

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

1. The Plaintiff should have judgment of foreclosure of its mortgage, and the mortgaged property should be ordered sold at public auction after due advertisement.
2. That there is due to the Plaintiff on its note and mortgage the sum of \$172,684.13, representing the Total Debt due to the Plaintiff as outlined above, together with interest thereon at the rate provided in the note to the date hereof.
3. That the amount due in the preceding paragraph (the "Total Debt") and later accrued interest and costs shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter at the rate of 6% per annum.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That the Defendants liable for the aforesaid mortgage debt shall, prior to the date and time of the sale of the subject property, hereinafter described, pay to the Plaintiff, or the Plaintiff's attorney, the amount of the Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

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

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

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 6% per annum.

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

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

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

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

5. That the undersigned Special Referee will, by advertisement according to law, give notice of the time and place of sale and the terms thereof, and that he will execute to the purchaser, or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, or any other person may become a purchaser at such sale. Upon such sale being made, should the successful bidder, or his assignee, fail to

CB
B/C

comply with the terms thereof within thirty (30) after the date of sale, then the undersigned Special Referee may re-advertise the premises for sale on the next, or some other subsequent, sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

6. That in the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.

7. That the undersigned Special Referee shall apply the proceeds of the sale as follows:

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

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

NEXT: Any surplus will be held pending further Order of this Court pursuant to Rule 71(c), SCRPC.

CGC
#5

8. That it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whomsoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

9. That it is further ORDERED ADJUDGED AND DECREED that the deed of conveyance made pursuant to this judgment and said sale shall contain the names of only the Plaintiff, the first-named Defendant, who was the title holder of the mortgaged property at the time of the filing of the Lis Pendens, and the Grantee; and that the Greenwood County Register of Deeds is hereby authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

10. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder to whom the deed of conveyance has been issued subsequent to the sale is other than the Defendants in possession herein, the Sheriff of Greenwood County may be ordered and directed to eject and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

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

CGC
86

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

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND TOGETHER WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF GREENWOOD, STATE OF SOUTH CAROLINA, KNOWN AND DESIGNATED AS LOT NO. 14 OF HEATHWOOD SUBDIVISION, PHASE I AS SHOWN ON PLAT OF SURVEY PREPARED BY NEWBY-PROCTOR & ASSOCIATES DATED OCTOBER 29, 1989 WHICH IS RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR GREENWOOD COUNTY IN PLAT BOOK 58 AT PAGE 91, SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE. FOR A MORE FULL AND ACCURATE DESCRIPTION REFERENCE IS HEREBY SPECIFICALLY MADE TO THE AFORESAID PLAT.

THIS BEING THE SAME PROPERTY CONVEYED TO ELSE KIMBALL AND CAROLE KIMBALL AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP BY DEED OF JAMES E. FORD, III AND PATRICIA W. FORD, DATED JULY 28, 1998 AND RECORDED JULY 30, 1998, IN THE REGISTER OF DEEDS OFFICE FOR GREENWOOD COUNTY, STATE OF SOUTH CAROLINA, IN BOOK 530 AT PAGE 247.

THEREAFTER SUBJECT PROPERTY WAS CONVEYED TO STAN J.

File reference: 14-22033

**KIMBALL BY DEED OF ELSE KIMBALL DATED MAY 25, 2004,
RECORDED JUNE 1, 2004 IN THE REGISTER OF DEEDS FOR
GREENWOOD COUNTY, IN BOOK 846 AT PAGE 248.**

CURRENT ADDRESS OF PROPERTY: 101 Barrett Drive, Greenwood, SC 29649

TMS: 6836-126-692

AND IT IS SO ORDERED.

Curtis G. Clark
The Honorable Curtis G Clark
Special Referee for Greenwood County

#7

Date: October 13, 2018

Greenwood, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD

Wilmington Savings Fund Society, FSB, doing business as
Christiana Trust, not in its individual capacity but solely as
legal title Trustee for BCAT 2014-9TT,

Plaintiff,

vs.

Stan J. Kimball; Carole Kimball; Bank of America, N.A.,

Defendant(s).

IN THE COURT OF COMMON PLEAS

C/A NO.: 2011-CP-24-01448

CERTIFICATE OF SERVICE BY MAIL

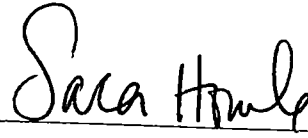
The undersigned hereby certifies that he/she is an employee of Brock & Scott, PLLC, and is a person of such age and discretion to be competent to serve papers.

That on the 19 day of October, 2018, he/she served a copy of the below listed document(s) by placing said copy in a postage paid envelope addressed to each of the following persons at the address stated below, which is the last known address, and by depositing said envelope and contents in the U.S. Mail.

Documents: Notice of Judgment and Notice of Sale
Party(ies) Served:

Stan J. Kimball
PO Box 1779
Greenwood, SC 29648

Stan J. Kimball
101 Barrett Drive
Greenwood, SC 29649



Brock & Scott, PLLC

Columbia, South Carolina

NOTICE OF SALE

Filed for 2011-CP-24-01448
2013 OCT 18 AM 11:20
Greenwood, SC

NOTICE OF SALE CIVIL ACTION NO. 2011-CP-24-01448 BY VIRTUE of the do
heretofore granted in the case of: Wilmington Savings Fund Society, FSB, doing business
Christiana Trust, not in its individual capacity but solely as legal title Trustee for BCAT 2014-
vs. Stan J. Kimball; Carole Kimball; Bank of America, N.A., the undersigned Special Referee for
Greenwood County, South Carolina, will sell on November 5, 2018 at 11:00AM, at the Greenwood
County Courthouse, City of Greenwood, State of South Carolina, to the highest bidder:

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND TOGETHER WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF GREENWOOD, STATE OF SOUTH CAROLINA, KNOWN AND DESIGNATED AS LOT NO. 14 OF HEATHWOOD SUBDIVISION, PHASE I AS SHOWN ON PLAT OF SURVEY PREPARED BY NEWBY-PROCTOR & ASSOCIATES DATED OCTOBER 29, 1989 WHICH IS RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR GREENWOOD COUNTY IN PLAT BOOK 58 AT PAGE 91, SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE. FOR A MORE FULL AND ACCURATE DESCRIPTION REFERENCE IS HEREBY SPECIFICALLY MADE TO THE AFORESAID PLAT.

THIS BEING THE SAME PROPERTY CONVEYED TO ELSE KIMBALL AND CAROLE KIMBALL AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP BY DEED OF JAMES E. FORD, III AND PATRICIA W. FORD, DATED JULY 28, 1998 AND RECORDED JULY 30, 1998, IN THE REGISTER OF DEEDS OFFICE FOR GREENWOOD COUNTY, STATE OF SOUTH CAROLINA, IN BOOK 530 AT PAGE 247.

THEREAFTER SUBJECT PROPERTY WAS CONVEYED TO STAN J. KIMBALL BY DEED OF ELSE KIMBALL DATED MAY 25, 2004, RECORDED JUNE 1, 2004 IN THE REGISTER OF DEEDS FOR GREENWOOD COUNTY, IN BOOK 846 AT PAGE 248.

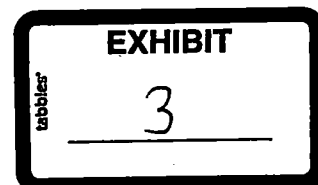
CURRENT ADDRESS OF PROPERTY: 101 Barrett Drive, Greenwood, SC 29649
TMS: 6836-126-692

TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Special Referee, at conclusion of the bidding, five percent (5%) of his bid, in cash or equivalent, as evidence of good faith, same to be applied to the purchase price in case of compliance, but to be

File reference: 14-22033

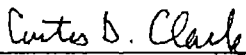
CID413087

DID200351



forfeited and applied first to costs and then to the Plaintiff's debt in the case of non-compliance. Should the last and highest bidder fail to comply with the other terms of the bid within thirty (30) days, then the Special Referee may re-sell the property on the same terms and conditions on some subsequent Sales Day (at the risk of the said highest bidder). No personal or deficiency judgment being demanded, the bidding shall not remain open after the date of sale and shall be final on that date, and compliance with the bid may be made immediately. Purchaser to pay for documentary stamps on the Deed. The successful bidder will be required to pay interest on the amount of the balance of the bid from date of sale to date of compliance with the bid at the rate of 6% per annum. The sale shall be subject to taxes and assessments, existing easements and restrictions, easements and restrictions of record and any other senior encumbrances.

In the event an agent of Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.



The Honorable Curtis G Clark
Special Referee for Greenwood County

Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Attorneys for Plaintiff
Phone 803-454-3540
Fax 803-454-3541

File reference: 14-22033

NOTICE OF SALE

NOTICE OF SALE CIVIL ACTION NO. 2011-CP-24-01448 BY VIRTUE of the decree heretofore granted in the case of: Wilmington Savings Fund Society, FSB, doing business as Christiana Trust, not in its individual capacity but solely as legal title Trustee for BCAT 2014-9TT vs. Stan J. Kimball; Carole Kimball; Bank of America, N.A., the undersigned Special Referee for Greenwood County, South Carolina, will sell on December 3, 2018 at 11:00AM, at the Greenwood County Courthouse, City of Greenwood, State of South Carolina, to the highest bidder:

FILED
2018 NOV 27 AM 11:57
CLERK OF COURT
GREENWOOD COUNTY
SOUTH CAROLINA

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND TOGETHER WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF GREENWOOD, STATE OF SOUTH CAROLINA, KNOWN AND DESIGNATED AS LOT NO. 14 OF HEATHWOOD SUBDIVISION, PHASE I AS SHOWN ON PLAT OF SURVEY PREPARED BY NEWBY-PROCTOR & ASSOCIATES DATED OCTOBER 29, 1989 WHICH IS RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR GREENWOOD COUNTY IN PLAT BOOK 58 AT PAGE 91, SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE. FOR A MORE FULL AND ACCURATE DESCRIPTION REFERENCE IS HEREBY SPECIFICALLY MADE TO THE AFORESAID PLAT.

THIS BEING THE SAME PROPERTY CONVEYED TO ELSE KIMBALL AND CAROLE KIMBALL AS JOINT TENANTS WITH RIGHTS OF SURVIVORSHIP BY DEED OF JAMES E. FORD, III AND PATRICIA W. FORD, DATED JULY 28, 1998 AND RECORDED JULY 30, 1998, IN THE REGISTER OF DEEDS OFFICE FOR GREENWOOD COUNTY, STATE OF SOUTH CAROLINA, IN BOOK 530 AT PAGE 247.

THEREAFTER SUBJECT PROPERTY WAS CONVEYED TO STAN J. KIMBALL BY DEED OF ELSE KIMBALL DATED MAY 25, 2004, RECORDED JUNE 1, 2004 IN THE REGISTER OF DEEDS FOR GREENWOOD COUNTY, IN BOOK 846 AT PAGE 248.

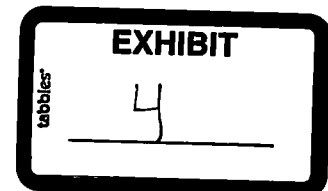
CURRENT ADDRESS OF PROPERTY: 101 Barrett Drive, Greenwood, SC 29649

TMS: 6836-126-692

File reference: 14-22033

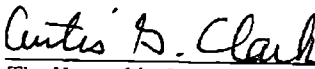
CID413087

DID200351



TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Special Referee, at conclusion of the bidding, five percent (5%) of his bid, in cash or equivalent, as evidence of good faith, same to be applied to the purchase price in case of compliance, but to be forfeited and applied first to costs and then to the Plaintiff's debt in the case of non-compliance. Should the last and highest bidder fail to comply with the other terms of the bid within thirty (30) days, then the Special Referee may re-sell the property on the same terms and conditions on some subsequent Sales Day (at the risk of the said highest bidder). No personal or deficiency judgment being demanded, the bidding shall not remain open after the date of sale and shall be final on that date, and compliance with the bid may be made immediately. Purchaser to pay for documentary stamps on the Deed. The successful bidder will be required to pay interest on the amount of the balance of the bid from date of sale to date of compliance with the bid at the rate of 6% per annum. The sale shall be subject to taxes and assessments, existing easements and restrictions, easements and restrictions of record and any other senior encumbrances.

In the event an agent of Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.



The Honorable Curtis G Clark
Special Referee for Greenwood County

Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Attorneys for Plaintiff
Phone 803-454-3540
Fax 803-454-3541

File reference: 14-22033



Greenwood County Eighth Judicial Circuit Public Index



[Greenwood County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

| | | | | | |
|---|---------------|--------------------------|---|---------------------------|-----------------------------|
| Bank Of America NA , plaintiff, et al VS Stan J Kimball , defendant, et al | | | | | |
| Case Number: | 2011CP2401448 | Court Agency: | Common Pleas | Filed Date: | 12/20/2011 |
| Case Type: | Common Pleas | Case Sub Type: | Foreclosure 420 | File Type: | Non-Jury |
| Status: | Judgment | Assigned Judge: | Clerk Of Court C P, G S, And Family Court | | |
| Disposition: | Judgment | Disposition Date: | 10/16/2018 | Disposition Judge: | Special Referee G S And C P |
| Original Source Doc: | | Original Case #: | | Restore Reason: | Reopen Case for Bankruptcy |
| Judgment Number: | 2011CP2401448 | Court Roster: | | | |

| Case Parties | | | | | | | Judgments | Tax Map Information | Associated Cases | Actions | Financials |
|---------------------------------|---|--------|---------------|------------------|-----------------|----------|-----------|---------------------|------------------|---------|------------|
| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Document | | | | | |
| Wilmington Savings Fund Society | NEF(12-10-2018 03:34:56 PM) Service/Certificate Of Servi... | Filing | | 12/10/2018-15:47 | | | | | | | |
| Wilmington Savings Fund Society | Service/Certificate Of Service | Filing | | 12/10/2018-15:34 | | | | | | | |
| Wilmington Savings Fund Society | Notice/Notice of Appearance | Filing | | 12/10/2018-15:34 | | | | | | | |
| Bank Of America NA | Order/Form 4 | Order | | 12/03/2018-11:52 | | | | | | | |
| Kimball, Stan J | Motion/Motion to Stay | Motion | | 12/03/2018-10:19 | | | | | | | |
| Bank Of America NA | Order/Substitution Of Counsel | Order | | 11/30/2018-16:12 | | | | | | | |
| Wilmington Savings Fund Society | NEF(11-29-2018 04:43:29 PM) Notice/Notice of Appearance | Filing | | 11/30/2018-11:16 | | | | | | | |
| Wilmington Savings Fund Society | Notice/Notice of Appearance | Filing | | 11/29/2018-16:43 | | | | | | | |
| Wilmington Savings Fund Society | Motion/Substitution of Counsel | Motion | | 11/29/2018-16:43 | | | | | | | |

EXHIBIT

5

tabbier

| | | | | | |
|---------------------------------|--|--------|------------------|------------------|--|
| Bank of America NA | NEF(11-27-2018 12:10:12 PM) Affidavit/Publication | Filing | 11/27/2018-14:08 | | |
| Bank of America NA | Affidavit/Publication | Filing | 11/27/2018-12:10 | | |
| Bank Of America NA | Master/Order/Notice of Foreclosure Sale | Order | 11/12/2018-15:28 | | |
| Bank Of America NA | Master/Order/Notice of Foreclosure Sale | Order | 11/08/2018-15:12 | | |
| Wilmington Savings Fund Society | NEF(11-07-2018 10:43:10 AM) Service/Certificate Of Servi... | Filing | 11/07/2018-10:56 | | |
| Wilmington Savings Fund Society | Service/Certificate Of Service | Filing | 11/07/2018-10:43 | | |
| Wilmington Savings Fund Society | NEF(10-31-2018 11:20:44 AM) Service/Certificate Of Servi... | Filing | 10/31/2018-11:23 | | |
| Wilmington Savings Fund Society | Service/Certificate Of Service | Filing | 10/31/2018-11:20 | | |
| Wilmington Savings Fund Society | Notice/Notice of Appearance | Filing | 10/31/2018-11:20 | | |
| Bank Of America NA | Master/Order/Notice of Foreclosure Sale | Order | 10/18/2018-15:54 | 10/16/2018-15:54 | |
| Bank Of America NA | Master/Order/Foreclosure & Sale and Form 4 | Order | 10/18/2018-15:54 | 10/16/2018-15:54 | |
| Wilmington Savings Fund Society | NEF(10-12-2018 03:43:42 PM) Service/Certificate Of Servi... | Filing | 10/12/2018-16:39 | 10/16/2018-16:39 | |
| Wilmington Savings Fund Society | Service/Certificate Of Service | Filing | 10/12/2018-15:43 | 10/16/2018-15:43 | |
| Wilmington Savings Fund Society | NEF(10-10-2018 10:40:57 AM) Master/Exhibit /Affidavit of ... | Filing | 10/10/2018-10:54 | 10/16/2018-10:54 | |
| Wilmington Savings Fund Society | Master/Exhibit/Affidavit of Attorney Fees | Filing | 10/10/2018-10:40 | 10/16/2018-10:40 | |
| Wilmington Savings Fund Society | NEF(09-28-2018 01:42:28 PM) Notice/Notice of Hearing and... | Filing | 09/28/2018-13:50 | 10/16/2018-13:50 | |
| Wilmington Savings Fund Society | Notice/Notice of Hearing and Service | Filing | 09/28/2018-13:42 | 10/16/2018-13:42 | |
| Bank Of America NA | Order/Restore Case To Active Docket | Order | 09/26/2018-16:30 | 10/16/2018-16:30 | |

| | | | | | |
|---------------------------------|---|--------|------------------|------------------|--|
| Bank Of America NA | Motion/Information Form | Motion | 09/26/2018-16:25 | 10/16/2018-16:25 | |
| Bank Of America NA | Order/Stay due to Bankrptcy | Order | 07/24/2018-14:40 | 10/16/2018-14:40 | |
| Bank Of America NA | Motion/Stay Bankruptcy | Motion | 07/24/2018-14:40 | 10/16/2018-14:40 | |
| Bank of America NA | NEF(07-13-2018 01:39:58 PM) Motion/Stay Bankruptcy | Filing | 07/13/2018-15:21 | 10/16/2018-15:21 | |
| Bank of America NA | Service/Certificate Of Service | Filing | 07/13/2018-13:39 | 10/16/2018-13:39 | |
| Bank of America NA | Notice/Notice of Appearance | Filing | 07/13/2018-13:39 | 10/16/2018-13:39 | |
| Wilmington Savings Fund Society | Order/Order Cover Sheet \$25.00 | Filing | 07/13/2018-13:39 | 10/16/2018-13:39 | |
| Wilmington Savings Fund Society | NEF(06-14-2018 02:08:17 PM) Affidavit/Publication | Filing | 06/14/2018-14:16 | 10/16/2018-14:16 | |
| Wilmington Savings Fund Society | Affidavit/Publication | Filing | 06/14/2018-14:08 | 10/16/2018-14:08 | |
| Wilmington Savings Fund Society | Notice/Notice of Appearance | Filing | 06/14/2018-14:08 | 10/16/2018-14:08 | |
| Wilmington Savings Fund Society | NEF(05-22-2018 01:18:32 PM) Service/Certificate Of Servi... | Filing | 05/22/2018-16:11 | 10/16/2018-16:11 | |
| Wilmington Savings Fund Society | Service/Certificate Of Service | Filing | 05/22/2018-13:18 | 10/16/2018-13:18 | |
| Bank Of America NA | Order/Restore Case To Active Docket | Order | 04/20/2018-08:47 | 10/16/2018-08:47 | |
| Wilmington Savings Fund Society | NEF(04-04-2018 02:25:37 PM) Motion/Restore Case | Filing | 04/04/2018-15:45 | 10/16/2018-15:45 | |
| Wilmington Savings Fund Society | Motion/Restore Case | Motion | 04/04/2018-14:25 | 10/16/2018-14:25 | |
| Wilmington Savings Fund Society | NEF(02-19-2018 03:19:03 PM) Affidavit/Publication | Filing | 02/20/2018-08:53 | 10/16/2018-08:53 | |
| Wilmington Savings Fund Society | Affidavit/Publication | Filing | 02/19/2018-15:19 | 10/16/2018-15:19 | |
| Wilmington Savings Fund Society | NEF(02-15-2018 11:46:42 AM) Order/Bankruptcy | Filing | 02/15/2018-11:46 | 10/16/2018-11:46 | |

| | | | | | | |
|---------------------------------|--|--------|--|------------------|------------------|--|
| Wilmington Savings Fund Society | Order/Bankruptcy | Order | | 02/15/2018-11:46 | 10/16/2018-11:46 | |
| Bank Of America NA | Order/Stay | Order | | 02/15/2018-11:45 | 10/16/2018-11:45 | |
| Wilmington Savings Fund Society | NEF(02-13-2018 02:57:15 PM) Motion/Stay Bankruptcy | Filing | | 02/13/2018-15:35 | 10/16/2018-15:35 | |
| Wilmington Savings Fund Society | Motion/Stay Bankruptcy | Motion | | 02/13/2018-14:57 | 10/16/2018-14:57 | |
| Wilmington Savings Fund Society | Service/Certificate Of Service | Filing | | 02/13/2018-14:57 | 10/16/2018-14:57 | |
| Wilmington Savings Fund Society | Notice/Notice of Appearance | Filing | | 02/13/2018-14:57 | 10/16/2018-14:57 | |
| Wilmington Savings Fund Society | Order/Order Cover Sheet \$25.00 | Filing | | 02/13/2018-14:57 | 10/16/2018-14:57 | |
| Bank Of America NA | Service/Certificate Of Service | Filing | | 02/05/2018-13:11 | 10/16/2018-13:11 | |
| Bank Of America NA | Notice/Foreclosure Sale | Filing | | 01/26/2018-17:19 | 10/16/2018-17:19 | |
| Bank Of America NA | Master/Order /Supplemental Foreclosure & Sale and Form 4 | Order | | 01/26/2018-17:19 | 10/16/2018-17:19 | |
| Bank Of America NA | Affidavit/Attorney Fees | Filing | | 01/26/2018-17:17 | 10/16/2018-17:17 | |
| Bank Of America NA | Record of Hearing | Filing | | 01/26/2018-17:17 | 10/16/2018-17:17 | |
| Bank Of America NA | Order/Order Denying Def Motion to Dismiss | Order | | 01/26/2018-17:16 | 10/16/2018-17:16 | |
| Bank Of America NA | Service/Certificate Of Service | Filing | | 01/18/2018-11:31 | 10/16/2018-11:31 | |
| Kimball, Stan J | Motion/Dismiss | Motion | | 01/11/2018-16:05 | 10/16/2018-16:05 | |
| Bank Of America NA | Service/Certificate Of Service | Filing | | 12/22/2017-13:17 | 10/16/2018-13:17 | |
| Bank Of America NA | Notice/Notice of Hearing | Filing | | 12/22/2017-13:15 | 10/16/2018-13:15 | |
| Kimball, Stan J | 1/8/2018_JANNJ_Notice of Case Roster Publication Sent | Action | | 12/08/2017-16:47 | 10/16/2018-16:47 | |
| Brown, Suzanne E. | 1/8/2018_JANNJ_Notice of Case Roster Publication Sent | Action | | 12/08/2017-16:47 | 10/16/2018-16:47 | |
| Stewart, Alan Martin | 1/8/2018_JANNJ_Notice of Case Roster Publication Sent | Action | | 12/08/2017-16:47 | 10/16/2018-16:47 | |

| | | | | | |
|---------------------------------|---|--------|--|------------------|------------------|
| Bank Of America NA | Order/Restore Case To Active Docket | Order | | 11/02/2017-11:20 | 10/16/2018-11:20 |
| Bank Of America NA | Motion/Information Form | Motion | | 11/02/2017-11:06 | 10/16/2018-11:06 |
| Bank Of America NA | Order/Stay Due to Bankruptcy | Order | | 10/13/2017-11:50 | 10/16/2018-11:50 |
| Bank Of America NA | Affidavit/Publication | Filing | | 09/20/2017-11:51 | 10/16/2018-11:51 |
| Bank Of America NA | Service/Certificate Of Service by Mail | Filing | | 08/29/2017-09:39 | 10/16/2018-09:39 |
| Bank of America NA | Service/Certificate Of Service | Filing | | 08/23/2017-13:57 | 10/16/2018-13:57 |
| Bank of America NA | Notice/Notice of Appearance | Filing | | 08/23/2017-13:57 | 10/16/2018-13:57 |
| Bank of America NA | Master/Order/Vacate Foreclosure Sale | Order | | 08/18/2017-15:56 | 10/16/2018-15:56 |
| Bank Of America NA | Service/Certificate Of Service | Filing | | 08/18/2017-15:54 | 10/16/2018-15:54 |
| Bank Of America NA | Motion/Information Form | Motion | | 08/18/2017-15:54 | 10/16/2018-15:54 |
| Bank of America NA | Order/Order Granting Plaintiff's Motion to Vacate Foreclosu | Order | | 08/02/2017-12:22 | 10/16/2018-12:22 |
| Stewart, Alan Martin | 7/31/2017_MOTION_Notice of Motion Roster Publication Sent | Action | | 07/13/2017-15:16 | 10/16/2018-15:16 |
| Kimball, Stan J | 7/31/2017_MOTION_Notice of Motion Roster Publication Sent | Action | | 07/13/2017-15:16 | 10/16/2018-15:16 |
| Brown, Suzanne E. | 7/31/2017_MOTION_Notice of Motion Roster Publication Sent | Action | | 07/13/2017-15:16 | 10/16/2018-15:16 |
| Wilmington Savings Fund Society | Service/Certificate Of Service by Mail | Filing | | 07/10/2017-15:20 | 10/16/2018-15:20 |
| Wilmington Savings Fund Society | Notice/Notice of Hearing | Filing | | 07/10/2017-15:19 | 10/16/2018-15:19 |
| Kimball, Stan J | Motion/Request for Hearing | Motion | | 06/20/2017-16:28 | 10/16/2018-16:28 |
| Wilmington Savings Fund Society | Affidavit/Publication | Filing | | 05/23/2017-10:52 | 10/16/2018-10:52 |
| Bank Of America NA | Service/Certificate Of Service by Mail | Filing | | 04/10/2017-09:33 | 10/16/2018-10:32 |
| Bank Of America NA | Motion/Information Form | Motion | | 03/30/2017-16:44 | 10/16/2018-16:44 |
| Bank Of America NA | Notice/Foreclosure Sale | Filing | | 03/30/2017-16:14 | 10/16/2018-11:33 |

| | | | | | |
|---------------------------------|--|--------|--|------------------|------------------|
| Bank Of America NA | Order/Vacate Foreclosure Sale | Order | | 03/30/2017-10:26 | 10/16/2018-10:26 |
| Bank Of America NA | Affidavit/Publication | Filing | | 11/15/2016-14:02 | 10/16/2018-14:02 |
| Wilmington Savings Fund Society | Service/Certificate Of Service by Mail to Stan J Kimball | Filing | | 10/20/2016-15:35 | 10/16/2018-15:35 |
| Bank Of America NA | Master/Order/Foreclosure & Sale and Form 4 | Order | | 10/11/2016-14:09 | 10/16/2018-12:25 |
| Bank Of America NA | Notice/Foreclosure Sale | Filing | | 10/11/2016-14:09 | 10/16/2018-12:26 |
| Bank Of America NA | Record of Hearing | Filing | | 10/11/2016-14:08 | 10/16/2018-12:24 |
| Bank Of America NA | Motion/Information Form | Motion | | 10/11/2016-10:33 | 10/16/2018-10:33 |
| Bank Of America NA | Service/Certificate Of Service By Mail | Filing | | 08/09/2016-15:48 | 10/16/2018-15:48 |
| Bank Of America NA | Notice/Notice Of Supplemental Hearing | Filing | | 08/09/2016-15:46 | 10/16/2018-15:46 |
| Bank Of America NA | Order/To Restore | Order | | 04/05/2016-16:39 | 04/05/2016-16:39 |
| Bank Of America NA | Motion/Information Form | Motion | | 04/05/2016-16:38 | 04/05/2016-16:38 |
| Bank Of America NA | Order/Stay due to Bankruptcy | Order | | 11/11/2015-11:01 | 10/16/2018-11:01 |
| Bank Of America NA | Affidavit/Publication | Filing | | 11/10/2015-14:27 | 10/16/2018-14:27 |
| Bank Of America NA | Notice/Foreclosure Sale | Filing | | 10/02/2015-15:29 | 10/16/2018-11:44 |
| Bank Of America NA | Order/Vacate Foreclosure Sale | Order | | 09/11/2015-11:01 | 09/11/2015-11:01 |
| Bank Of America NA | Motion/Information Form | Motion | | 09/11/2015-10:59 | 09/11/2015-10:59 |
| Wilmington Savings Fund Society | Affidavit/Publication | Filing | | 07/21/2015-14:10 | 10/16/2018-14:10 |
| Bank Of America NA | Notice/Foreclosure Sale | Filing | | 06/22/2015-15:47 | 10/16/2018-15:47 |
| Bank Of America NA | Order/Supplemental Order | Order | | 06/22/2015-15:46 | 06/22/2015-15:46 |
| Wilmington Savings Fund Society | Order/Supplemental Order | Order | | 06/22/2015-15:46 | 06/22/2015-15:46 |

| | | | | |
|--------------------|--|----------|------------------|------------------|
| Bank Of America NA | Order/Order to Substitute Plaintiff | Order | 06/22/2015-15:17 | 10/16/2018-15:17 |
| Bank Of America NA | Transcript/Transcript Of Record | Filing | 06/22/2015-15:16 | 10/16/2018-15:16 |
| Bank Of America NA | Motion/Information Form | Motion | 06/22/2015-15:16 | 06/22/2015-15:16 |
| Bank Of America NA | Motion/Information Form | Motion | 06/22/2015-15:00 | 10/16/2018-16:23 |
| Bank Of America NA | Order/Form 4 | Order | 06/09/2015-13:36 | 06/09/2015-13:36 |
| Kimball, Stan J | Motion/Dismiss | Motion | 05/12/2015-12:21 | 05/12/2015-12:21 |
| Bank Of America NA | Service/Certificate Of Service By Mail | Filing | 04/21/2015-10:03 | 10/16/2018-10:03 |
| Bank Of America NA | Notice/Notice of Supplemental Hearing | Filing | 04/21/2015-10:02 | 10/16/2018-10:02 |
| Bank Of America NA | Service/Certificate Of Service By Mail | Filing | 04/08/2015-12:29 | 10/16/2018-12:29 |
| Bank Of America NA | Notice/Notice of Supplemental Hearing | Filing | 04/08/2015-12:29 | 10/16/2018-12:29 |
| Bank Of America NA | Letter/Letter Attorney Change | Filing | 03/11/2015-16:45 | 10/16/2018-14:38 |
| Bank Of America NA | Order/Substitution Of Counsel | Order | 10/31/2014-14:45 | 10/31/2014-14:45 |
| Bank Of America NA | Motion/Information Form | Motion | 10/31/2014-14:44 | 10/31/2014-14:44 |
| Bank Of America NA | Notice/Notice Of Appearance | Filing | 10/13/2014-11:46 | 10/16/2018-11:46 |
| Bank Of America NA | Judgment/Foreclosure | Filing | 10/14/2013-09:30 | 10/16/2018-09:30 |
| Kimball, Stan J | Judgment/Foreclosure | Judgment | 09/12/2013-10:22 | 09/12/2013-10:22 |
| Kimball, Carole | Judgment/Foreclosure | Judgment | 09/12/2013-10:22 | 09/12/2013-10:22 |
| Bank Of America NA | Judgment/Foreclosure | Judgment | 09/12/2013-10:22 | 09/12/2013-10:22 |
| Bank Of America NA | Certificate/Certificate | Filing | 09/12/2013-10:21 | 09/12/2013-10:21 |
| Bank Of America NA | Transcript/Transcript Of Record | Filing | 09/12/2013-10:21 | 09/12/2013-10:21 |
| Bank Of America NA | Notice/Foreclosure Sale | Filing | 09/12/2013-10:17 | 09/12/2013-10:17 |
| Bank Of America NA | Notice/Notice of Hearing | Filing | 07/30/2013-15:36 | 08/01/2013-14:21 |

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
Case No. 2018-002165

RECEIVED

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

JAN 07 2019

Curtis G. Clark, Special Referee

SC Court of Appeals

Case No.: 2011-CP-24-01448

Wilmington Savings Fund Society, FSB.....Respondent,

v.

Stan J. Kimball, Carole Kimball and Bank of America.....Defendants,

Of whom Stan J. Kimball is the.....Appellant.

Certificate of Service

I hereby certify that a copy of the Motion to Dismiss has been served on the following parties via U.S. Mail on this day:

Stan J. Kimball
PO Box 1779
Greenwood, SC 29648

RILEY POPE & LANEY, LLC



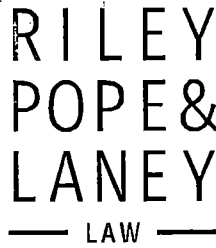
Damon C. Włodarczyk, SC Bar 70460
Attorneys for Respondent

Columbia, South Carolina

January 7, 2019

South Carolina

Riley Pope & Laney, LLC
2838 Devine Street
Post Office Box 11412 (29211)
Columbia, SC 29205
Phone: 803.799.9993
Fax: 803.239.1414



North Carolina

Riley Pope & Laney, PLLC
4822 Albemarle Road
Suite 248
Charlotte, NC 28205
Phone: 980.201.3888
Fax: 704.625.9430

January 7, 2019

(Via Hand-Delivery)
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
JAN 07 2019
SC Court of Appeals

Re: Wilmington Savings Fund Society, FSB v. Stan J. Kimball et al.
Appellate Case No. 2018-002165
My File No.: 4116.00218

Dear Ms. Kitchings

Enclosed please find an original and seven (7) copies of the Respondent's Motion to Dismiss and proof of service along with my firm's check in the amount of \$25.00 to cover the filing fee. Please file the enclosed documents and return the clocked copy to me with my courier.

Sincerely,

A handwritten signature in black ink, appearing to read 'Damon C. Włodarczyk'.

Damon C. Włodarczyk

DCW/

Enclosures

cc: Stan J. Kimball