

Prepared by: SK
Date: 30 JAN 2019

MOTION TO REINSTATE
APPEAL AND THE STAY

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WILMINGTON SAVINGS
FUND SOCIETY / CHRISTIANA
TRUST / TRUSTEES / BANK
OF AMERICA, ET AL.
PLAINTIFF(S)

APPELLATE COURT
CASE # 2018-002165

RECEIVED
FEB 08 2019

vs

STAN KIMBALL
CAROLE KIMBALL, AKA
C. RICCIUTTI, C. PELKEY
C. MURRAY, C. STANKOVICH,
BANK OF AMERICA(S)
DEFENDANT(S)

SC Court of Appeals

IN THE STATE OF
SOUTH CAROLINA
GREENWOOD COUNTY

NOW COMES THE APPELLANT, STAN KIMBALL
IN CASE # 2018-002165, REQUESTING THAT
HIS APPEAL AND STAY BE REINSTATED.

THE ORDERS AND JUDGEMENT FILED BY
APPELLANT WERE COPIES OF THOSE RELIEVED
FROM PLAINTIFF(S).

#2018-002165

Prepared by:

Date:

30 Jan 2019

1
2 APPELLANT DOES HEAR BY SUMMIT
3

4 NEW COPIES FURNISHED BY GREENWOOD
5

6 COUNTY CLERK, NOW MADE AVAILABLE.
7

8 NOTE THE COURT IS TRANSFERING PAPER
9

10 FILES TO ELECTRONIC FILE(S).
11

12 APPELLANT (DID) (PROVIDE) PROOF
13

14 OF TIMELY SERVICE; ACKNOWLEDGMENT
15

16 WAS RECEIVED.
17

18 THE COURT SHOULD RULE FOR THE
19

20 APPELLANT AND STAY ALL ACTIONS, RETURNING
21

22 CASE TO THE COURT (AS ORIGINALLY REQUESTED)
23

24 FOR ACTION AND TRIAL, TO CORRECT THE ERRORS
25

26 OF PLAINTIFF(S), COUNSEL(S) AND SPECIAL REFeree.
27
28

#2018-002165

Prepared by:

Date: 30 JAN 2019


1
2 NOTE, BANK OF AMERICA, WILMINGTON
3
4 AND ATTORNEYS, HAVE REJECTED ANY/
5
6 AND ALL MORTGAGE PAYMENT ATTEMPTS
7
8 AND SUBMITTED FALSE FILINGS TO
9
10 ADVANCE THE CASE.

11
12 RESPONDENTS ARGUMENT(S) #'S IAN II
13
14 ARE INACCURATE AND CONTAIN FALSE DATES
15
16 TIMES, STATEMENTS.

17
18 RESPONDENTS MOTION TO DISMISS
19
20 SHOULD ALSO BE DENIED BASED ON THEIR
21
22 CURRENT INACCURATE FILINGS.

23
24 STAN KIMBALL

25 30 JAN 2019

26 
27 FOC # 1779
28 GREENWOOD S.C., 29648

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Greenwood)
)
WILLIAMSON SWINGS - et al)
 Plaintiff,)
 vs.)
STAN KIMBALL)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 8th JUDICIAL CIRCUIT
 CASE NO.: _____-CP-_____

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: <input checked="" type="checkbox"/>
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>STAY</u> Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	Date submitted: <u>25 NOV 18</u>
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT:	
(check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

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SC Court of Appeals

Prepared by:

Date: 29 November 2018

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

WILMINGTON SAVINGS
FUND SOCIETY / CHRISTIANAH
TRUST / TRUSTEE
PLAINTIFF

IN THE COURT OF
COMMON PLEAS
2011-CP-24-01448

VS.

STAN KIMBALL
CAROLE KIMBALL WSA.
C. RIZUTI, C. KELLEY, C. MURPHY
C. HANRICH, BANK OF
AMERICA(S)
DEFENDANT(S)

MOTION TO STAY

NOW COMES THE DEFENDANT STAN KIMBALL
REQUESTING A STAY/AND OR TO VACATE THE
SALE OF REAL PROPERTY ON 04 DECEMBER 2018
IN THE ABOVE LISTED CASE.

THE FACTS TO SUPPORT THIS
PLEA, ARE AS FOLLOWS:

1/4

2011-CF-24-01448

Prepared by:

Date: 24 November 2015

* DEFENDANT REQUESTED A JURY TRIAL.

BROCK & SCOTT, PLLC, TOLD SPECIAL REFEREE

C.B. CLARK THAT I WAS NOT ENTITLED TO ONE...

I REQUESTED PROOF. NONE HAS BEEN FORTHCOMING.

* DEFENDANT REQUESTED A TIMELY ACCOUNTING

OF COSTS CLAIMED; SPECIAL REFEREE SO

ORDERED; AS OF TODAY, STILL NOT RECEIVED.

* DEFENDANT AGAIN REQUESTED A JURY TRIAL

* BROCK AND SCOTT, HAS NOT PASSED ON TO

WILMINGTON, et. al., MONIES AND DEBTS ETC.

* BROCK AND SCOTT, WILMINGTON, CHRISTINA TRUST

AND SHELLPOINT MORTGAGE SERVICING

HAVE MADE FALSE STATEMENTS AND NOT CREDITED

2/4

2011-CP-24-0448

Prepared by:

Date: 29 November 2018

Can't

MONIES PAID, NOT PAID TAXES, BUT BILLED
etc, etc, etc. THEY HAVE DONE/CONTINUE
TO OVERBILL.

* THE PROPERTY IS (STILL) EVIDENCE IN
CRIMINAL CASES, THEREFORE, THE SPECIAL
AGENTS CANNOT RULE UNTIL CRIMINAL
AND FAMILY COURT RULE.

* A GREENWOOD COUNTY SHERIFF AND THE EX-WIFE
HAVE PENDING CHARGES. THE PROPERTY IS
EVIDENCE.

* BROCK AND SCOTT HAS VIOLATED THEIR OATH
AS OFFICERS OF THE COURT.

3/4

2011-CP-27-01448


Prepared by:

Date:

ADVISED 2018

- * BROCK AND SCOTT WHEN CONTRACTED CLAIM NOT TO BE ATTORNEYS FOR PLAINTIFF.
- * BROCK AND SCOTT HAS NOT PETITIONED NOR NOTIFIED IN REFERENCE TO NOT BEING ATTORNEY(S) OF RECORD.
- * THE ALLEGED AMOUNTS DUE CANNOT BE (NOW) STILL BE PROVEN.
- * DEFENDANT AGAIN PLEADS FOR \$87,100 AND (HIS) JURY TRIAL.

THANK YOU

S/K 

4/4

03 DEC

FORM J

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-24-01448

Wilmington Savings Funds, et al.,

Stan J. Kimball, Carole Kimball, et al.,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Curtis G. Clark, Special Referee

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. See Page 2 for additional information.
- 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
- 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 Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

If applicable, describe the property, including tax map information and address, referenced in the order:
Property Address: 101 Barrett Drive, Greenwood, SC

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.

Curtis G. Clark

Curtis G. Clark, Special Referee for Greenwood County

2093
Judge Code

Dec. 3, 2018
Date

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FEB 08 2019

SC Court of Appeals

For Clerk of Court Office Use Only

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

Riley Pope and Laney _____

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: None

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. _____ After the review of the motion filed on December 3, 2018 by Stan Kimball, Defendant, motion is denied. _____

31 NW

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 and Bank of
America, N.A.,

Defendants.

(File No. 4116.00218)

IN THE COURT OF COMMON PLEAS

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

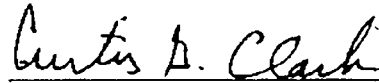
FILED IN THE COURT OF GREENWOOD, SC
2018 NOV 30 PM 4:11

**ORDER FOR SUBSTITUTION OF
COUNSEL FOR PLAINTIFF**

This matter came before the Court upon Motion for Substitution of Counsel for Plaintiff in the within foreclosure action. As it appears Plaintiff wishes to substitute Heidi B. Carey of Riley Pope & Laney, LLC for William P. Stork of Brock & Scott, PLLC. who having consented to the motion, it is hereby

ORDERED that Heidi B. Carey of Riley Pope & Laney, LLC shall now be Plaintiff's counsel of record and, further, that William P. Stork of Brock & Scott, PLLC is hereby relieved of further responsibility for Plaintiff in this matter.

IT IS SO ORDERED.



The Honorable Curtis G. Clark
Special Referee for Greenwood County

Date: November 30, 2018
Greenwood, South Carolina

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FEB 08 2019

SC Court of Appeals

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:

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


CID413087

file reference: 14-22053
DID200351

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SC Court of Appeals

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

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 25 PM 4:13

163
 OCT

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: Enclosure of the Sale. Any Delinquency 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

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SC Court of Appeals

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

Curtis L. 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-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

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.

NOTICE OF SALE

FILED CP 844 304 CP 8
2013 FEB 19 10 52 AM
GREENWOOD, SC

NOTICE OF SALE CIVIL ACTION NO. 2011-CP-24-01448 BY VIRTUE of the de
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

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FEB 08 2019

SC Court of Appeals

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.

Curtis G. Clark

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

13 OCT

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.

CGE
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

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SC Court of Appeals

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:

CG
#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

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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.

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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.

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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.

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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).
SCRCP.

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.

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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.

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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.

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**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

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Date: October 13, 2018

Greenwood, South Carolina

File reference: 14-22033