

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-In-Equity

Appellate Case No. 2013-001508

Wells Fargo Bank, N.A. as Trustee
for Option One Mortgage Loan
Trust 2000-D, Asset Backed
Certificate, Series 2000-D,

Appellant,

v.

Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions LP,

Respondents.

RECORD ON APPEAL

Michael W. Smith
S.C. Bar No. 71184
Baker, Donelson, Bearman,
Caldwell and Berkowitz, PC
P.O. Box 1549
Orlando, FL 32802
(407) 367-5437

Sean M. Foerster
S.C. Bar No. 77466
Rogers Townsend & Thomas, PC
220 Executive Center Dr.
Columbia, SC 29210
(803) 771-7900
Attorneys for Appellant

Max T. Hyde, Jr. (S.C. Bar No. 17014)
Alexander P. Lewis (S.C. Bar No. 78991)
Hyde Law Firm, P.A.
753 East Main Street, Suite One
Spartanburg, South Carolina 29302
(864) 804-6330

David G. Ingalls
S.C. Bar No. 2888
P.O. Box 2196
Spartanburg, South Carolina 29304
(864) 573-5159

John H. Harris (S.C. Bar No. 80147)
Lisa R. Claxton (S.C. Bar No. 6527)
Virginia M. Dupont (S.C. Bar No. 76339)
Spartanburg County Attorneys
P. O. Box 5666
Spartanburg, South Carolina 29301
(864) 596-2526

RECEIVED
DEC 23 2013
SC Court of Appeals

**RECORD ON APPEAL
INDEX**

ORDERS AND JUDGMENTS

Order dated April 20, 2012 regarding Summary Judgment.....	1
Order dated March 6, 2013 regarding challenge to tax sale	5
Order dated June 11, 2013 regarding Motion to Alter or Amend the Court's Order dated March 6, 2013.....	14

PLEADINGS

Complaint dated November 1, 2010	20
Answer and Counterclaim of Defendants Randy and Tara Rutherford dated December 9, 2010	31
Reply to Defendants Randy and Tara Rutherford's Answer and Counterclaim by Plaintiff dated January 4, 2011	35
Answer and Counterclaims of Defendant Mooring Secured Liquidity dated February 14, 2011	40
Reply to Defendant Mooring Secured Liquidity's Answer and Counterclaim by Plaintiff dated March 17, 2011	46
Answer of Defendant Spartanburg County dated June 8, 2012.....	49

TRANSCRIPTS

Transcript of Hearing, February 12, 2013	57
Exhibits to the Transcript of Testimony from the hearing held on February 12, 2013	93

OTHER MOTIONS

Plaintiff's Notice of Motion and Motion for Summary Judgment dated November 4, 2011	211
Plaintiff's Memorandum of Law in Support of Setting Aside Tax Sale dated February 15, 2013	297

Plaintiff's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRC
dated March 22, 2013 303

Plaintiff's Notice of Appeal.....310

Certificate of Counsel

5

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford;

Defendants.

(505052-01661 SMF)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2010-CP-42-5798

ORDER

This matter came before the Court on January 12, 2012, at a hearing on Plaintiff's Motion for Summary Judgment in this action to set aside a tax sale. Sean M. Foerster, Esquire, appeared on behalf of the Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff"). Max T. Hyde, Jr., Esquire, appeared on behalf of Defendant Mooring Secured Liquidity ("Mooring"). David G. Ingalls, Esquire, appeared on behalf of Defendants Randy S. Rutherford and Tara P. Rutherford ("Rutherfords"). Based on the evidence put forth at the hearing, the pleadings, the memoranda of law, and the arguments of the parties, the Court finds as follows:

1. This is an action to set aside a Spartanburg County tax sale of real property at 327 Palmetto Circle, Greer, SC 29651 ("subject property").
2. On November 4, 2011, Plaintiff filed a Motion for Summary Judgment seeking an order voiding the tax sale on the grounds that the tax sale occurred during the pendency of the Rutherfords' bankruptcy and therefore violated the automatic stay imposed by 11 U.S.C. § 362(a).
3. At the hearing, the Rutherfords' counsel raised the issue that the Rutherfords had obtained all of the overage from the tax sale and that, if the tax sale were set aside, the Spartanburg County Delinquent Tax Collector would no longer have the overage to use in refunding Mooring its bid amount.
4. The Court finds that the Spartanburg County Delinquent Tax Collector is a necessary party to this action under Rule 19, SCRCP, and therefore finds that the portion of Plaintiff's Motion for Summary Judgment seeking an order voiding the tax sale is premature until the Spartanburg County Delinquent Tax Collector has been joined in this action.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 30 PM 5:52
HOPKINS
#

(02)

5. Plaintiff's motion further sought summary judgment as to the Rutherfords' counterclaim against Plaintiff for negligence based on the allegations that Plaintiff owed a duty of care to the Rutherfords in paying taxes due on their home and that Plaintiff breached that duty in failing to pay taxes due on their home after notice.

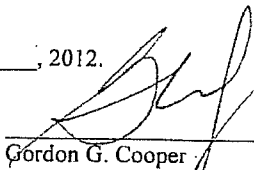
6. The Court finds that because the Court had previously entered a Judgment of Foreclosure and Sale against the Rutherfords in civil action # 07-CP-42-0039 on February 28, 2007, Plaintiff owed no further common law or contractual duty to the Rutherfords to maintain the taxes on the subject property after that date. Further, at the hearing, counsel for the Rutherfords conceded on the counterclaim as it is currently pleaded.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Motion for Summary Judgment is denied as being premature to the extent it seeks an order voiding the tax sale;
2. Plaintiff's Motion for Summary Judgment is granted as to the Rutherfords' counterclaim;
3. The Spartanburg County Delinquent Tax Collector is hereby joined as a defendant to this action;
4. No amendments to the pleadings already on file are necessary;
5. Plaintiff shall serve the Spartanburg County Tax Collector with a filed copy of this Order and the Lis Pendens, Summons, and Complaint;
6. The Spartanburg County Tax Collector shall have the time permitted under Rule 12, SCRCF, from the date it is served with a copy of this filed Order and the Lis Pendens, Summons, and Complaint to file a responsive pleading or motion; and
7. As to the remaining parties, pleadings are to remain closed unless the Spartanburg County Delinquent Tax Collector asserts additional claims against them requiring a responsive pleading.

AND IT IS SO ORDERED.

This 20th day of April, 2012.


Gordon G. Cooper
Master in Equity for Spartanburg County

Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 APR 20 PM 3:52
M. HOPE BLACKLEY

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2010 CP-42-5798

Wells Fargo Bank, N.A., as Trustee For Option One

Mooring Secured Liquidity, Randy S. and

Mortgage Loan Trust 2000-D Asset Backed
Certificates, Series 2000-D
PLAINTIFF(S)

Tara P. Rutherford, Spartanburg County Tax
Collector, and Sherman Acquisitions.
DEFENDANT(S)

Submitted by: Max T. Hyde, Jr.

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE 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)
		\$
		\$
		\$

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

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

Circuit Court Judge

For Clerk of Court Office Use Only

Judge Code

Date

This judgment was entered on the 6th day of Mar, 2013 and a copy mailed first class or placed in the appropriate attorney's box on this 6th day of Mar, 2013 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter:

Hyde Law Firm, P.A.

753 East Main St., Ste. 1

Spartanburg, SC 29302

ATTORNEY(S) FOR THE DEFENDANT(S)

M. Hope Blackley

CLERK OF COURT

Natalie Bishop

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Wells Fargo Bank, N.A., as Trustee)
For Option One Mortgage Loan Trust)
2000-D, Asset Backed Certificates,)
Series 2000-D,)

C.A. No.: 2010-CP-42-5798

Plaintiffs,)

ORDER

vs.)

Mooring Secured Liquidity, Randy S)
and Tara P. Rutherford, Spartanburg)
County Tax Collector, and Sherman)
Acquisitions,)

Defendants.)

This action came before the Court at a final hearing on February 12, 2013, regarding a challenge to the tax sale of the Subject Property. Sean M. Foerster, Esquire, appeared on behalf of the Plaintiff, Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Wells Fargo"). Max T. Hyde, Jr., Esquire, and Alexander P. Lewis, Esquire, appeared on behalf of Defendant Mooring Secured Liquidity ("Mooring"). David Ingalls, Esquire, appeared on behalf of Defendants Randy S. and Tara P. Rutherford ("the Rutherfords"). John Harris, Esquire, appeared on behalf of Defendant Spartanburg County Tax Collector ("Spartanburg County").

Based on the evidence put forth at the hearing, the pleadings, and the arguments of counsel, this Court finds that the tax sale of the Subject Property was proper and denies Wells Fargo's requests to set aside the same. Furthermore, for the reasons set

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
M. HOPE
CLERK

/

forth below, this Court grants Mooring's Counterclaim for Quiet Title of the Subject Property following the valid tax sale.

FINDINGS OF FACT

By deed dated June 16, 1998, and recorded on June 18, 1998 in the office of the Register of Deeds for Spartanburg County, South Carolina, in Deed Book 68A, Page 961, Durham Construction Company, Inc. conveyed to the Rutherfords the following described property, to-wit:

All that certain piece, parcel or lot of land with all improvements located thereon, situate, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot No. 25 on original plat of Palmetto Estates, prepared by Farley-Collins & Associates, dated August 7, 1968, and recorded in Plat Book 57, Page 518, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof. This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed from Durham Construction Company, Inc., dated June 16, 1998 and recorded on June 18, 1998 in Deed Book 68A Page 961 R.M.C. Office for Spartanburg County, S. C.

Address: 327 Palmetto Circle, Greer, South Carolina 29651
TMS # 5 13-08 039.00

(hereinafter "the Subject Property").

On January 4, 2007, Wells Fargo instituted an action for foreclosure of the Subject Property bearing Civil Action Number 2007-CP-42-0039. An Order awarding judgment for Wells Fargo in that action was entered on February 28, 2007. Following the issuance of the aforementioned Order, the subject Property was set to be sold by way of a foreclosure sale on April 2, 2007. This Court received a letter from Counsel for Wells Fargo on March 29, 2007, advising the Court that the Rutherfords had declared Bankruptcy, and requesting that the Subject Property be removed from the sale roster. Pursuant to the request of counsel this Court issued a Form 4 Order placing the case on

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 MAR -5 AM 10:00
HOFER BACKLICK

the SCRCR Rule 40(j) roster with leave to restore when the issues of bankruptcy were resolved.

Following the case being placed on the 40(j) roster, the Rutherfords neglected to pay their duty owed property taxes to Spartanburg County for the 2007 tax year. On November 3, 2008, following a tax execution to levy by distress and sell said property, and upon all required notices of delinquent taxes to the Rutherfords and due advertisement, the Delinquent Tax Collector of Spartanburg County, South Carolina, during the usual hours of sale, did sell and received payment for the Subject Property and gave receipt therefore to Mooring, the highest bidder at such sale for the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), in accordance with Section 12-51-60, code of Laws of South Carolina, 1976, as amended. Spartanburg County issued a Tax Deed to Mooring on January 15, 2010, and that deed was recorded on March 23, 2010, in Deed Book 95-V at Page 404 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

After the sale of the Subject Property, Spartanburg County properly notified Wells Fargo of their right to redeem the property. The notice of the right to redeem was signed by Wells Fargo on October 9, 2009, as admitted by Counsel for Wells Fargo at the hearing of February 12, 2013. On December 3, 2009, almost two months after receiving notice that the property had been sold and the notice of the right to redemption, Wells Fargo made a motion to restore the prior Foreclosure Action to the docket. An Order of this Court granting such relief was entered on March 19, 2010.

This Court held a supplemental hearing on April 7, 2010, and the judgment numbers from the earlier foreclosure judgment were augmented to reflect the laps of time.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
RECEIVED BLACKBERRY

since the initial Order. Additionally, the Subject Property was placed on the foreclosure sale roster for May 3, 2010, despite the fact that Wells Fargo knew at that point in time that the property had been sold at the tax sale. Just prior to the sale date, counsel for Wells Fargo informed the Court that the sale should be canceled, and the Court granted that request.

The instant action to set aside the tax sale was filed by Wells Fargo against Mooring and the Rutherfords on November 1, 2010, just two days prior to the expiration of the applicable Statute of Limitations, and well over a year from the notice of the right to redemption of the property. A hearing was held on January 12, 2012, on Wells Fargo's Motion for Summary Judgment. By Order dated April 20, 2012, said motion was denied as untimely, and Spartanburg County was joined in the action as an indispensable party following disclosure to the Court that the Rutherfords had been paid the overage amount that had been held by Spartanburg County.

This Court also granted a Consent Motion for Joinder by all parties of Sherman Acquisitions based on the Counterclaim filed by Mooring for Quiet Title following the tax sale. Defendant Sherman Acquisitions was properly served with all applicable pleadings, the Court Order of Joinder, and was given proper notice of the final hearing in this matter, but failed to answer or otherwise plead, and are in default.

CONCLUSIONS OF LAW

I. **Equity requires that the tax sale stand as valid.**

This Court finds that equity requires that the results of the tax sale stand as valid and enforceable. Wells Fargo has made much to do concerning the effect that the Rutherfords' bankruptcy might have in invalidating the tax sale as *void ab initio*.

FILED
CLERK OF COURT
2013 MAR -6 AM 10:00
M. HOPE BLAKEY

Counsel for Wells Fargo presented several legal arguments, with supporting Bankruptcy case law, that the filing for Bankruptcy by the Rutherfords created an automatic stay of any action regarding the Subject Property. Additionally, Counsel for Wells Fargo stated that a violation by Spartanburg County of the automatic stay should cause the tax sale to be set aside. This Court finds these arguments to be unpersuasive in light of the equities that are presented in the case *sub judice*. Wells Fargo's own actions or lack thereof, unclean hands, and failure to diligently monitor the facts and circumstances surrounding the Subject Property give rise to a situation that requires equity, rather than Bankruptcy Law, to govern. This Court is one of equity, and the very principles of equity simply cannot allow for the result which Wells Fargo proposes.

Plaintiff's Counsel stated on numerous occasions during the hearing that the tax sale had occurred during the period in which the automatic stay was in effect from the United States Bankruptcy Court for the District of South Carolina. What is intriguing is what Wells Fargo failed to mention: that the Rutherfords have not and did not challenge the sale of the home by Spartanburg County during the period of the automatic stay. Surely if anyone would wish to contest the sale of the home during a period of protection from the Bankruptcy Court, it would be the Rutherfords. By accepting the overage amount from Spartanburg County, the Rutherfords evidenced an intent to waive their rights to challenge the tax sale on the basis of the Bankruptcy Court protection.

Critically, Counsel for Wells Fargo also did not mention that during the period of the automatic stay, Wells Fargo had been provided with notice of the right to redeem the Subject Property. The right to redeem was sent certified mail, return receipt requested as required by S.C. Code of Laws 12-51-120. Conspicuous in its absence was also

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:09
J. HOPE BAILEY

#5
R

Counsel's failure to mention that Wells Fargo made the conscious choice to do nothing about the redemption notice on this very critical issue until a period of over a year later.

In fact, Wells Fargo did nothing from the period of March 29, 2007, until the beginning of November of 2010, despite notifications both actual and implied:

- (1) That that the tax sale had occurred;
- (2) That Wells Fargo had a right to redeem the Subject Property;
- (3) That Mooring's tax deed had been recorded; and,
- (4) That the overage had been paid to the Rutherfords.

Critically, counsel for Wells Fargo *admits that Wells Fargo signed the notice of the right to redemption* of the Subject Property on October 9, 2009, but Wells Fargo even knowing that the property had been sold decided not to challenge the tax sale. Rather, Wells Fargo decided it was better to:

- (1) Make a motion to restore their earlier foreclosure case to the active ~~list~~ ^{trial} roster;
- (2) Have a supplemental hearing before this Court to raise the earlier judgment amounts; and,
- (3) Set the property for a date certain on the foreclosure sale roster.

All of these actions were taken by Counsel for Wells Fargo on a piece of property it knew to already have been sold at tax sale to Mooring, and that it knew it had a right of redemption in. Additionally, Wells Fargo failed to file a judicial action within ^{ten} days after execution of the deed to prevent the payment of the overage by the County to the defaulting taxpayers. See S.C. Code § 12-51-130. These were not acts taken by a party who was concerned about protecting its rights in the property to prevent sale. Had Wells Fargo been interested in protecting whatever rights they may have had in

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
M. HOPE BLANKLEY
#6

the property, they would have exercised their right to redeem the property, a right that they had proper notice thereof as required by the South Carolina Code.

It was only when confronted with the realization that the Statute of Limitations to challenge the tax sale was about to run that Wells Fargo suddenly decided that they would act. The doctrine of laches however bars such action, as Wells Fargo should have taken some earlier action prior to all other parties changing their position in reliance of Wells Fargo's inaction. Where multiple other parties change their position in reliance of the inaction of another, such as here, equity will step in prevent the party who has not acted diligently, and with unclean hands from creating or imposing an inequitable situation upon those who have acted diligently at all times. None of the other parties to this action would have changed their position had Wells Fargo properly taken diligent steps to assert their right to challenge the tax sale. Thus, the doctrines of laches and unclean hands will bar Wells Fargo from having the result that it seeks in the instant action.

This Court finds that Equity rewards the diligent. See *Collins v. Sigmon*, 299 S.C. 464, 468, 385 S.E.2d 835, 837-38 (1989) (applying the ancient maxim "equity aids the vigilant and diligent" and not those who sleep on their rights). If the tax sale were voided, this Court would be embracing an inequitable solution for all other parties, especially Mooring, and that is a result that cannot be allowed to occur. The South Carolina Supreme Court has stated:

"Under the doctrine of laches, if a party, knowing his rights, does not seasonably assert them, but by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position then equity will ordinarily refuse to enforce those rights."

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
HOPE BLACKLEY

King v. James, 388 S.C. 16 (2010).

Further, the party seeking to establish laches must show: (1) a delay; (2) that was unreasonable under the circumstances; and, (3) prejudice. *Id.* The Defendants have each established that Wells Fargo delayed pursuing its rights and that the delay would result in prejudice to the Defendants. Therefore, based on the foregoing this Court finds that equity requires that the tax sale stand as valid.

II. Quiet Title should be granted to Mooring.

Based on the above holding that the tax sale is valid, and because all other possible parties holding an interest in the Subject Property were presented with notice of and given an opportunity to be heard as it pertains to the Counterclaim for Quiet Title, this Court finds that the action for Quiet Title should be granted in Mooring's favor. Mooring's Title in the Subject Property is free and clear of any and all encumbrances.

IT IS THEREFORE ORDERED THAT:

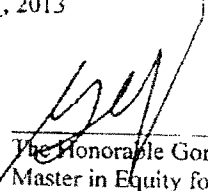
1. The tax sale of the Subject Property to Mooring is upheld as valid and enforceable based on the principles of equity espoused herein;
2. That any and all claims by Wells Fargo surrounding the validity of the tax sale are denied, and hereby dismissed ~~with prejudice~~ *[initials]*;
3. That the other claims contained in Wells Fargo's Complaint regarding the payment to Wells Fargo of any overage are denied, and hereby dismissed ~~with prejudice~~ *[initials]*;
4. That Mooring's title in the Subject Property be known by all to be free and clear of any and all defects; and,

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
M. HOPE BLACKLEY

5. That the Crossclaims by Spartanburg County against the Rutherfords be dismissed as moot based on the validity of the tax sale.

AND IT IS SO ORDERED.

This 5th day of March, 2013


The Honorable Gordon G. Cooper
Master in Equity for Spartanburg County

Spartanburg, South Carolina

FILED COPY
M. Hope Blackley
CLERK OF COURT
SPARTANBURG COUNTY
BY: [Signature] bcc
DATED: 3/16/13

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 MAR -6 AM 10:00
M. HOPE BLACKLEY

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 10 - CP - 42 - 5798

Wells Fargo Bank, N.A., as trustee for Option
One Mortgage Loan Trust 2000-D, Asset Backed
Certificates Series 2000-D

Mooring Secured Liquidity, Randy S. and Tara P. Rutherford,
Spartanburg County Tax Collector, and Sherman Acquisitions

PLAINTIFF(S)

DEFENDANT(S)

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), S.C.R.C.P.; ☐ Rule 41(a), S.C.R.C.P. (Vol. Non-suit); ☐ Rule 43(k), S.C.R.C.P. (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), S.C.R.C.P.; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____
- NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See Attached order. (Formal order to follow)
Statement of Judgment by the Court:

Dated at Spartanburg, South Carolina, this 10th day of June, 2013.

HONORABLE GORDON G. COOPER
Master in Equity for Spartanburg County

This judgment was entered on the 11 day of June, 2013, and a copy mailed first class this 11 day of June, 2013 to attorneys of record or to parties as follows:

Sean M. Foerster, Esquire
Rogers, Townsend & Thomas, PC
Post Office Box 100200
Columbia, SC 29202

Max T. Hyde, Jr., Esquire
Hyde Law Firm, P.A.
753 E. Main Street, Suite One
Spartanburg, SC 29302

John H. Harris, Esquire
Spartanburg County Attorney's Office
Post Office Box 5666
Spartanburg, SC 29304

David Ingalls, Esquire
Post Office Box 2196
Spartanburg, SC 29304

Attorney for the Plaintiff(s)

Attorney for the Defendant(s)

SCCA SCRCP Form 4 Revised 06/2008

M. Hope Brackley
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Wells Fargo Bank, N.A., as Trustee)
For Option One Mortgage Loan Trust)
2000-D, Asset Backed Certificates,)
Series 2000-D.)

Plaintiffs,)

vs.)

Mooring Secured Liquidity, Randy S)
and Tara P. Rutherford, Spartanburg)
County Tax Collector, and Sherman)
Acquisitions,)

Defendants.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

C.A. No.: 2010-CP-42-5798

ORDER

This action came before the Court on the Plaintiff's Motion to Reconsider this Court's final Order of March 6, 2013, pursuant to Rule 59(e), SCRPC at a hearing on May 29, 2013. Sean M. Foerster, Esquire, appeared on behalf of the Plaintiff, Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Wells Fargo"). Max T. Hyde, Jr., Esquire, and Alexander P. Lewis, Esquire, appeared on behalf of Defendant Mooring Secured Liquidity ("Mooring"). David Ingalls, Esquire, appeared on behalf of Defendants Randy S. and Tara P. Rutherford ("the Rutherfords"). John H. Harris, Esquire, appeared on behalf of Defendant Spartanburg County Tax Collector ("Spartanburg County").

The Court has reviewed the submissions of the parties and the arguments of counsel, and for the reasons hereinafter set forth, the Plaintiff's motion is DENIED.

2013 JUN 11 11:20 AM
FILED
CLERK OF COURT
#12

STANDARD OF REVIEW

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" Arnold v. State, 309 S.C. 157, 172 (1992). A Rule 59(e) motion is not a vehicle through which a party can inject new issues for the court to pass on, not a way to get new arguments in through the back door. See Hickman v. Hickman, 301 S.C. 455, 456 (Ct. App. 1990). Reconsideration of a judgment pursuant to Rule 59(e) is an "extraordinary remedy which should be used sparingly." Pacific Ins. Co. v. Am. Nat. Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). Accordingly, such motions will not be granted absent "highly unusual circumstances." McDowell v. Calderon, 197 F.3d 1253, 1255 (9th Cir. 1999). See also U.S. ex rel. Becker v. Westinghouse Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2002) ("[m]ere disagreement" with the court's ruling will not support Rule 59(e) relief).

Relief under Rule 59(e) is only considered under three grounds: "(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Pacific Ins. Co., 148 F.3d at 403. The purpose of Rule 59(e) is not "to give an unhappy litigant one additional chance to sway the judge." E.g. Phillips v. McKie, C.A. No. 1:12-438-CMC-SVH, 2012 U.S. Dist. LEXIS 138562 (D.S.C. Sept. 25, 2012) (citing Atkins v. Marathon LeTourneau Co., 130 F.R.D. 625 (S.D. Miss. 1999)). Likewise, Rule 59(e) motions may not be used to raise arguments which could have been raised prior to the issuance of the judgment, nor may they be used to argue a case under a novel legal theory that the party had the ability to address in the first instance. Perry v. Williams, C.A. No. 4:12-cv-1001-TLW, 2012 U.S. Dist. LEXIS 150477 (D.S.C. Oct. 19, 2012).

(quoting Russell v. Delco Remy Div of Gen. Motors Corp., 51 F.3d 746, 749 (7th Cir. 1995))
(quotations omitted).

CONCLUSIONS OF LAW

Wells Fargo seeks to alter or amend this Court's March 6, 2013. Order on five issues. First, Wells Fargo asks that Court to reverse its Order barring Wells Fargo's Complaint on the doctrine of laches. Second, Wells Fargo asks the Court to reverse its Order barring Wells Fargo's Complaint on the doctrine of unclean hands. Third, Wells Fargo asserts that the Court erred in not issuing a ruling on the Tax Collector's alleged violation of a Federal Bankruptcy stay. Fourth, Wells Fargo asserts that the Court erred in not issuing a ruling on the alleged use of artificial deadlines by the Tax Collector in its notice to the Rutherfords. Finally, Wells Fargo challenges the Court's analysis on the equities that have been presented in the instant case. The Court finds that Wells Fargo has offered no new argument and as such has failed to set forth a legitimate basis for post judgment relief, and its instant Motion is therefore denied.

With respect to Wells Fargo's challenge to the Court's holding on the doctrine of laches, the Court finds no basis to disturb the holding. The Court properly determined in its March 6, 2013 Order that Wells Fargo's conduct surrounding the tax sale at issue in the case *sub judice* created prejudice to each of the Defendants, especially Defendant Mooring Secured Liquidity. While Plaintiff's Counsel has taken issue with this Court's ruling, they have failed to raise any proper grounds upon which relief can be given. The Court has carefully considered the arguments of counsel in post-judgment briefs, and at the May 29th hearing, and finds no error of law exists in its holding regarding the application of the doctrine of laches based on the facts and equities that have been presented.

FILED
#3
[Signature]

As to the challenge by Wells Fargo that the Court's March 6, 2013, Order improperly applied the doctrine of unclean hands to the instant case, the Court finds no basis to disturb its holding. The Court properly determined that the conduct of Wells Fargo as it relates to the tax sale at issue in this case rose to such a level as to bar the Plaintiff's instant action as they have come before this Court with unclean hands. Again, while Plaintiff's Counsel has taken issue with this Court's ruling, they have failed to raise any proper grounds upon which post judgment relief can be given. The Court has carefully considered the arguments of counsel in post-judgment briefs, and at the May 29th hearing, and finds no error of law exists in its holding as to the application of the doctrine of unclean hands based on the facts and equities presented.

The Court finds that the March 6, 2013, Order properly withheld issuing any ruling on the alleged violation of the bankruptcy stay and the alleged artificial deadlines in the tax notices. Neither of these issues should be reached or ruled upon in light of this Court's holding that the Plaintiff's action itself is barred by the doctrines of laches and unclean hands. The Court issued no ruling because it would be improper for the Court to do so.

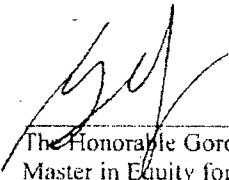
Finally, Wells Fargo seeks reconsideration of the Court's application of the equities that have been presented in the instant litigation. The Court carefully considered all evidence and facts that were presented throughout the course of the instant litigation, and properly determined that the conduct of Wells Fargo created a situation where to grant Wells Fargo the relief it sought would create an inequitable and prejudicial result on the Defendants, especially Defendant Mooring Secured Liquidity. Therefore, the Court finds that no error of law exists to overturn the Court's rulings in its Order of March 6, 2013.

IT IS THEREFORE ORDERED THAT: Plaintiff's Motion to Alter or Amend the Court's March 6, 2013, Order is **DENIED**.

AND IT IS SO ORDERED.

This 10th day of June, 2013

Spartanburg, South Carolina



The Honorable Gordon G. Cooper
Master in Equity for Spartanburg County

A CERTIFIED COPY
M. Hope Beasley
CLERK OF COURT
SPARTANBURG COUNTY
BY: [Signature]
DATED 10-11-13

FILED
JUN 11 11 26 AM
#5
AK

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One Mortgage
Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D,
Plaintiff(s)

vs.

Mooring Secured Liquidity, Randy S. Rutherford; and Tara P.
Rutherford;
Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2010-CP-42-5798

Submitted By:

Sean M. Foerster (SC Bar # 77466)
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, SC 29202-3200
(803) 771-7900 - Tel. (803) 343-7017 - Fax

sfoerster@rtt-law.com

ATTORNEYS FOR THE PLAINTIFF

505052-01661

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20 -CP- ☐ Notice/File Med Mal (230) ☐ Other (299)	Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☐ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Other (399)	Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☒ Other (499)
Inmate Petitions ☐ PCR (500) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	Judgments/Settlements ☐ Death Settlement (700) ☐ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Transfer of Structured Settlement Payment Rights Application (760) ☐ Other (799)	Administrative Law/Relief ☐ Reinstate Driver's License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture-Petition (840) ☐ Forfeiture-Consent Order ☐ Other (899)	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Public Service Commission (990) ☐ Employment Security Comm. (991) ☐ Other (999)
Special/Complex /Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) ☐ Other (699)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650) ☐ Sexual Predator (610)		

Submitting Party Signature: _____

Date: 10-29-10

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act.
S.C. Code Ann. § 15-36-10 et seq.

SCCA / 234 (01/2010)

2010LP4202066

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

DOCKET NO.

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

2010-CP-42-5798

Plaintiff,

LIS PENDENS
(Set Aside Tax Sale)
(Non Jury)

vs.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford;

Defendants.

(505052-0165) SMF)

NOTICE IS HEREBY GIVEN THAT an action has been or will be commenced in this Court upon complaint of the above-named Plaintiff against the above-named Defendants to set aside the tax sale of real property, which was formerly owned by Randy S. Rutherford and Tara P. Rutherford and is subject to a mortgage given by Randy S. Rutherford and Tara P. Rutherford to Option One Mortgage Corporation dated November 8, 2000, and recorded in the Office of the RMC/ROD for Spartanburg County on November 15, 2000, in Mortgage Book 2404 at Page 553. This mortgage was subsequently assigned to the Plaintiff herein by an Assignment of Mortgage dated January 8, 2007, and recorded on January 23, 2007, in Mortgage Book 2007 at Page 3290.

The premises covered and affected by this action were, at the time of the filing of this notice, described as follows:

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

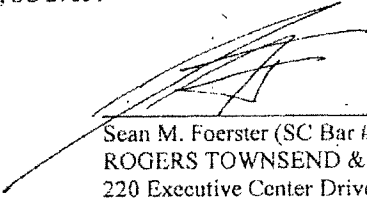
This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed of Durham Construction Company, Inc. dated June 16, 1998 and recorded on June 18, 1998 in Book 68-A at Page 961 in the Office of the RMC for Spartanburg County, South Carolina.

This being the identical property conveyed by Stephen B. Ford, Interim Delinquent Tax Collector for Spartanburg County, to Mooring Secured Liquidity by Tax Deed dated January 15, 2010, and recorded on March 23, 2010, in Deed Book 2010 at Page 10970 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

NOV 1 10 2010

Property Address: 327 Palmetto Circle
Greer, SC 29651

TMS# 5-13-08-039.00



Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive - Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sfoerster@rtt-law.com

Attorneys for the Plaintiff Wells Fargo Bank, N.A., as
Trustee for Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D
Rogers Townsend & Thomas, PC and its staff are debt collectors.

October 29, 2010

916 02 1-2010

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

vs.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford;

Defendants.

(503052-01661 SMF)

IN THE COURT OF COMMON PLEAS

DOCKET NO.

2010-CP-42-5798

SUMMONS AND NOTICES

(Set Aside Tax Sale)

(Non Jury)

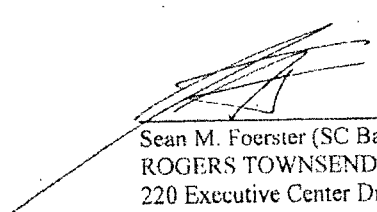
TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 220 Executive Center Drive, Suite 109 (29210), Post Office Box 100200, Columbia, South Carolina 29202, within thirty (30) days after the service hereof, exclusive of the day of such service, except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master in equity/special referee, pursuant to Rule 53, of the South Carolina Rules of Civil Procedure.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff.



Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive - Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sfoerster@rtt-law.com

Attorneys for the Plaintiff Wells Fargo Bank, N.A., as
Trustee for Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D
Rogers Townsend & Thomas, PC and its staff are debt collectors

October 29, 2010

2010 OCT 29 PM 3:15

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

vs.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford;

Defendants.

(505052-0165) SMI

IN THE COURT OF COMMON PLEAS

DOCKET NO.

2010-CP-42-5798

COMPLAINT
(Set Aside Tax Sale)
(Non Jury)

Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff"), complaining of Defendants, Mooring Secured Liquidity, Randy S. Rutherford, and Tara P. Rutherford, named herein, would respectfully show unto this Honorable Court:

JURISDICTION AND VENUE

1. This is an action to set aside a tax sale of real property in Spartanburg County, South Carolina.
2. Pursuant to S.C. Code Ann. § 33-15-101, Plaintiff is a corporation or other legal entity doing business in the State of South Carolina.
3. Defendant Mooring Secured Liquidity, on information and belief, is a company doing business in the state of Massachusetts.
4. Defendants, Randy S. Rutherford and Tara P. Rutherford, on information and belief, are residents and citizens of Spartanburg County, South Carolina.
5. The real property that is the subject of this action ("subject property") is situate in Spartanburg County, South Carolina, and is described as:

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed of Durham Construction Company, Inc. dated June 16, 1998 and recorded on June 18, 1998 in Book 68-A at Page 961 in the Office of the RMC for Spartanburg County, South Carolina.

This being the identical property conveyed by Stephen B. Ford, Interim Delinquent Tax Collector for Spartanburg County, to Mooring Secured Liquidity by Tax Deed dated January 15, 2010, and recorded on March 23, 2010, in Deed Book 2010 at Page 10970 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

Property Address: 327 Palmetto Circle
Greer, SC 29651

TMS# 5-13-08-039.00

6. On November 8, 2000, Randy S. Rutherford and Tara P. Rutherford made, executed, and delivered a promissory note ("Note") to Option One Mortgage Corporation in the principal sum of \$110,700.

7. In order to secure the payment of the Note according to the terms and conditions thereof, Randy S. Rutherford and Tara P. Rutherford made, executed, and delivered unto Option One Mortgage Corporation a certain real estate mortgage ("Mortgage") covering the subject property. The Mortgage was signed, witnessed and probated November 8, 2000; thereafter, the Mortgage was recorded in the Office of the Register of Deeds for Spartanburg County on November 15, 2000, in Mortgage Book 2404 at Page 553.

8. The Mortgage was subsequently assigned to Plaintiff by assignment dated January 8, 2007, and recorded on January 22, 2007, in Mortgage Book 2007 at Page 3290.

9. Plaintiff filed a foreclosure action against Randy S. Rutherford and Tara P. Rutherford on January 4, 2007, in the Spartanburg County Court of Common Pleas in civil action # 07-CP-42-0039 ("foreclosure action").

10. On February 27, 2007, a Judgment of Foreclosure and Sale was entered.

11. On March 29, 2007, Randy S. Rutherford and Tara P. Rutherford filed for Chapter 13 bankruptcy. (See *In re Randy Steven Rutherford and Tara Patrice Rutherford*, Case # 07-01612-hb, United States Bankruptcy Court, District of South Carolina.)

12. On May 9, 2008, the bankruptcy court granted Plaintiff relief from the automatic stay provision of 11 U.S.C. § 362. Plaintiff then proceeded with the foreclosure action.

13. A Supplemental Order Post Judgment was entered in the foreclosure action against Randy S. Rutherford and Tara P. Rutherford on April 7, 2010.

14. Randy S. Rutherford and Tara P. Rutherford's bankruptcy case was dismissed on January 15, 2010, and the bankruptcy action was terminated on January 26, 2010.

FOR A FIRST CAUSE OF ACTION
(Set Aside Tax Sale)

15. Plaintiff incorporates by reference all previous allegations.
16. On March 17, 2008, while the Rutherfords' bankruptcy action was still pending, the Spartanburg County Treasurer issued an execution commanding the Spartanburg County Tax Collector ("Tax Collector") to levy by distress and then sell the subject property for unpaid real estate taxes for the tax year of 2007.
17. On November 3, 2008, the Tax Collector sold the subject property at a tax sale to Mooring Secured Liquidity for \$30,000, resulting in an overage that is currently being held by the Tax Collector.
18. At the time of the tax sale, the Mortgage referred to above was a first priority lien on the subject property, and Plaintiff, as holder of the Mortgage and unpaid Note it secured, had an interest in the subject property by virtue of the mortgage lien.
19. The Tax Collector sold the subject property at tax sale during the pendency of the bankruptcy action and in violation of the automatic stay imposed by pursuant to 11 U.S.C. § 362.
20. After the expiration of the redemption period, the Tax Collector issued a Tax Deed to Mooring Secured Liquidity.
21. Aside from selling the property in violation of 11 U.S.C. § 362, the Tax Collector has issued the Tax Deed without having complied with the South Carolina statutes and the mandates of the due process clauses of the United States Constitution and the South Carolina Constitution in the following particulars:
 - a. By including deadlines and language in the delinquent tax notices that gave the impression that the delinquent taxes had to be paid before the date of the tax sale, thereby wrongfully creating an artificial deadline for payment of the delinquent taxes in violation of the plain language of S.C. Code Ann. § 12-51-40;
 - b. By failing to put the correct redemption deadline on the notice of the approaching end of the redemption period to the Calls as is required by S.C. Code Ann. § 12-51-120; and
 - c. On information and belief, by failing to advertise the tax sale of the subject property in a manner that complied with S.C. Code Ann. § 12-51-40.
22. In South Carolina, all requirements of the law leading up to tax sales are to be regarded as mandatory and are to be strictly enforced.
23. Because the Tax Collector did not strictly comply with the mandatory statutory requirements and because those requirements are to be strictly enforced in South Carolina, there were fundamental and fatal defects in the tax proceedings that render the proceedings, the auction, the tax sale,

and any subsequent issuance of a Tax Deed to the subject property as a result of the tax sale void *ab initio*.

24. Due to the Tax Collector's violation of the automatic bankruptcy stay imposed by 11 U.S.C. § 362 and to the defects in the tax sale proceedings, Plaintiff is entitled to a declaration of the Court that:

- a. The November 3, 2008, auction and tax sale of the subject property is void, of no effect, and is hereby set aside;
- b. Any subsequent issuance of a Tax Deed to the subject property to Mooring Secured Liquidity, or any deeds of the subject property to any subsequent purchasers or owners of the subject property, is void *ab initio*;
- c. Mooring Secured Liquidity has no rights, claim, or interest in the subject property; and
- d. Randy S. Rutherford and Tara P. Rutherford hold sole and exclusive title, rights, and interest in the subject property, but such title, rights, and interest are subject to Plaintiff's first priority mortgage lien and the Judgment of Foreclosure and Sale entered February 27, 2007, and the Supplemental Order Post Judgment entered on April 7, 2010 in civil action # 07-CP-42-0039.

FOR A SECOND CAUSE OF ACTION
(Contractual Right to Tax Sale Overage)

25. Plaintiff incorporates by reference all previous allegations.

26. S.C. Code Ann. § 12-51-120 provides that "[a]ny remaining overage [from a tax sale] belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law," and further provides that "[t]hese sums are payable ninety days after the execution of the deed unless a judicial action is instituted during that time by another claimant."

27. However, under the terms of the Mortgage, Randy S. Rutherford and Tara P. Rutherford assigned their rights to the overage from the tax sale to Plaintiff.

28. Further, Randy S. Rutherford and Tara P. Rutherford defaulted under the terms of the Note and Mortgage and failed to cure the default.

29. Plaintiff obtained a Judgment of Foreclosure and Sale against Randy S. Rutherford and Tara P. Rutherford entered February 27, 2007, as well as a Supplemental Order Post Judgment entered on April 7, 2010 in civil action # 07-CP-42-0039. The total judgment amount against the Rutherfords is \$122,766.94, well in excess of the amount of overage from the tax sale.

30. In the event the tax sale is not voided, Plaintiff, as owner and holder of the Note and Mortgage, is therefore entitled to the entire amount of overage currently being held by the Tax Collector.

FOR A THIRD CAUSE OF ACTION
(Equitable Right to Tax Sale Overage)

31. Plaintiff incorporates by reference all previous allegations.

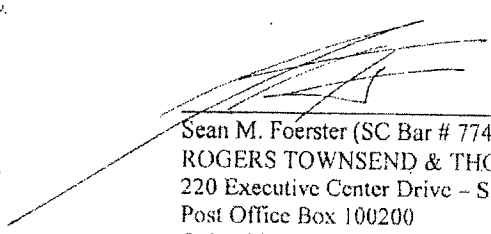
32. Because the real property which was sold at tax sale was security for an obligation owed by Randy S. Rutherford and Tara P. Rutherford to Plaintiff at the time of the tax sale, and because Plaintiff has a foreclosure judgment against them for \$122,766.94, Plaintiff is entitled to an equitable lien on the entire amount of the overage in the event the tax sale is not voided.

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

- a. Declare that the auction and tax sale of the subject property on November 3, 2008, be voided for violation of the automatic bankruptcy stay imposed by 11 U.S.C. § 362 and for failure to comply with the material provisions of South Carolina state law;
- b. Declare that the Tax Deed issued by the Spartanburg County Tax Collector to Mooring Secured Liquidity, or any deeds of the subject property to any subsequent purchasers or owners of the subject property, be null and void and of no force and effect;
- c. Require Spartanburg County to refund the full amount of the tax sale bid, plus statutory interest, to Mooring Secured Liquidity upon the voiding of the tax sale;
- d. Restrain and enjoin Mooring Secured Liquidity, and any agents, servants, employees, or assigns claiming through them, from damaging, destroying, selling, concealing, disposing of, or using, so as to substantially impair the value of, the subject property during the pendency of this action or until further order of the Court;
- e. Declare that Randy S. Rutherford and Tara P. Rutherford hold sole and exclusive title, rights, and interest in the subject property, but that such title, rights, and interest are subject to Plaintiff's first priority mortgage lien, the Judgment of Foreclosure and Sale entered February 27, 2007, and the Supplemental Order Post Judgment entered on April 7, 2010 in civil action # 07-CP-42-0039;
- f. In the event that the tax sale and the Tax Deed to Mooring Secured Liquidity are not voided, grant Plaintiff sole right to and possession of any overage from the Tax Sale;
- g. Restrain and enjoin the Tax Collector from distributing the overage during the pendency of this action or until further order of the Court;
- h. Award Plaintiff all costs and expenses of this action and reasonable attorneys' fees; and
- i. Grant such other and further relief as is just and proper.

[signature on the following page]

Complaint
Wells Fargo Bank, N.A., as Trustee v.
Mooring Secured Liquidity et al.



Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive - Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sfoerster@rtt-law.com

Attorneys for the Plaintiff Wells Fargo Bank, N.A., as
Trustee for Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D
Rogers Townsend & Thomas, PC and its staff are debt collectors.

October 29, 2010

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A. as Trustee for Option
One Mortgage Loan Trust, 2000-D, Asset
Backed Certificates, Series 2000-D,

Plaintiffs,

v.

Mooring Secured Liquidity, Randy S.
Rutherford, and Tara P. Rutherford,

Defendants.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

CIVIL ACTION 2010-CP-42-5798

ANSWER AND COUNTERCLAIM
OF DEFENDANTS
RANDY AND TARA RUTHERFORD

JURY TRIAL DEMANDED

The Defendants, Randy S. Rutherford and Tara P. Rutherford respond to the allegations in the Plaintiffs' Complaint as follows:

1. The Defendants deny each and every allegation of the Complaint unless specifically admitted, modified, or explained herein.
2. The Defendants admit paragraphs 1, 4, 7, 8, 9, 10, 11, 20, 26, and 29 of the Complaint.
3. The Defendants deny paragraphs 17, 18, 19, 22, 23, 24, 27, 28, 30, and 32 of the Complaint.
4. The Defendants have no information sufficient to form a belief as to paragraphs 2, 3, 5, 6, 12, 13, 14, 15, and 16 of the Complaint and thereby deny the same.

FOR A SECOND DEFENSE
(Statute of Limitations)

5. That §12-51-160 of the S.C. Code of Laws, as amended, require filing and service of the action by this Plaintiff within two (2) years from the date of sale. That the Plaintiff did not serve the Complaint until November 9, 2010, six (6) days past the sales date and the claim accordingly is barred by the (2) two-year statute of limitations. The Defendants accordingly plead the statute of limitations as an affirmative defense to the Plaintiff's Complaint.

FOR A THIRD DEFENSE

(Laches)

6. That the Plaintiff has been guilty of laches by not bringing this action within a reasonable time, in that Plaintiff served the Complaint more than two (2) years from the sales date. Such unreasonable delay in bringing this action has prejudiced the Defendants and accordingly the Defendants assert laches as an affirmative defense.

FOR A FOURTH DEFENSE

(Estoppel by Conduct)

7. That these Plaintiff represented to the Defendants that said taxes due and were assured by a representative of the Plaintiff that the taxes would be "taken care of."

8. That, in fact, the taxes were not taken care of.

9. That Plaintiff, by their actions, conduct, words, or silence which amounts to a representation, on other concealment of material facts, have caused the Defendants to alter their position to their prejudice or injury and should be estopped from bringing their claims or recovery by the foregoing conduct and such constitutes a complete defense to all claims.

FOR A FIFTH DEFENSE

(Unclean Hands)

10. That the Plaintiff acted wrongfully with respect to the matters alleged in the Complaint in that the Plaintiff was notified of said taxes due and did not pay the taxes and misled the Defendants to believe that it had complied with those obligations to pay said taxes. Thus, the Plaintiff is barred from recovery due to its own unclean hands.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM

(Negligence)

11. The allegations contained in above paragraphs are realleged and incorporated herein by reference.

12. The Plaintiff owed a duty of care to the Defendants in paying taxes due on their home.

13. The Plaintiff breached its duty owed to the Defendants in failing to pay taxes due on their

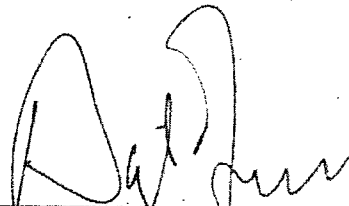
home after notice.

14. As a direct and proximate result of the Plaintiffs negligence, the Defendants have suffered injuries and damages, including but not limited to the loss of their home and money damages in an amount to be determined at trial.

WHEREFORE, the Defendants respectfully request that the court award the following relief:

- (a) Dismiss the Plaintiffs' Complaint with prejudice;
- (b) Declare said Tax Sale valid;
- (c) Declare that the Plaintiffs are entitled to no recovery of said overage funds;
- (d) Grant the Defendants trial by jury on all issues which are so triable;
- (e) Award damages in favor of the Defendants and against the Plaintiff in an amount to be determined at trial;
- (f) Tax the costs of this action against the Plaintiff;
- (g) Award attorney's fees to the Defendants; and
- (h) Grant such other and further relief in favor of the Defendants as the court deems just and appropriate.

This 6 day of December, 2010.



DAVID G. INGALLS, (SC Bar #2888)
Attorney for Defendants Randy S. Rutherford and
Tara P. Rutherford

David G. Ingalls Law Office
409 Magnolia Street
PO Box 2196
Spartanburg, South Carolina 29304
(864)-573-5149 - telephone
(864)-948-1403 - fax

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
2010-CP-42-5798

Wells Fargo Bank, N.A. as Trustee for
Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D,

Plaintiff,

vs.

Mooring Secured Liquidity, Randy S.
Rutherford, and Tara P. Rutherford,

Defendants.

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that on the 7th day of December, 2010, I caused to be served a copy of the following document(s):

1. Answer and Counterclaim of Randy S. Rutherford and Tara P. Rutherford by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail, with return address clearly shown, as set forth below to the following person(s):

Sean M. Foerster, Esq.
Rogers Townsend & Thomas PC
P. O. Box 100200
Columbia, SC 29202

Melinda E. Cantrell
Melinda E. Cantrell
Legal Assistant to David G. Ingalls
Attorney for the Plaintiff
409 Magnolia Street
Spartanburg, SC 29303

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

vs.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford,

Defendant(s).

(505052-01661 SMF)

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2010-CP-42-5798

REPLY

Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff"), by way of Reply to the Answer and Counterclaim of Defendants Randy S. Rutherford and Tara P. Rutherford ("Defendants") herein, would respectfully show unto the Court as follows:

FOR A FIRST DEFENSE

(Qualified General Denial)

1. That each and every allegation contained in the Answer and Counterclaim which is not specifically admitted or otherwise qualified is denied.

2. Paragraphs 1 through 10 do not require a response. To the extent that a response is required, they are denied.

As to the First Counterclaim

3. No response to Paragraph 11 is necessary, but to the extent a response is deemed required, it is denied.

4. Paragraph 12 is denied.

5. Paragraph 13 is denied.

6. Paragraph 14 is denied.

7. The subsequent allegations and/or the prayers for relief as set forth in the Answer and Counterclaim following the "WHEREFORE" provision are denied.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010-4-14 PM 3:02

8. Plaintiff denies that any issues in this case are triable of right by a jury and contests Defendants' demand for a jury trial.

FOR A SECOND DEFENSE
(Failure to State a Claim)

9. Defendants' counterclaim fails to state facts sufficient to constitute a cause of action upon which the Court can grant relief.

FOR A THIRD DEFENSE
(Claim Barred by Statutes of Limitation)

10. Defendants' counterclaim is barred by the applicable statutes of limitation.

FOR A FOURTH DEFENSE
(Unclean Hands)

11. Any duties owed by Plaintiff to Defendants, the existence of which Plaintiff denies, would have derived from the Note and Mortgage. Defendants, however, breached that Note and Mortgage. Plaintiff filed a foreclosure action against Defendants on January 4, 2007, in the Spartanburg County Court of Common Pleas in civil action # 07-CP-42-0039 ("foreclosure action"). On February 27, 2007, a Judgment of Foreclosure and Sale was entered against Defendants. A Supplemental Order Post Judgment was entered in the foreclosure action against Defendants on April 7, 2010. Because Defendants breached the Note and Mortgage, and because a judgment of foreclosure and sale was entered against them almost 4 years ago, they have unclean hands and are barred from complaining about any deficiencies in the origination, servicing, or collection of their mortgage loan.

FOR A FIFTH DEFENSE
(Waiver, Estoppel, and Laches)

12. Defendants' counterclaim is barred by the doctrines of waiver, estoppels, and laches.

FOR A SIXTH DEFENSE
(No Damages)

13. But for Defendants' last-second filing of a Chapter 13 bankruptcy petition on March 29, 2007, and the tax sale of the subject property during the pendency of the bankruptcy action, the subject property would have been sold at a foreclosure sale already. On May 9, 2008, the bankruptcy court

granted Plaintiff relief from the automatic stay provision of 11 U.S.C. § 362, and Plaintiff can now proceed to enforce the judgment of foreclosure and sale. Therefore, Defendants have suffered no loss or damages of any kind from the tax sale of the subject property.

FOR A SEVENTH DEFENSE
(Assumption of Risk)

14. Any damages sustained by Defendants were the result of conditions and risks the nature and extent of which were fully appreciated by Defendants, and they voluntarily and knowingly exposed themselves to those conditions or risks.

FOR AN EIGHTH DEFENSE
(Contributory/Comparative Fault)

15. Any damages sustained by Defendants were caused and occasioned by their own negligence, recklessness, willfulness and wantonness or other fault, in the following particulars:

- a. In failing to make their mortgage payments;
- b. In failing to pay the taxes on the subject property; and
- c. In failing to exercise that degree of care and caution that a reasonable and prudent person would have exercised under the same or similar circumstances.

16. The fault attributable to Defendants is a complete bar to their counterclaim.

17. The fault attributable to Defendants was greater than any alleged fault of Plaintiff or others and is a complete bar to Defendants' counterclaim.

18. The fault attributable to Defendants combined with, contributed to, or concurred in any alleged fault of Plaintiff or others and acted as a proximate cause of the damages allegedly sustained and is therefore a complete bar to Defendants' counterclaim.

19. If Defendants are entitled to a recovery, such recovery should be reduced in proportion to the fault attributable to them.

20. In any event, if Defendants are entitled to a recovery, Plaintiff specifically requests and moves that such liability should be assessed in accordance with S.C. Code Ann. § 15-38-15, if applicable. In addition and in the alternative, Plaintiff asserts its right under due process of law to have liability, if

any, assessed in proportion to the responsibility of each party for such liability and that the amount of recoverable damages, if any, be assessed in accordance with such apportionment.

FOR A NINTH DEFENSE
(Right to Recoupment and to Repayment)

21. A Supplemental Order Post Judgment was entered in the foreclosure action against Defendants on April 7, 2010, in the amount of \$122,766.94. If the Court were to award any damages to Defendants, Plaintiff would be entitled to immediate receipt of those funds to help satisfy Defendants' judgment debt to Plaintiff.

FOR A TENTH DEFENSE
(Failure to Mitigate Damages)

22. Defendants failed to mitigate their damages, and this failure bars Defendants from recovering those damages that they could have prevented by the exercise of reasonable care.

FOR AN ELEVENTH DEFENSE
(No Standing)

23. On February 27, 2007, a Judgment of Foreclosure and Sale was entered against Defendants. A Supplemental Order Post Judgment was entered in the foreclosure action against Defendants on April 7, 2010. Defendants now lack standing to complain that Plaintiff owed some sort of duty to them to ensure that taxes were paid on the subject property.

FOR A TWELFTH DEFENSE
(Liability/Remedy Limitations)

24. Defendants' counterclaims and remedies are limited, restricted, or excluded by the provisions of the loan documents, including the Note and Mortgage. Further, Plaintiff's liability, if any, may be limited, restricted, or excluded by the rights, responsibilities, and liability of Defendants and/or third parties, either by contract, statute, or equity.

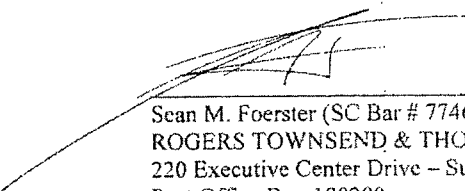
FOR A THIRTEENTH DEFENSE
(Non-waiver)

25. Plaintiff reserves and does not waive any additional or further defenses as may be revealed by additional information that may be acquired in discovery or otherwise.

PRAYER FOR RELIEF

WHEREFORE, having fully set forth its Reply to the Answer and Counterclaim, Plaintiff prays that this Honorable Court inquire into the matters at issue and:

1. Dismiss the counterclaim;
2. Grant Plaintiff judgment on its Complaint;
3. Award to Plaintiff reasonable attorney's fees and costs in accordance with the terms of the Note and Mortgage; and
4. Award to Plaintiff such other and further relief as may be just and proper.


Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive - Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sfoerster@rtt-law.com

Attorneys for the Plaintiff Wells Fargo Bank, N.A., as
Trustee for Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D
Rogers Townsend & Thomas, PC and its staff are debt
collectors.

January 3, 2011

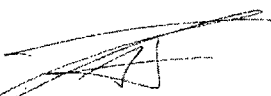
CERTIFICATE OF SERVICE BY MAIL
Case # 2010-CP-42-5798

I, the undersigned attorney, for the law firm of Rogers Townsend & Thomas, PC, do hereby certify that I have served a copy of the foregoing document upon counsel of record by U.S. Mail, postage prepaid, on January 3, 2011, at the following address(es)

Document Served: Reply

Counsel Served:

David C. Ingalls, Esquire
P.O. Box 2196
Spartanburg, SC 29304


Sean M. Foerster (SC Bar # 77466)

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Wells Fargo Bank, N.A., as Trustee
For Option One Mortgage Loan Trust
2000-D, Asset Backed Certificates,
Series 2000-D,

Plaintiff,

Vs.

Mooring Secured Liquidity; Randy S.
Rutherford; and Tara P. Rutherford,

Defendants.

IN THE COURT OF COMMON PLEAS

ANSWER AND COUNTERCLAIM

C.A. No.: 2010-CP-42-5798

Defendant Mooring Secured Liquidity, answering the Complaint of Plaintiff,
respectfully alleges and will show unto the Court as follows:

FOR A FIRST DEFENSE

1. Defendant Mooring Secured Liquidity lacks sufficient information to form a belief concerning the truth of the allegations contained in paragraphs 1 and 2 of the Complaint of this action and therefore denies the same.
2. Defendant Mooring Secured Liquidity admits the allegations contained in paragraph 3 of the Complaint of this action.
3. Defendant Mooring Secured Liquidity lacks sufficient information to form a belief concerning the truth of the allegations contained in paragraph 4 of the Complaint of this action and therefore denies the same.
4. Defendant Mooring Secured Liquidity admits the allegations contained in paragraph 5 of the Complaint of this action and therefore denies the same.

-
5. Defendant Mooring Secured Liquidity lacks sufficient information to form a belief concerning the truth of the allegations contained in paragraphs 6 through 9 of the Complaint of this action and therefore denies the same.
 6. Defendant Mooring Secured Liquidity admits the allegations contained in paragraph 10 of the Complaint of this action.
 7. Defendant Mooring Secured Liquidity lacks sufficient information to form a belief concerning the truth of the allegations contained in paragraphs 11 through 14 of Complaint of this action and therefore denies the same.
 8. Defendant Mooring Secured Liquidity denies the allegation contained in paragraph 15 of the Complaint of this action.
 9. Defendant Mooring Secured Liquidity admits the allegation contained in paragraph 17 of the Complaint of this action.
 10. Defendant Mooring Secured Liquidity denies the allegations contained paragraphs 18 and 19 of the Complaint of this action.
 11. Defendant Mooring Secured Liquidity admits the allegation contained in paragraph 20 of the Complaint of this action.
 12. Defendant Mooring Secured Liquidity denies the allegations contained in paragraphs 21 through 27 of the Complaint of this action and denies the same.
 13. Defendant Mooring Secured Liquidity admits the allegation contained in paragraph 28 of the Complaint of this action.
 14. Defendant Mooring Secured Liquidity lacks sufficient information to form a belief concerning the truth of the allegations contained in paragraphs 29 through 32 of this action and denies the same.

COUNTERCLAIMS

15. Defendant Mooring Secured Liquidity incorporates herein the allegations of its first defense that are not inconsistent herewith.
16. That Defendant Mooring Secured Liquidity is a company doing business in Spartanburg County, South Carolina.
17. That, on information and belief, Randy S. Rutherford and Tara P. Rutherford are citizens and residents of Spartanburg County, South Carolina.
18. That, on information and belief, Plaintiff Wells Fargo Bank, N.A. is a corporation or other legal entity doing business in Spartanburg County, South Carolina.
19. That this Court has subject matter jurisdiction over this action pursuant to the Code of Laws of South Carolina, 1976.
20. That by deed dated June 16, 1998, and recorded on June 18, 1998 in the office the Register of Deeds for Spartanburg County, South Carolina, in Deed Book 68A, Page 961, Durham Construction Company, Inc. conveyed to Defendants Randy S. Rutherford and Tara P. Rutherford the following described property, to-wit:

All that certain piece, parcel or lot of land with all improvements located thereon, situate, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot No. 25 on original plat of Palmetto Estates, prepared by Farley-Collins & Associates, dated August 7, 1968, and recorded in Plat Book 57, Page 518, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed from Durham Construction Company, Inc., dated June 16, 1998 and recorded on June 18, 1998 in Deed Book 68A Page 961 R.M.C. Office for Spartanburg County, S. C.

Address: 327 Palmetto Circle, Greer, South Carolina 29651
TMS # 5 13-08 039.00

21. That, on information and belief, Defendants Randy S. Rutherford and Tara P. Rutherford neglected to pay the real property taxes for the tax year 2007 levied and assessed against the property.
22. That, on information and belief, on November 3, 2008, following a tax execution to levy by distress and sell said property, and upon all required notices of delinquent taxes to Defendants and due advertisement, the Delinquent Tax Collector of Spartanburg County, South Carolina, during the usual hours of sale, did sell and received payment for said property and gave receipt therefore to Mooring Secured Liquidity, the highest bidder at such sale for the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), in accordance with Section 12-51-60, code of Laws of South Carolina, 1976, as amended.
23. That, on information and belief, the aforementioned execution and sale of the property was proper, and by deed dated January 15, 2010, and recorded on March 23, 2010, in the Office of the Register of Deeds for Spartanburg County, South Carolina, in Deed Book 95-V, at Page 404, the Tax Collector conveyed title to the property to Mooring Secured Liquidity.
24. That the duly assessed real property taxes for the tax year 2007, together with all assessments, penalties and costs, constituted a first lien in all cases whatsoever upon the property, and that the aforementioned tax lien was senior to and took priority over all liens, and that any liens on the Property were junior to and subordinate to the aforementioned tax lien.

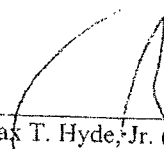
WHEREFORE, Defendant Mooring Secured Liquidity prays for the following:

- a. All claims alleged by Plaintiff be dismissed;

- b. Termination of any and all interest Plaintiff Wells Fargo Bank, N.A. and any and all claims Randy S. Rutherford and Tara P. Rutherford, their spouses, heirs, devisees, successors, assigns, and anyone or anything in the whole world claiming under their, irrespective of the nature of such claim, have in and to the Property, barring any future claims Plaintiff Wells Fargo Bank, N.A. or Defendants Randy S. Rutherford and Tara P. Rutherford may have in and to the Property.
- c. Awarding Defendant Mooring Secured Liquidity such other and further relief as this Court deems just and proper.

February 11, 2011

Spartanburg, South Carolina


Max T. Hyde, Jr. (SCB # 17014)
HYDE LAW FIRM, P.A.
517 E. St. John Street
Spartanburg, SC 29302
T: (864) 804-6330
F: (864) 804-6449
max@maxhydelawfirm.com
ATTORNEY FOR DEFENDANTS
MOORING SECURED LIQUIDITY

RECEIVED
FEB 11 2011
CLERK OF COURT
SPARTANBURG, SC

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

Wells Fargo Bank, N.A., as Trustee For
Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D,

CERTIFICATE OF SERVICE

C.A. No.: 2010-CP-42-5798

Plaintiff.)

Vs.)

Mooring Secured Liquidity; Randy S.
Rutherford, and Tara P. Rutherford,

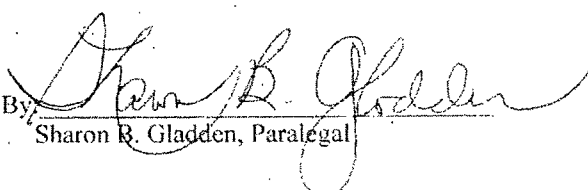
Defendants.)

The undersigned hereby certifies that she is employed in the Law Office of Hyde Law Firm, P.A., 517 E. St. John Street, Spartanburg, South Carolina, and is a person of such age and discretion as to be competent to serve papers.

That on February 11, 2011, she served a copy of Defendant Mooring Secured Liquidity's Answer and Counterclaims on the person hereinafter named by placing a copy in a postpaid envelope addressed to the person named below at the place and address stated below, and by depositing said envelope and contents in the United States Mail.

Sean M. Foerster, Esq.
Rogers Townsend & Thomas, PC
P. O. Box 100200
Columbia, SC 29202-3200

By


Sharon B. Gladden, Paralegal

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

vs.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2010-CP-42-5798

REPLY

(505052-01661 SMF)

Plaintiff, Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff"), by way of Reply to the Answer and Counterclaim of Defendant Mooring Secured Liquidity herein, would respectfully show unto the Court as follows:

FOR A FIRST DEFENSE

(Qualified General Denial)

1. That each and every allegation contained in the Answer and Counterclaim which is not specifically admitted or otherwise qualified is denied.

2. Paragraphs 1 through 14 do not require a response. To the extent that a response is required, they are denied.

As to the First Counterclaim

3. No response to Paragraph 15 is necessary, but to the extent a response is deemed required, it is denied.

4. Plaintiff is without information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 16; therefore, they are denied. A search on the South Carolina Secretary of State's website does not reveal any company named "Mooring Secured Liquidity" as being authorized to do business in South Carolina.

5. Paragraph 17 is admitted.

6. Paragraph 18 is admitted.

7. Paragraph 19 is admitted.

8. Plaintiff admits so many of the factual allegations contained in Paragraph 20 as may be found in the public records of Spartanburg County.

9. Paragraph 21 is admitted only to the extent that it alleges that Defendants Randy S. Rutherford and Tara P. Rutherford neglected to pay the real property taxes for the tax year 2007 assessed

1
against the property. All other allegations in Paragraph 21 are denied.

10. Paragraph 22 is admitted only to the extent that it alleges that on November 3, 2008, the Delinquent Tax Collector of Spartanburg County, South Carolina, during the usual hours of sale, did sell and received payment for said property and gave receipt therefore to Mooring Secured Liquidity, the highest bidder at such sale for the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00). All other allegations in Paragraph 22 are denied.

11. Paragraph 23 is admitted only to the extent that it alleges that by deed dated January 15, 2010, and recorded on March 23, 2010, in the Office of the Register of Deeds for Spartanburg County, South Carolina, in Deed Book 95-V, at Page 404, the Tax Collector conveyed title to the property to Mooring Secured Liquidity. All other allegations in Paragraph 23 are denied.

12. Paragraph 24 draws conclusions of law to which no response is necessary; to the extent a response is deemed necessary, Paragraph 24 is denied.

13. The subsequent allegations and/or the prayers for relief as set forth in the Answer and Counterclaim following the "WHEREFORE" provision are denied.

FOR A SECOND DEFENSE
(Failure to State a Claim)

14. Defendant's counterclaim fails to state facts sufficient to constitute a cause of action upon which the Court can grant relief.

FOR A THIRD DEFENSE
(Waiver, Estoppel, and Laches)

15. Defendant's counterclaim is barred by the doctrines of waiver, estoppels, and laches.

FOR A FOURTH DEFENSE
(Assumption of Risk)

16. Any loss sustained by Defendant was the result of conditions and risks the nature and extent of which were fully appreciated by Defendant, and it voluntarily and knowingly exposed itself to those conditions or risks.

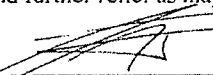
FOR A FIFTH DEFENSE
(Non-waiver)

17. Plaintiff reserves and does not waive any additional or further defenses as may be revealed by additional information that may be acquired in discovery or otherwise.

PRAYER FOR RELIEF

WHEREFORE, having fully set forth its Reply to the Answer and Counterclaim, Plaintiff prays that this Honorable Court inquire into the matters at issue and:

1. Dismiss the counterclaims;
2. Grant Plaintiff judgment on its Complaint;
3. Award to Plaintiff reasonable attorney's fees and costs; and
4. Award to Plaintiff such other and further relief as may be just and proper.


Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive – Suite 109 (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sfoerster@rtt-law.com

Attorneys for the Plaintiff Wells Fargo Bank, N.A., as
Trustee for Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D
Rogers Townsend & Thomas, PC and its staff are debt collectors.

March 14, 2011

CERTIFICATE OF SERVICE BY MAIL
Case # 2010-CP-42-5798

I, the undersigned attorney, for the law firm of Rogers Townsend & Thomas, PC, do hereby certify that I have served a copy of the foregoing document upon counsel of record by U.S. Mail, postage prepaid, on March 14, 2011, at the following addresses:

Document Served: Reply

Counsel Served:
Max T. Hyde, Jr., Esquire
Hyde Law Firm, P.A.
517 E. St. John Street
Spartanburg, SC 29302

David C. Ingalls, Esquire
P.O. Box 2196
Spartanburg, SC 29304


Sean M. Foerster (SC Bar # 77466)

IN THE COURT OF COMMON PLEAS

**DEFENDANT TAX
COLLECTOR'S ANSWER
TO COMPLAINT**

C.A. NO.: 2010-CP-42-05798

VS.

Defendants

FILED
CLERK OF COURT
JAN -8
2006

4. In response to the allegations in Paragraph 3, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

5. In response to the allegations in Paragraph 4, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

6. In response to the allegations in Paragraph 5, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

7. In response to the allegations in Paragraph 6, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

8. In response to the allegations in Paragraph 7, the Mortgage recorded in the Office of the Register of Deeds for Spartanburg County in Book 2404 at Page 553 speaks for itself; therefore, no answer is required. To the extent an answer is required and as to the remaining allegations, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

9. In response to the allegations in Paragraph 8, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same as Mortgage Book 2007 at Page 3290 is not a valid recordation number.

10. In response to the allegations in Paragraph 9, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

11. In response to the allegations in Paragraph 10, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

12. In response to the allegations in Paragraph 11, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

13. In response to the allegations in Paragraph 12, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

FILED
CLERK OF COURT
JUN-30 PM 3:06
A. ROPEBAUGHLEY

14. In response to the allegations in Paragraph 13, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

15. In response to the allegations in Paragraph 14, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

16. In response to the allegations in Paragraph 15, Defendant Tax Collector incorporates its responses to the preceding Paragraphs as if repeated herein.

17. In response to the allegations in Paragraph 16, the Defendant Tax Collector admits that the Spartanburg County Treasurer issued an execution to the Tax Collector to levy by distress and sell the subject property for unpaid real estate taxes for tax year 2007 and as to the remaining allegations the Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

18. In response to the allegations in Paragraph 17, Defendant Tax Collector admits that the property was sold at a tax sale on November 3, 2008 to Mooring Secured Liquidity for \$30,000 and denies the remaining allegations.

19. The allegations in Paragraph 18 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

20. In response to the allegations in Paragraph 19, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

21. The Tax Collector admits the allegations of Paragraph 20.

22. The allegations in Paragraph 21 and its subparts are denied, upon information and belief.

23. The allegations in Paragraph 22 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2008 JUN -8 PM 3:06
M. HOPE BLACKLEY

24. The allegations in Paragraph 23 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

25. The allegations in Paragraph 24 and its subparts call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

26. In response to the allegations in Paragraph 25, Defendant Tax Collector incorporates its responses to the preceding Paragraphs as if repeated herein.

27. The allegations in Paragraph 26 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

28. The allegations in Paragraph 27 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

29. In response to the allegations in Paragraph 28, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

30. In response to the allegations in Paragraph 29, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

31. The allegations in Paragraph 30 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

32. In response to the allegations in Paragraph 31, Defendant Tax Collector incorporates its responses to the preceding Paragraphs as if repeated herein.

FILED
CLERK OF COURT
JUN - 8 PM 3:06
M. HOPE BLANCHETT

33. The allegations in Paragraph 32 call for a legal conclusion to which no response is required. To the extent a response is required, Defendant Tax Collector does not have sufficient information to admit or deny the allegations therein so, therefore, the Tax Collector denies the same.

34. The allegations in the WHEREFORE portion of the Complaint and its subparts are prayers for relief and do not require a response from the Defendant Tax Collector. To the extent an answer is required, Defendant County does not have sufficient information to admit or deny the allegations therein so, therefore, the County denies the same.

AS A FIRST AFFIRMATIVE DEFENSE

(Statute of Limitations)

35. The Defendant Tax Collector restates and incorporates the foregoing paragraphs of this answer as if set forth herein, to the extent that they do not conflict with the paragraphs set forth below.

36. The Plaintiff received notice of the end of redemption period as required by Section 12-51-120 of the S.C. Code of Laws and failed to redeem the property prior to the end of the one year redemption period.

37. The Plaintiff failed to file a judicial action within ninety (90) days following the end of redemption to claim the overage as required by Section 12-51-130 of the S.C. Code of Laws. Consequently, the Plaintiff is statutorily barred from obtaining the overage through equity or contract.

AS A SECOND AFFIRMATIVE DEFENSE

(Laches)

38. The Defendant Tax Collector restates and incorporates the foregoing paragraphs of this answer as if set forth herein, to the extent that they do not conflict with the paragraphs set forth below.

39. The Plaintiff after receiving the notice of the end of redemption period as required by Section 12-51-120 of the S.C. Code of Laws failed to redeem the property prior to the end of the one year redemption period and failed to file a judicial action within ninety (90) days following the end of redemption to claim the overage as required by Section 12-51-130 of the S.C. Code of Laws.

FILED
CLERK OF COURT
2016 JUL -8 PM 3:06
M HOFER BLANKLEY

40. Consequently, the Plaintiff is barred from seeking to void the tax sale or obtain the overage where the Plaintiff failed to act in a timely manner and only acted after the overage was paid by the County resulting in prejudice to the County.

AS A THIRD AFFIRMATIVE DEFENSE

(Waiver)

41. The Defendant Tax Collector restates and incorporates the foregoing paragraphs of this answer as if set forth herein, to the extent that they do not conflict with the paragraphs set forth below.

42. The Plaintiff after receiving the notice of the end of redemption period as required by Section 12-51-120 of the S.C. Code of Laws failed to redeem the property prior to the end of the one year redemption period.

AS A FOURTH AFFIRMATIVE DEFENSE

(Lack of Notice of Bankruptcy)

43. The Defendant Tax Collector restates and incorporates the foregoing paragraphs of this answer as if set forth herein, to the extent that they do not conflict with the paragraphs set forth below.

44. The County never received notice of the bankruptcy filed by Defendants, Randy S. Rutherford and Tara P. Rutherford.

CROSSCLAIM

45. The Defendant Tax Collector restates and incorporates the foregoing paragraphs of this answer as if set forth herein, to the extent that they do not conflict with the paragraphs set forth below.

46. Upon information and belief, Defendant Mooring Secured Liquidity is a company doing business in the State of Massachusetts.

47. Upon information and belief, Defendants, Randy S. Rutherford and Tara P. Rutherford are citizens and residents of Spartanburg County, South Carolina.

48. Upon information and belief, Plaintiff Wells Fargo Bank, N.A. is a corporation or other legal entity doing business in Spartanburg County, South Carolina.

49. By claiming the tax sale overage and signing the claim form, the Defendants, Randy S. Rutherford and Tara P. Rutherford agreed to indemnify and hold Spartanburg County harmless against claims by any other persons for such overage. The

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN -8 PM 3:06
M. JOPE BACKLEY

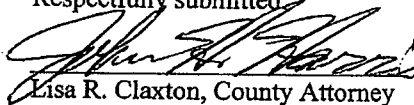
County incorporates herein the Claim forms signed by Randy S. Rutherford and Tara P. Rutherford as Exhibits A & B respectfully.

50. By claiming the tax sale overage and signing the claim form, the Defendants, Randy S. Rutherford and Tara P. Rutherford, represented to the County that they had not assigned the overage according to law to a third party.

51. The Defendants, Randy S. Rutherford and Tara P. Rutherford, failed to properly notify the County as a creditor that they had filed bankruptcy.

WHEREFORE, Defendant County having answered the Complaint herein prays that the Complaint be dismissed or in the alternative order that the Defendants Randy S. Rutherford and Tara P. Rutherford reimburse the County for the amount of the overage they received, and for such other and further relief as the court may deem just and proper.

Respectfully submitted



Lisa R. Claxton, County Attorney
John H. Harris, Senior Deputy County Attorney
Virginia Dupont, Deputy County Attorney
Spartanburg County Attorney's Office
P.O. Box 5666
Spartanburg, SC 29304-5666
Telephone: (864)596-2526
Facsimile: (864)596-2232

Attorneys for Defendant
County of Spartanburg

Dated: June 8, 2012
Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN -8 PM 3:06
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

Wells Fargo Bank, N.A., as Trustee for
Option One Mortgage Loan Trust
2000-D, Asset Backed Certificates,
Series 2000-D

Plaintiffs

vs.

Mooring Secured Liquidity, *et al.*

Defendants

**DEFENDANT TAX
COLLECTOR'S ANSWER
TO COMPLAINT**

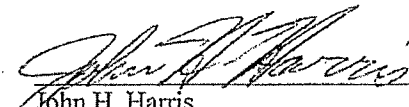
C.A. NO.: 2010-CP-42-05798

The undersigned certifies that Defendant Spartanburg County's Answer to the Amended Complaint was served on counsel for Plaintiff by causing a copy of same to be delivered via U.S. Mail and addressed as follows:

Sean M. Foerster
Rogers Townsend & Thomas, PC
P.O. Box 100200
Columbia, SC 29202-3200
Attorney for Plaintiff
Wells Fargo Bank, N.A.

David G. Ingalls
David G. Ingalls Law Office
P.O. Box 2196
Spartanburg, SC 29304
Attorney for Defendants
Randy S. Rutherford and
Tara P. Rutherford

Max T. Hyde, Jr.
Hyde Law Firm, P.A.
517 E. St. John Street
Spartanburg, SC 29302
Attorney for Defendant
Mooring Secured Liquidity


John H. Harris
Senior Deputy County Attorney

Dated: June 8, 2012
Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN -8 PM 3:06
M. HOPE BLACKLEY

1 STATE OF SOUTH CAROLINA

2 COUNTY OF SPARTANBURG

COURT OF COMMON PLEAS

3 WELLS FARGO BANK, N.A., AS
4 TRUSTEE FOR OPTION ONE
5 MORTGAGE LOAN TRUST 2000-D,
6 ASSET BACKED CERTIFICATES,
7 SERIES 2000-D,

8 PLAINTIFF,

9 -VS-

TRANSCRIPT OF TESTIMONY

10 MOORING SECURED LIQUIDITY,
11 RANDY S. RUTHERFORD, AND
12 TARA P. RUTHERFORD,
13 SPARTANBURG COUNTY TAX
14 COLLECTOR, AND SHERMAN
15 ACQUISITIONS LIMITED
16 PARTNERSHIP,

17 DEFENDANTS.

(2010CP42-5798)

18 REFERENCE HELD:

FEBRUARY 12, 2013.

19 B E F O R E:

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

20 ROGERS, TOWNSEND & THOMAS,
21 BY: SEAN M. FOERSTER, ESQUIRE
22 Attorneys for the Plaintiff.

23 HYDE LAW FIRM, P.A.
24 BY: MAX T. HYDE, JR., ESQUIRE
25 Attorney for Mooring Secured Liquidity.

BY: JOHN H. HARRIS, ESQUIRE
Attorney for Spartanburg County.

DAVID G. INGALLS LAW OFFICE
BY: DAVID G. INGALLS, ESQUIRE
Attorneys for Randy S. And Tara P. Rutherford

Sarah Hollis, Court Reporter

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
Pl. - 1	Copy of Mortgage, Book 2404, Page 553.		7
Pl. - 2	Copy of Assignment of Mortgage.		8
Pl. - 3	Copy of Judgment of Foreclosure and Sale.		8
Pl. - 4	Copy of Voluntary Petition.		9
Pl. - 5	Copy of the Chapter 13 Plan.		10
Pl. - 6	Copy of Notice of Chapter 13.		11
Pl. - 7	Copy of Request for Admissions.		11
Pl. - 8	Copy of Response to Request.		12
Pl. - 9	Copy of Order of Dismissal.		12
Pl. -10	Copy of Tax Deed, Book 95-V, Page 404.		13
Pl. -11	Copy of Supplemental Order.		13

1 THE COURT: We go on the record in the case of Wells Fargo Bank, N.A., as Trustee for Option
2 One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D, versus Mooring
3 Secured Liquidity, Randy S. Rutherford and Tara P. Rutherford, Spartanburg County Tax
4 Collector and Sherman Acquisitions Limited Partnership. Case Number 2010-5798. This is an
5 action filed to set aside a tax deed/tax sale. And before I begin I had e-mailed Mr. Hyde with
6 copies to everyone this morning relating to the status of Sherman Acquisitions and my Order of
7 September 10, 2012 provided for the joinder to the consent order of joinder of Sherman
8 Acquisitions in this case. And I did not find any pleadings on the Sherman Acquisitions and Mr.
9 Hyde what you did was filed it in the other case that you already had pending.

10 MR. HYDE: Your Honor, we did serve the correct case. The Certificate of Service that we filed
11 had the wrong caption number.

12 THE COURT: Okay. Because it is filed – the only thing that I have got and I am looking at the
13 other file that you have got this is 1164.

14 MR. HYDE: That is right Your Honor and in that case the only pleading was the Complaint.

15 THE COURT: Right.

16 MR. HYDE: I can assure the Court that this lawsuit for which we are here today was served as
17 recited in the filed copy of the Certificate of Service, namely the Summons, Civil Action Cover
18 Sheet, Complaint, Answer and Counterclaim and Consent Order to Joinder on Sherman
19 Acquisitions. There was a scrivener's error from our office for which I apologize when the
20 caption was typed the caption number from that other case was represented, however, everything
21 else relates to the incident matter. In fact, when we first served the law suit on Sherman on
22 October 23 which we sent to your office via e-mail as well we sent a certificate of service with
23 that mailing which we attached. That one has the correct caption number, however, once we
24 received the green card back we filed another certificate of service which has the green card that
25 was the certificate of service with the wrong caption. Your Honor, I would point out to the Court

1 like in the cover letter which is in connection with the pleadings we referred to referenced the case
2 with the correct caption number.

3 THE COURT: What was served on them, I mean was this?

4 MR. HYDE: The civil action cover sheet, the Lis Pendens, Summons, Notices, Complaint,
5 Answer and Counterclaim as well as we sent over a continuance and joinder. In that other case,
6 this is a ---

7 THE COURT: Well you have got the one Complaint to quite title that was pending already
8 about the same time of this one.

9 MR. HYDE: Right. And that case was merged with this one because we filed the same
10 allegations as counterclaims to ---

11 THE COURT: Well what I am trying to make sure this case has not been consolidated with this
12 case. Your 1164 is not consolidated here in the case that is presently pending.

13 MR. HYDE: That is correct.

14 THE COURT: Right. I am trying to make sure -- the point that I am trying to make here is to
15 make sure that I properly have in this case the Sherman Acquisition so that in the event that I
16 determine relief is to be granted against them that they are properly here. I don't see that they are,
17 because there are no pleadings in the 5798 case.

18 MR. HYDE: Your Honor, my understanding is all of that was included in the mailing and Mr.
19 Lewis is here and he can tell you about it.

20 MR. LEWIS: Your Honor, if I may. I can assure the Court that the cover letter and the original
21 certificate of service that was included with the documents served reflects the caption number that
22 was served which was 5798 because that is reflected on the cover letter and the COS that was not
23 filed with the Court but was sent with the documents at the time of service. What happened was
24 there was a scrivener's error which I greatly apologize for, I should have caught. Wherein, from
25 some old documents on our server the support staff put the wrong number on the documents that

1 showed the service had been effected. In other words, the green card that is attached on Page 4 of
2 the documents that Mr. Hyde just handed up, the items that were included in this document which
3 there was accepted service of, were the documents that were listed and had the caption number
4 contained on pages 1 and 2 being the proper number for this action not the one that was just filed
5 and that was it not the 11th.

6 THE COURT: What did you file? What did you serve them with?

7 MR. LEWIS: I served them as per the cover letter and the ---

8 THE COURT: Counsel where is it? I don't have a copy in this any where. What did you sue
9 them for?

10 MR. LEWIS: We enclosed what had already been done at that point the original Complaint plus
11 the Answer which we had filed in this case and counterclaim for quiet title which would have
12 brought them in because we found that they were a possible party in interest in a quiet title action
13 through a title search. So when we included our Answer and Counterclaim bearing this caption
14 number for this civil action number it would contain the allegations in which it would pertain to
15 the Sherman Acquisitions which has reference in the order which you granted. He mentions that
16 they would have been possible parties in interest from that action so what we did was we served
17 them with everything that was applicable pleadings up and to that point regarding the status of this
18 case meaning the Answer and Counterclaim where we alleged, where we filed the original
19 Complaint that started the action which was filed by Mr. Foerster and the order granting joinder
20 on that issue. So that is what they were served with.

21 THE COURT: All right. So are you talking about Answer and Counterclaim.

22 MR. LEWIS: In this action, yes sir, which alleged the quiet title action and through the Order of
23 Joinder that Your Honor signed it states that of information and belief that they could be a party
24 based on what we had already filed meaning the quiet title. We served them with the Order
25 showing that they had been joined and we served them with the pleadings that had already been

1 filed up until this point that were pertaining to the action against them so to speak.

2 THE COURT: But you don't have any pleadings?

3 MR. LEWIS: No sir, we did not amend our pleadings. We did not amend our pleadings and

4 name them specifically, no, Your Honor.

5 THE COURT: Well how am I supposed to arrive at a basis for any relief if you don't have them

6 named.

7 MR. HYDE: I understand the Court's point. I believe the Court is saying that in order to

8 implement the Consent Order we should have filed an amended pleading actually naming

9 Sherman.

10 THE COURT: Sherman Acquisition and seeking relief against them as a cross claim.

11 MR. HYDE: And the point I would make also in connection with the last hearing the Court

12 ordered the County added as a party but there has never been a pleading filed and served

13 specifically naming the tax collector or the County yet the County saw fit to file and serve its own

14 responsive pleadings. So if we should have filed an amended pleading the tax collector should

15 have been named in a separate pleading also. As I think the tax collector was brought in by

16 another —

17 THE COURT: Yes. I don't think that they just took it upon themselves—

18 MR. HYDE: But I think the concept is the same. We have that order.

19 THE COURT: Well it was the order dated April 20, 2012.

20 MR. HYDE: Right.

21 THE COURT: Where Spartanburg County is a necessary party.

22 MR. HYDE: Right. We will be certainly glad to do whatever the Court sees fit. If we need to

23 file and serve an amended pleading —

24 THE COURT: Well we are here on this matter today so lets proceed and I have received the

25 Plaintiff's memorandum of law in support of setting aside the tax sale. So counsel are you ready

1 to proceed?

2 MR. FOERSTER: I am, Your Honor.

3 THE COURT: All right. Is everyone else ready to proceed?

4 MR. HARRIS: Yes, Your Honor.

5 MR. INGALLS: Your Honor, I am David Ingalls for the Rutherfords.

6 THE COURT: All right.

7 MR. INGALLS: And I am going to -- I filed an Answer but I am just going to appear and
8 withdraw for number one I have got a fairly disruptive cough and cold. And 2, there is nothing
9 that I can say would have any bearing on these proceedings one way or the other.

10 THE COURT: Withdraw as attorney of record or withdraw from the room?

11 MR. INGALLS: Withdraw from the room.

12 THE COURT: All right. Any objections?

13 MR. HARRIS: Your Honor, the County would respectfully object. Mr. Ingalls filed the overage
14 claim on behalf of his clients, The Rutherfords. He may have information depending on how this
15 hearing proceeds that might be beneficial for the Court to consider and since the County is
16 seeking a judgment against his clients. Depending on the outcome that has at least a possible
17 remedy in the decision and the County would request that they remain.

18 THE COURT: All right.

19 MR. INGALLS: I will be here in the back.

20 THE COURT: All right. That is fine. All right counsel?

21 MR. FOERSTER: May it please the Court. Sean Foerster, I am here today on behalf of Wells
22 Fargo Bank, NA, as trustee. And as just a quick background. The facts are pretty simple in this
23 case. This is an action to set aside a Spartanburg County tax sale that occurred on November 3,
24 2008. The property formerly belonged to Randy and Tara Rutherford. Before this tax sale even
25 occurred, Your Honor, had granted Plaintiff a Judgment of Foreclosure and Sale against the

1 Rutherfords in Civil Action 2007CP42-0039. And the sale was supposed to happen in March of
2 2007 but a few days before the foreclosure sale was supposed to happen the Rutherfords filed a
3 Chapter 13 Bankruptcy on March 29, 2007. And their case number in the Bankruptcy Court was
4 07-01612. And on November 3rd we had this tax sale but the problem is the bankruptcy was still
5 pending at the time of the tax sale. It was ultimately sold to Mooring Secured Liquidity, Mr.
6 Hyde's client. There is no record in the bankruptcy action of the tax collector ever applying for
7 or receiving relief from the automatic stay by the bankruptcy court. The bankruptcy case was not
8 dismissed until January 15, 2010. So it was pending this whole time that the tax sale process was
9 going on. And to support these facts I would offer into evidence a series of exhibits that are
10 pretty much all of public record. So the easiest thing I think is just to hand them up. I have
11 already put exhibit stickers on them, if I may approach, but I haven't numbered them yet. And I
12 will go through them one by one and I have copies for counsels.

13 THE COURT: All right.

14 MR. FOERSTER: The first exhibit which I would offer into evidence as Plaintiff's Exhibit 1, it
15 is of public record. It is just the recorded mortgage of the Rutherfords. It is the mortgage that
16 they gave to Option One back in 2000 and it covers the subject property that we are here for today.

17 THE COURT: Any objections?

18 MR. HYDE: None, Your Honor.

19 MR. HARRIS: No objections.

20 MR. INGALLS: No objections.

21 THE COURT: All right. That will be one.

22 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF A MORTGAGE**
23 **RECORDED IN BOOK 2404 AT PAGE 553, MARKED AS PLAINTIFF'S EXHIBIT**
24 **NUMBER 1.**

25 THE COURT: All right.

1 MR. FOERSTER: As Plaintiff's Exhibit Number 2, I would offer into evidence an Assignment
2 of Mortgage from Option One, the Rutherfords original mortgage company, into the Plaintiff here
3 today, Wells Fargo Bank, N.A., as Trustee.
4 THE COURT: Any objections?
5 MR. HYDE: None, Your Honor.
6 MR. HARRIS: No objections.
7 MR. INGALLS: No objections.
8 THE COURT: All right. Number 2.
9 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF AN ASSIGNMENT OF**
10 **MORTGAGE, RECORDED IN BOOK 3822 AT PAGE 179, MARKED AS PLAINTIFF'S**
11 **EXHIBIT NUMBER 2.**
12 THE COURT: All right.
13 MR. FOERSTER: As Plaintiff's Exhibit Number 3, it is also filed of record in the Clerk of
14 Court's office, the Judgment of Foreclosure and Sale, in favor of the Plaintiff against the
15 Rutherfords, filed February 28, 2007.
16 THE COURT: Any objections?
17 MR. HYDE: None, Your Honor.
18 MR. HARRIS: No objections.
19 MR. INGALLS: No objections.
20 THE COURT: All right. Number 3.
21 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF A JUDGMENT OF**
22 **FORECLOSURE AND SALE, FILED ON FEBRUARY 28, 2007, MARKED AS**
23 **PLAINTIFF'S EXHIBIT NUMBER 3.**
24 THE COURT: All right.
25 MR. FOERSTER: Next I would offer into evidence the Chapter 13 Voluntary Petition of the

1 Rutherfords. Filed in the United States Bankruptcy Court for the District of South Carolina on
2 March 29, 2007. I would offer that into evidence.
3 THE COURT: Any objections?
4 MR. HYDE: None, Your Honor.
5 MR. HARRIS: No objections.
6 MR. INGALLS: No objections.
7 THE COURT: All right. Number 4.
8 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF THE VOLUNTARY**
9 **PETITION OF THE RUTHERFORDS, MARKED AS PLAINTIFF'S EXHIBIT NUMBER**
10 **4.**
11 THE COURT: All right.
12 MR. FOERSTER: With that one I would point the court to page 24 which is within Schedule F
13 of the bankruptcy petition. What we see from page 24 is that Spartanburg County was listed as a
14 creditor in the bankruptcy action and the address listed there is a P. O. Box 5807 which is the
15 Treasurer, Spartanburg County Treasurer's P. O. Box.
16 MR. HARRIS: Your Honor, as Mr. Foerster's seeks to introduce we would simply make an
17 objection that the taxes in issue were delinquent taxes and the treasurer would not be the proper
18 person to receipt collection of those taxes. That would be the delinquent tax collector. And that
19 is not the P. O. Box for the delinquent tax collector.
20 MR. FOERSTER: Your Honor, I would just say that at the time of this filing the taxes were not
21 delinquent yet.
22 MR. HARRIS: Your Honor, we would point out that they would be because the taxes were due
23 on or before March 15, 2007 which this was filed on March 29, 2007. So they would have been
24 delinquent.
25 MR. FOERSTER: Well Your Honor this case is about the delinquent 2007 taxes but they did not

1 come due until the beginning of 2008. The tax execution issued by the treasurer for this particular
2 tax sale wasn't issued until March of 2008. And I plan to offer a copy of that into evidence in a
3 little while as well.

4 THE COURT: All right.

5 MR. FOERSTER: Also in that Petition for the record on Page 48 is the creditors matrix and
6 again we have Spartanburg County listed there at that same address. The address for the
7 Spartanburg County treasurer is listed in that Petition. As Plaintiff's Exhibit Number 5, I would
8 offer into evidence just the Chapter 13 Plan from the Rutherfords bankruptcy and it was filed on
9 March 29, 2007. I would offer that into evidence.

10 THE COURT: Any objections?

11 MR. HYDE: None, Your Honor.

12 MR. HARRIS: No objections.

13 MR. INGALLS: No objections.

14 THE COURT: All right. That will be Number 5.

15 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF THE CHAPTER 13**
16 **PLAN, MARKED AS PLAINTIFF'S EXHIBIT NUMBER 5.**

17 THE COURT: All right.

18 MR. FOERSTER: Again on page 7 of that Chapter 13 plan, again you see Spartanburg County
19 listed there as a creditor. They are listed there because that is on the certificate of service.
20 Showing that they were served at that address. Plaintiff's Exhibit Number 6 would be a Notice of
21 Chapter 13 Bankruptcy Case, Meeting of Creditors and Deadlines filed in the Rutherfords
22 bankruptcy action on April 2, 2007. I would offer that into evidence as well.

23 THE COURT: Any objections?

24 MR. HYDE: None, Your Honor.

25 MR. HARRIS: No objections.

1 MR. INGALLS: No objections.
2 THE COURT: All right. Number 6.
3 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF A NOTICE OF**
4 **CHAPTER 13 BANKRUPTCY CASE, MEETING OF CREDITORS & DEADLINES,**
5 **MARKED AS PLAINTIFF'S EXHIBIT NUMBER 6.**
6 THE COURT: All right.
7 MR. FOERSTER: And again if you look on Page 5 to the Certificate of Service and down in the
8 middle of the page, again it has Spartanburg County at that same P. O. Box. The P. O. Box is
9 listed on that Certificate of Service, so they got notice of that bankruptcy. As Plaintiff's Exhibit
10 Number 7, Your Honor, is the Request for Admission to Defendant Spartanburg County after
11 Spartanburg County was joined in the case. And this is acting to authenticate the tax lien filed
12 that the Plaintiff received in response to its earlier request to the tax collector's office at the
13 beginning of this case. As an exhibit to that Request for Admission is the complete tax sale file
14 that the Plaintiff received in response to its request, a complete copy of the file, what it believes to
15 be a complete copy of the file. I would offer that into evidence.
16 THE COURT: Any objections?
17 MR. HYDE: None, Your Honor.
18 MR. HARRIS: No objections.
19 MR. INGALLS: No objections.
20 THE COURT: All right. Number 7.
21 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF A REQUEST FOR**
22 **ADMISSION TO SPARTANBURG COUNTY, WITH A COPY OF THE TAX FILE**
23 **ATTACHED, MARKED AS PLAINTIFF'S EXHIBIT NUMBER 7.**
24 THE COURT: All right.
25 MR. FOERSTER: Plaintiff's Exhibit Number 8 is simply the County's response to Plaintiff's

1 request for admission. And in essence what it says is that the documents that were in Exhibit 2,
2 the Request for Admission, yes those are accurate copies of the documents that are from the tax
3 collector's file but that the whole entire tax collector's file apparently wasn't in there. But the
4 documents attached there were authentic copies of what was in that file. So I would offer that
5 into evidence as well.

6 THE COURT: Any objections?

7 MR. HYDE: None, Your Honor.

8 MR. HARRIS: No objections.

9 MR. INGALLS: No objections.

10 THE COURT: All right. Number 8.

11 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF DEFENDANT**
12 **SPARTANBURG COUNTY'S RESPONSES TO PLAINTIFF'S FIRST REQUEST TO**
13 **ADMIT, MARKED AS PLAINTIFF'S EXHIBIT NUMBER 8.**

14 THE COURT: All right.

15 MR. FOERSTER: Plaintiff's Exhibit Number 9 is the Order of Dismissal from the bankruptcy
16 court. Again that was filed January 15, 2010. I would offer that into evidence to show when that
17 bankruptcy case was dismissed.

18 THE COURT: Any objections?

19 MR. HYDE: None, Your Honor.

20 MR. HARRIS: No objections.

21 MR. INGALLS: No objections.

22 THE COURT: All right. Number 9

23 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF THE ORDER OF**
24 **DISMISSAL FROM THE BANKRUPTCY COURT, MARKED AS PLAINTIFF'S**
25 **EXHIBIT NUMBER 9.**

1 THE COURT: All right.

2 MR. FOERSTER: As Plaintiff's Exhibit Number 10, we have a copy of the tax deed into
3 Mooring Secured Liquidity that is on record with the register of deeds. And that was issued on
4 January 15, 2010. Your Honor, I would offer that into evidence.

5 THE COURT: All right. Any objections?

6 MR. HYDE: None, Your Honor.

7 MR. HARRIS: No objections.

8 MR. INGALLS: No objections.

9 THE COURT: All right. Number 10.

10 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF THE TAX DEED,**
11 **RECORDED IN BOOK 95-V AT PAGE 404, MARKED AS PLAINTIFF'S EXHIBIT**
12 **NUMBER 10.**

13 THE COURT: All right.

14 MR. FOERSTER: Finally as Plaintiff's Exhibit Number 11 is a Supplemental Order post
15 Judgment and Sale from the Rutherfords foreclosure action and this was entered on April 7, 2010,
16 so it was after their bankruptcy action was dismissed. And I would offer that into evidence.

17 THE COURT: Any objections?

18 MR. HYDE: None, Your Honor.

19 MR. HARRIS: No objections.

20 MR. INGALLS: No objections.

21 THE COURT: All right. Number 11.

22 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF A SUPPLEMENTAL**
23 **ORDER POST JUDGMENT, MARKED AS PLAINTIFF'S EXHIBIT NUMBER 11.**

24 THE COURT: All right.

25 MR. FORESTER: Those are Plaintiff's exhibits, Your Honor. In summary, what we see is the

1 County had actual notice of this bankruptcy back in 2007 yet the treasurer proceeded to issue the
2 tax execution on March 17, 2008 any way and that execution is inside of the exhibits to Plaintiff's
3 Request for Admission with the rest of the tax sale documents. The tax collector begin the
4 process of levying, posting, advertising and selling the subject property and eventually issued a
5 tax deed. The issue which we have here which is outlined in Plaintiff's Memorandum submitted
6 to the Court yesterday is that pursuant to 11 U.S.C. 362(a), the filing of a bankruptcy petition after
7 the automatic stay, applicable to all entities, the tax collector falls within the definition of entity in
8 the bankruptcy code. It is a stay to any act to obtain possession of property of the estate or of
9 property from the estate or to exercise control over property of the estate. Any act to create,
10 perfect, or enforce any lien against property of the estate. Any act to create, perfect, or enforce
11 against property of the debtor any lien to the extent that such lien secures a claim that arose before
12 the commencement of the case. Any act to collect, assess or recover a claim against the debtor
13 that arose before the commencement of the case under this title. There are a list of exemptions
14 from the automatic stay and I have looked at all of those exemptions and a tax sale simply does
15 not fall under any of those exemptions. Your Honor, the bankruptcy code treats the tax collector
16 just like any other creditor. When that stay falls the tax collector needs to get in line and ask the
17 Court's permission to proceed and file proof of claim and seek relief from the stay before just
18 going ahead violating the automatic stay. Now the tax collector pled a defense to this case for a
19 lack of actual notice but that defense fails as a matter of law. First, as you can see the treasurer's
20 office was notified of this bankruptcy as far back as 2007. Second, the actual notice under, there
21 is a wealth of case law in the bankruptcy courts. It says the actual notice of the bankruptcy filing
22 is irrelevant. The automatic stay is in effect against the world the second that petition is filed
23 regardless of actual notice to any creditor. Finally, in the District of South Carolina, at least, the
24 effect of the tax collector selling the subject property in violation of an automatic stay means the
25 tax sale is void. And so that is the Plaintiff's case, Your Honor, on the bankruptcy issue. If Your

1 Honor doesn't think the bankruptcy issue is enough to overturn this tax sale I would also for the
2 record point out that I believe that there is another defect in this tax sale. And within these
3 documents, within the tax sale that is an exhibit to Plaintiff's Request for Admission you will see
4 a final tax notice of 2007. My issue with this is that in the middle of the page it says under, in
5 one of those little boxes, it says notice of seizure, levy and tax sale. If says if these delinquent
6 taxes, penalties, assessments and costs are not paid, the property must be advertised and sold to
7 satisfy the delinquency. That language comes from Section 12-51-40(b) and I believe this notice
8 is what was sent out by certified mail, a lien by distress, now there is a *Hawkins v. Bruno Yacht*
9 case from 2003, it is a South Carolina Supreme Court case, and what they don't like is artificial
10 deadlines being in these notices. If there is any kind of artificial deadline before the date of the
11 tax sale that give the borrower the impression that they have to pay the taxes before that sale date.
12 You know, the tax is void on that. And here it says property will be sold if not paid by 5:00 P.M.,
13 on Friday, 10/31/2008. The tax sale wasn't until November 3, 2008. The issue I have with that
14 is that it makes the tax payer think that if they don't pay it by that Friday at 5:00 they can't come
15 and pay it the morning of the sale before the bidding starts. Now the issue I have with that is, in a
16 foreclosure action can't a borrower show up and reinstate or cure the default before the bidding
17 starts at a foreclosure sale. So if, you know, if they have the right to do that in a private taking
18 why would they be afford less protection in a government taking. So that is my issue with having
19 that cutoff and there is nothing stopping them from putting that right at 5:00 o'clock cutoff, what
20 stops them from putting a Thursday at 5:00 o'clock cutoff or any time before that. You know,
21 they can't just put that deadline in there. That language above it is okay but the language where
22 they actually create a specific date it violations *Hawkins v. Bruno Yacht*. So that is the second
23 defect in the tax sale I will point out, Your Honor. And for those reasons I believe this tax sale is
24 void. And that is the Plaintiff's case.
25 THE COURT: All right let me ask you counsel in the documents that you have handed up and is

1 now marked as Exhibit 7 there is a notification sent to Wells Fargo Bank of the redemption right.
2 And there appears to be a copy of the green card showing Wells Fargo Bank got that notice of the
3 redemption right, correct?
4 MR. FOERSTER: Correct, Your Honor.
5 THE COURT: And did not redeem this property?
6 MR. FOERSTER: It did not.
7 THE COURT: Okay. So the other action is pending. That is the foreclosure action is pending?
8 MR. FOERSTER: Yes, Your Honor.
9 THE COURT: And Wells Fargo Bank gets the notice of redemption at the same time that civil
10 action 2007-0039 is pending, and does not redeem?
11 MR. FOERSTER: That is correct.
12 THE COURT: As far as the other matters relating to the possible defects in the sale that is not
13 your — that is not the dog you have in that fight. Your fight is the redemption and that is the only
14 question you have or the right to bring up.
15 MR. FOERSTER: And again —
16 THE COURT: Counsel that is a yes or no?
17 MR. FOERSTER: I don't believe that is true.
18 THE COURT: You don't believe that is true?
19 MR. FOERSTER: I believe we have standing to attack the tax sale on that ground, Your Honor.
20 I have several arguments that will apply.
21 THE COURT: Even when Wells Fargo Bank did not redeem within the time?
22 MR. FOERSTER: Yes, Your Honor. This tax sale never should have occurred.
23 THE COURT: Well that is not the point. We never got to that point. The point is you didn't
24 redeem it?
25 MR. FOERSTER: We did not redcem it.

1 THE COURT: Okay. All right. So the real crux of this issue or this hearing today is Wells
2 Fargo's position that the bankruptcy should not have taken place because now the bankruptcy
3 notwithstanding the fact that you did not redeem within the statutory time allowed.
4 MR. FOERSTER: Yes, Your Honor.
5 THE COURT: After due notice was given?
6 MR. FOERSTER: Yes, Your Honor.
7 THE COURT: Okay.
8 MR. FOERSTER: Any action taken in violation of the automatic stay is void on that issue.
9 THE COURT: Okay. All right. Mr. Hyde?
10 MR. HYDE: Thank you, Your Honor. May it please the Court. My understanding is that the
11 lender is the only party that is challenging really the tax sale in this case and I would certainly
12 submit that the lender lacks clean hands to do so and comes to lately under laches as well. I
13 would submit to the Court that my client has acted in good faith with clean hands throughout.
14 They bought this property for Thirty thousand dollars and now they are in litigation where the
15 mortgage holder who didn't redeem after proper notice is challenging the tax sale dealing with a
16 county government that we believe did exercise a valid tax sale but even if it did not they created
17 an inequitable situation for my client in that if the Rutherfords have their way my client will be
18 out of the land and the money and I certainly think that equity demands that my client continue to
19 have good title but if it has its good title taken it would be entitled to its money back plus eight
20 (8%) percent. The Rutherfords even though a foreclosure order had been entered and I know they
21 retained title after the foreclosure entry was filed in this court had the gall to go and retrieve the
22 overage which just amazes me that should happen. Now that may be legal. However, I think
23 and I am not a bankruptcy lawyer but if you are in bankruptcy and I might add the bankruptcy was
24 filed days before the foreclosure sale so I think the use of bankruptcy is a shield to avoid the
25 purpose of this Court's raised issues and then also when you are in bankruptcy what kind of

1 obligations do you have to report to bankruptcy court that you are going to receive some overage.
2 I wonder if that concept was ever communicated to the bankruptcy court, the Federal Bankruptcy
3 Court. Our position is we either would like to continue to have the title but if not we are looking
4 to the County to reimburse up for the Thirty thousand dollars plus eight percent and for our
5 authority we are looking to the County as our alternative relief plan. We would submit to this
6 Court the case of *H & K Specialists v. Brannen*, which has a cite 340 S.C. 585, 532 S.E.2d 617
7 and that is a 2000 South Carolina Court of Appeals case. And Your Honor briefly, what
8 happened in that case, very, very, similar to the case out of Beaufort County. There was a tax
9 sale and it was invalidated because of improper notice. The buyers were left hanging sort of as
10 the case maybe here and then Chief Justice Hearn decided that was not a fair outcome. In fact,
11 she says it is inconceivable to this Court that the General Assembly would require the taxing
12 entity to expeditiously refund the purchase price to the tax sale purchaser when the property is
13 redeemed during the redemption period but not require the entity to do so when a tax sale is set
14 aside. In our view this would constitute an absurd result and one that could not have been
15 intended by the General Assembly and then later she states how the Beaufort County Respondents
16 created the inequitable situation and therefore *H & K* in this case is limited to pursue their legal
17 remedies. It is not just one seeking remedy against the prior owners, the Brannens, which in this
18 case would be the Rutherfords. Those are our positions and I do think that if you look at all of
19 the different parties in this case the only party who has acted without error other than the fact that
20 I don't know how to put the right case action number on a Certificate of Service, on behalf of my
21 client, would be my client.
22 THE COURT: I will leave it up to you, do you want to respond to each one as they go or what?
23 MR. INGALLS: I think we should go after the County.
24 THE COURT: All right. Mr. Harris.
25 MR. FOERSTER: I will just wait.

1 THE COURT: All right.

2 MR. HARRIS: Thank you, Your Honor. Your Honor, I have Mr. Metts here. He is certainly
3 available to testify, if necessary, I know that the Court has a copy of the tax sale file. May it
4 please the Court, the Plaintiff in its Complaint admits that Wells Fargo in paragraph 12 of this
5 Complaint, states that Wells Fargo obtained the relief from the automatic stay of the bankruptcy
6 court on May 9, 2008 and that is before the property was sold at the tax sale and immediately
7 following the issuance of the final tax records. At that point in time Wells Fargo was still in a
8 position to move forward with its foreclosure action but for whatever reason failed to do so.
9 Then as the Court pointed out on October 9, 2009, Wells Fargo signed for the end of redemption
10 notice that it is statutorily required to receive under South Carolina Code of Laws 12-51-120.
11 That is the second time that Wells Fargo has had the opportunity to move forward and cure its
12 problem. Certainly Wells Fargo failed to file an action in a timely manner and thus is barred
13 from seeking to overturn the tax sale absent it being willing to step forward and pay the overage
14 that is in question, the \$28,440.88 because they failed to file an action as provided by South
15 Carolina Code of Laws 12-51-130, which provides that the overage is payable ninety (90) days
16 after execution of the deed unless a judicial action is instituted during that time by another
17 claimant. So statutorily the County sold the property and the County decided the property. The
18 deed was signed January 15, 2010, their statutes of limitation, Wells Fargo's statute of limitations
19 for making any objections to the payment of the overage would have been April 15, 2010. And
20 they failed to make any objections by then and the County paid the overage to the Rutherfords
21 pursuant to their May 4th claim on June 21, 2010. Wells Fargo waited until two (2) days before
22 the end of the statutes of limitations to even file the present action, those two (2) days is enough
23 for the present action to at least be pending before this Court. However, in order for them to seek
24 the relief or obtain the relief that they are seeking they would need to come up with the amount of
25 the overage because they did not file an action to obtain the overage within the statutory required

1 ninety (90) days. So on three (3) different occasions Wells Fargo has failed to take the action that
2 it needs to take in order to protect its interest created as a result of its mortgage. The South
3 Carolina Court of Appeals in *Kings v. James*, 388 S.C. 16, states that one purpose of the statutes
4 of limitations is to relief the Court of the burden of trying to – of trying stale claims when a
5 claimant has slept on his or her rights. Well in this case Wells Fargo clearly slept on its rights
6 with respect to filing an action objecting to the payment of the overage. Additionally, that case
7 deals with the doctrine of laches and the doctrine of laches applies in this case because here Wells
8 Fargo knew its rights and did not feasibly assert them and as a result of unreasonable delay cause
9 their adversary to incur expenses or enter into obligations otherwise detrimentally change its
10 position which is exactly what the County did. And in those cases equity would ordinarily refuse
11 to enforce those rights. Thus Wells Fargo under the Doctrine of Laches should be barred from
12 seeking the remedy of overturning the tax sale unless it is also wrong to step forward and pay the
13 overage that was paid. Additionally, the doctrine of waiver applies because they have voluntarily
14 and intentionally abandoned or relinquished their known right by failing to move forward with the
15 foreclosure action when they have obtained relief from the automatic stay from the bankruptcy
16 court they failed to redeem the property and after receiving notice of the end of redemption failed
17 to file any action relative to making the claim for the overage. So on three different occasions
18 Wells Fargo failed to take action. I have a copy of *King v. James*, for the Court if the Court
19 would like the copy plus a copy for counsel.

20 THE COURT: All right.

21 MR. HARRIS: Additionally, I would direct the Court's attention to South Carolina Code of
22 Laws Section 15-78-60, must provide that the governmental entity is not liable for a lost resulting
23 from and if the Court directs its attention to Number 11, the assessment or collection of taxes or
24 special assessments or enforcement of tax laws clearly that is what is applicable here and as a
25 result the County would submit that it would enjoy sovereign immunity in this case.

1 Additionally, I would ask the Court to consider a case out of the Eastern District of Virginia,
2 Alexandria Division, it was a bankruptcy case and I am not sure how you pronounce the first
3 name but it is *Khozai v. Resolution Trust Company*, 177 BR. 524 (1995) case, and that case does
4 an excellent job of summarizing the status of a number of circuits as to where they are with
5 respect to whether an action was void *ab initio* as Plaintiff's counsel would argue what if the
6 action is simply voidable and this Court notes that the Third, the Fifth, the Sixth and Eleventh
7 Circuits all found the action voidable and not void. I have a copy of that case from that Court as
8 well. Lastly, I would direct the Court and ask that it consider the publication of South Carolina
9 *Bar Tax Sales of Real Property and Mobile Homes*. Certainly it is merely the place of authority
10 but it is a publication that was written by Dean Hayes of the Korn Law Firm out of Columbia who
11 does a fair bit of tax sale work and there is a section in there on a bankruptcy and he notes in there
12 that the greater weight of authority and reasoning appear to be in favor of a judicial proceeding in
13 violation of the automatic stay being voidable. Despite several cases, including the one that I
14 submitted to the Court. And it were voidable, a court would likely find that a tax sale would be
15 ratified if the debtor let the statutory redemption period lapse. Well here not only did the debtor
16 let the statutory redemption period lapse but also let the lender or the mortgage company let the
17 statutory redemption period lapse and took no action on three different occasions as I have pointed
18 out to prevent and protect their interest. Yet seeks to come into court days and hours late to
19 attempt to seek the remedy and relief that they could have gotten even before the property went to
20 the tax sale because as I pointed out to the Court the Bank had relief from the automatic stay
21 approximately six months before the property ever went to tax sale. In addition to the tax sale,
22 there is another twelve months of redemption. So the Bank had a total of eighteen (18) months to
23 perfect their mortgage foreclosure but for whatever reason did not and then there was an
24 additional four (4) months after the end of redemption before the property was ever even deeded.
25 So they waited twenty two (22) months, almost two (2) years. I would also distinguish the case

1 that Mooring's counsel has argued before this Court with respect to the overage in that case the
2 Treasurer incorrectly and it is noted at the end of the first paragraph of the background of that case
3 in *H & K Specialist* the treasurer informed H & K that the Brannen received the Four thousand &
4 no/100 (\$4,000.00) dollars plus the taxes and penalties due. So in that case the Treasurer
5 refunded the money to the incorrect party and then sought to essentially avoid having to pay the
6 money that they paid in error. That is simply not the case here. The County paid the overage to
7 the party that was statutorily required to receive it and complied with the overage sale statute, or
8 the overage distribution statute that is set forth in the South Carolina Code of Law 12-51-140.
9 And for the reasons that I have set forth this afternoon the County would ask that you find the tax
10 sale to be a valid sale and deny the relief that Wells Fargo is seeking. Should the Court find that
11 the tax sale should not have been sold or the tax sale should not have occurred as a result of the
12 automatic stay. The County would ask that the Court find that Wells Fargo is barred by the
13 doctrine of laches, unclean hands, waiver from the relief that they are seeking of voiding the tax
14 sale absence them being willing to come forward and pay the overage that is at question because
15 they had ample opportunity on numerous occasions to obtain the relief that they now seek. And
16 finally if the Court does find that the overage is payable the County would ask for judgment
17 against the Rutherfords or actually ask that the Rutherfords be the ones ordered to pay the overage
18 if the tax sale is deemed void absence that the County have a judgment against the Rutherfords.
19 Thank you, Your Honor.
20 THE COURT: Mr. Ingalls.
21 MR. INGALLS: Your Honor, except for the very last part we certainly concur with John Harris'
22 statement of the situation and what we believe to be the law in this case. In response to the
23 contest of the overage and the Rutherfords coming to get it. Well at the time of the bankruptcy
24 this overage didn't even exist. This overage didn't exist until the right of redemption had expired
25 and a deed had been authorized or was in the works. I think there was a four (4) month delay on

1 getting the deed. As to the Rutherfords applying for the overage they of course were invited by
2 the County to come down and apply for the overage by the statutorily required letter which they
3 received and it also had a copy of the form. Fill this form out and bring it to us and we will give
4 you the overage. Now it not quite as simply as that. Section 12-51-130, requires a ninety (90)
5 day waiting period. That ninety (90) day waiting period is for any other interested party. And I
6 believe that this Court has included judgment creditors and anybody else who might be able to
7 attach that amount or anybody certainly that had an interest in the real estate and the opportunity
8 to come within that period. So I think that you added up twenty two (22) months so I add another
9 three (3) months to that and put it over two (2) years that Wells Fargo sat on their rights.
10 According to the statute the Rutherfords did receive the overage and that is that. If the
11 Rutherfords in some fashion, certainly if Your Honor saw fit to set aside the sale I believe it
12 would be for Wells Fargo to pay any amounts due on that simply because they are the ones that
13 had the opportunity to prevent it and everyone else was simply following the statute. Thank you.
14 THE COURT: All right. Counsel.
15 MR. FOERSTER: Thank you, Your Honor. And I will try to address all of their point. First,
16 everybody seems to be dog howling on the Bank for not paying taxes when the Bank is still not
17 the tax payer. It doesn't own this land yet. For him to claim that it is the Bank's fault that his
18 clients didn't pay their taxes. I don't understand that. In terms of Mr. Harris's argument about
19 Wells Fargo obtaining the relief of stay I would extend that the other way to show that yes Wells
20 Fargo did go in and do what it was supposed to do and followed the bankruptcy law and got relief
21 from the stay in 2009. In the mean while the tax sale occurred. The tax collector didn't get in
22 line with all of the other creditors and didn't follow the bankruptcy law. So who really has
23 unclean hands in this case. The fact that we didn't redeem the property, I don't see how that
24 makes up the bad guy. Again we weren't the lien owner yet. We weren't the tax payer. You
25 know maybe it got lost in the corporation. I am not sure what happened to the redemption notice

1 but I don't see how that makes us the bad guy in this case. His argument about trying to
2 somehow I believe what he was arguing about was Section 12-51-130 concerning how overage is
3 handled by the County. He tries to say that is some kind of statute of limitations. Well that is not
4 true. What it says is that there is a ninety (90) days safer harbor and if anybody comes and files a
5 claim within ninety (90) days they are not allowed to disburse the overage. If nobody shows up
6 and makes a claim within ninety (90) days they are allowed to disburse the overage to the
7 landowner. But it doesn't prohibit anybody from making a claim after. In fact, the same mobile
8 home tax bill book that he you know referenced in his argument makes the case because the
9 overage doesn't forward to the State of South Carolina until five (5) years after, you know, you
10 can make a claim at any time during those five (5) years. There is no statute of limitations for
11 making an overage claim. And in terms of laches I don't understand that argument either. We
12 filed the tax sale challenge within the two (2) year statute of limitations. I mean the legislature
13 decided that two (2) years was a quick enough response time to challenge a tax sale. I don't see
14 how laches would apply here. On the issue of whether the tax sale should be void versus void ab
15 initio or avoidable versus void ab initio. That question has been answered by the District of
16 South Carolina. And I have got a case, if I may approach, and it is cited in my brief as well. In
17 re Weatherford. And it is pretty clear. And all of those cases were from other jurisdictions not
18 the District of South Carolina. And it is a big case so I can pen on it, Your Honor. They talked
19 about this issue starting on Page 12 of this opinion under Roman Numeral 2, that is actually where
20 they start talking about the effect of the automatic stay. It says, however, in this District, courts
21 have consistently held that actions taken in violation of the automatic stay are void *ab initio* and
22 thus not legally effective. So that is the position here in the District of South Carolina, Your
23 Honor. So I don't see what it matters what they do in the Eleventh Circuit. Finally, he seems to
24 imply that he thinks that maybe Wells Fargo should have to pay back the overage in the event that
25 the tax sale is voided. And I would just point out that he never pled that. There is nothing in the

1 tax collector's answer asking for that kind of relief. He just asked for a judgment on his cross-
2 claim against the Rutherfords. So if he didn't plead it, I don't think he should be afforded that
3 relief. That would be my response to those issues, Your Honor. Thank you.

4 THE COURT: Any reply? Mr. Hyde.

5 MR. HYDE: Your Honor, I would submit that while our friend from the County may cite a case
6 named *King v. James*, he is not outfitted with sovereign immunity, Section 15-78-60 is treated in
7 the *H & K* case that we presented and the Court specifically says there that the statute was
8 designed to protect people who lose property because of a faulty tax sale not to shield the entity
9 from liability for refunding money to the wrong party. And I think it is a distinction without a
10 difference that all of the money was sent to the owners as opposed to the overage as in this case.
11 Thank you, Your Honor.

12 THE COURT: Mr. Harris.

13 MR. HARRIS: Thank you, Your Honor. I would again direct the Court's attention back to 12-
14 51-130. And I would respectfully disagree with counsel but it is not a ninety (90) days safe
15 harbor but it is a ninety (90) day provision in which you have got to take some action if you want
16 to make sure that the overage isn't paid. If you end up with a tax sale that is voided and the
17 overage isn't paid that is no problem but they have the opportunity to file an action. They knew
18 about the tax sale. They knew that they would need to protect their interest and make sure the
19 overage was in fact not paid and they failed to do that. Likewise, Wells Fargo was able to obtain
20 relief. I think counsel and I can agree on that. What Wells Fargo failed to do is they failed to
21 move forward with their foreclosure and instead sat back and waited and thus is barred by the
22 doctrine of laches with respect to the claim and the relief that they are seeking. They had the
23 opportunity if they were so interested in this property to redeem the property and they failed to do
24 that. They failed to move forward with their foreclosure action and they failed to make a claim
25 for the overage in a timely time. They can not end up in the posture that they seek to end up in

1 which is not being responsible for not taking action and yet having the property back in their
2 hands as well. Equity simply does not permit that. Thank you, Your Honor.

3 MR. FOERSTER: Your Honor, if I may. First I will address – I just want to take a look at 12-
4 51-130. Here is what it says, It says these sums are payable ninety days after execution of the
5 deed unless a judicial action is instituted during that time by another claimant. But the very next
6 sentence says, if neither claimed nor assigned within five years of date of public auction tax sale,
7 the overage shall escheat to the general fund of the governing body. If neither claimed or
8 assigned within five years. To me that implies that you have five (5) years and that is what the
9 author of the book says and I just don't see how that is some type of statute of limitations to file a
10 claim to the overage provided by a lien holder or creditor. Second, I would like to go ahead and
11 just offer into evidence the Order granting relief from the automatic stay in the bankruptcy case.

12 MR. HYDE: No objections.

13 MR. HARRIS: No objections, Your Honor.

14 MR. INGALLS: No objections.

15 THE COURT: All right.

16 **MR. FOERSTER INTRODUCES INTO EVIDENCE A COPY OF THE ORDER**
17 **GRANTING RELIEF FROM AUTOMATIC STAY, U.S. BANKRUPTCY COURT,**
18 **MARKED AS PLAINTIFF'S EXHIBIT NUMBER 12.**

19 THE COURT: All right.

20 MR. FOERSTER: And again Wells Fargo's server went in there and did what it was supposed
21 to do. Got relief from the stay. But you see the date; it is not until December of 2009. A
22 supplemental order post judgment for it was in April of 2010. There was a four (4) month delay
23 from the time that it got released to when it had you know and it probably took some time to
24 schedule a rehearing with the Court to update the judgment figures and that kind of thing and get
25 that supplemental order. I don't think a four month delay is a long time. So I just don't see how

1 laches applies or you know whether we dragged our feet during the bankruptcy or dragged our feet
2 with the foreclosure action has anything to do with anything in this case. Again these are all red
3 heron issues to disguise the fact that the tax collector violated the bankruptcy law. The law is
4 pretty clear. There is a wealth of case law out there that says it doesn't matter if you have notice.
5 It doesn't matter the tax sale is void as a matter of law if you violate the bankruptcy statute. That
6 is the Plaintiff's case, Your Honor.

7 THE COURT: All right. Let me ask you a question counsel. The right to assert the bankruptcy
8 protection does that umbrella go to a mortgage holder or is it just to the debtor?

9 MR. FOERSTER: Your Honor, it goes to the mortgage holder and I have a case that I believe is
10 right on point to the bankruptcy case. If I may approach, it is from the Northern District of
11 Georgia Bankruptcy Court. And they deal with this issue. Because when the server in that case,
12 again was trying to avail himself of the tax collector's violation of the automatic stay and here
13 they discuss this on page 4. And the initial question they ask is whether Litton has standing to
14 enforce the automatic stay and challenge the tax sale. And on Page 4 they say as an initial matter
15 the Court concludes that Litton has standing to invoke the benefit of the automatic stay and to
16 seek the determination of whether an act taken in violation of the stay as noted above the
17 automatic stay protects not only debtors but also creditors in their interest in the property of the
18 stay. Wells Fargo has an interest in this property different than the Rutherfords interest. It is not
19 an ownership interest but it is a secured interest and it has been recognized by the U. S. Supreme
20 Court in the *Mennonite Board of Missions v. Adams* case. I think there is no issue that Wells
21 Fargo had standing to challenge the tax sale and to challenge it on this specific ground.

22 THE COURT: Well the case that he just handed up to me indicates that Litton had no recorded
23 interest in the property. Litton did not receive notice of the tax lien or the impending tax sale.
24 After the tax sale the property was purchased and then Litton notified Rockdale County. So it is
25 not the same as this case.

1 MR. FOERSTER: Well Litton may have not received the redemption notice but I believe that
2 would be it.

3 THE COURT: Well that is a difference.

4 MR. FOERSTER: That is a difference. The only issue is whether the mortgage company can
5 use this as a ground to attack the tax sale. I believe that is what I would relying on this case to do,
6 Your Honor.

7 THE COURT: All right. Anything further gentlemen?

8 MR. HYDE: No sir.

9 MR. INGALLS: Nothing further.

10 THE COURT: Mr. Harris?

11 MR. HARRIS: Your Honor, the County would simply point out that withstanding counsel's
12 argument that equity does not permit Wells Fargo to ignore the statutory notices that they receive
13 and then come in after the overage has already been paid. It would be a completely different case
14 if they had taken action before the overage was paid but they can't wait until after the overage has
15 already been paid. When they received and signed for the statutory required end of redemption
16 notice and failed to take any action. Equity simply bars that and I would ask the Court to again
17 go back to the *King v. James* case which sets out the test for laches. A party seeking to establish
18 laches must show a delay. Clearly there was a delay here. If the delay was unreasonable under
19 the circumstances and there is prejudice. Clearly there is prejudice to the County because of
20 Wells Fargo unreasonable delay because now the County doesn't have the money which would
21 need to be paid back to the tax sale purchaser if the Court voids the tax sale because Wells Fargo
22 failed to act. Wells Fargo sat on their hands for twenty (20) some months and now comes in and
23 seeks to have the Court void the tax sale. If Wells Fargo was as interested in the property as they
24 are now asserting that they are they should have and could have taken action any number of ways
25 earlier on in the process. Thank you.

1 THE COURT: All right.

2 MR. FOERSTER: Your Honor, I would like to briefly follow that up. If he wants to talk about
3 equity, I don't think equity permits the County to ignore the bankruptcy law and then point the
4 finger at Wells Fargo for not responding to a redemption that actually they had no real right to
5 conduct. And I don't think equity should hold Wells Fargo liable for not coming back and
6 cleaning up the Rutherfords mess. The Rutherfords are the reasons we are here. They are part of
7 the reasons that we are here today in the first place. I just don't see how unclean hands weighs
8 against Wells Fargo in this case, Your Honor. Thank you.

9 THE COURT: All right. Mr. Hyde anything further?

10 MR. HYDE: Nothing, Your Honor.

11 THE COURT: All right. Just to help me out and to refresh my memory I pulled the original
12 foreclosure file in this case. Case Number 2007-39. And going over the time line here that
13 action was filed on January 4, 2007 and the foreclosure order was entered on February 28, 2007
14 and it was set for sale at the April 2nd sale and at that point, March 29, 2007, by letter to this office
15 from Rogers, Townsend & Thomas, the letters says please cancel the foreclosure sale scheduled
16 for April 2, 2007 regarding the above case, which is this one. The borrower filed Chapter 13 on
17 3/29. So they cancelled the sale on that date. I issued a Form 4 Order based on that and the
18 matter was stricken from the active roster with leave to restore based on the bankruptcy and that
19 was March 30, 2007. The next matter in that file is the Order to restore or a motion to restore
20 based on the relief from the bankruptcy. That relief from bankruptcy is filed 12/3/09 and the
21 order is dated March 19, 2010. The tax sale was dated November 3, 2008. As attached to the
22 Plaintiff's Exhibit 7 is a copy of the right to redeem sent to Wells Fargo and signed by Wells
23 Fargo on October 9, 2009. Is that the ---

24 MR. HARRIS: That is correct, Your Honor.

25 THE COURT: Is that the date?

1 MR. HARRIS: Yes, it is.

2 THE COURT: All right. And at that point and counsel had freely admitted that there was no
3 response by Wells Fargo as to payment of the redemption or following through with the
4 redemption requirements. So Wells Fargo was aware of the bankruptcy filing as far back as
5 March 29, 2007. The foreclosure matter still pending. So Wells Fargo did not redeem the
6 property and did not file any objections to the sale based on the bankruptcy notwithstanding the
7 fact that they knew of the bankruptcy at that point, April 26.

8 MR. FOERSTER: Your Honor, I ----

9 THE COURT: Excuse me, Counsel.

10 MR. FOERSTER: I am sorry. I apologize.

11 THE COURT: The tax deed was issued on January 15, 2010 and March 23rd that tax deed was
12 recorded in 2010. On April 26, 2010, I received a -- let me back up. On April 7, 2010 a
13 supplemental hearing was held to update the figures and setting the matter for a final sale. That
14 sale was set for May 3, 2010. And then on April 26, 2010, I received a letter from Rogers
15 Townsend cancelling the May 3rd sale with regard to the above referenced property being sold at a
16 tax sale. So again the matter was placed on hold. And that was May 11, 2010 and the present
17 action was filed November 1, 2010 approximately two days before the expiration of the statute of
18 limitations as far as a third party or any other party challenging the sale. Are those not the dates
19 that are correct?

20 MR. FOERSTER: Yes, Your Honor. Those are correct.

21 THE COURT: All right. Did you have a comment?

22 MR. FOERSTER: Oh, I am sorry. I was just going to point out for the record that Wells Fargo
23 didn't get notice of the sale before the sale would have occurred, I don't believe.

24 THE COURT: Well Wells Fargo doesn't have the right for the tax sale.

25 MR. FOERSTER: That is correct, Your Honor.

1 THE COURT: It has the right to receive the right of redemption notice which they did.
2 Notwithstanding all of this going on Wells Fargo being aware of the bankruptcy filing. And then
3 the sale takes place. The overage occurs. The Rutherfords claim the overage which they are
4 entitled to do. Thereby waiving any objections they had to the bankruptcy sale. The County has
5 changed its position. The Defendant Mooring Security Liquidity has also changed its position by
6 paying in the money required at the sale and Wells Fargo files this action after knowing full well
7 of everything that is going on and the bankruptcy filing and the right to redeem and sits there and
8 now wants me to set this sale aside based on the bankruptcy filing, which I am not going to do. I
9 am not going to set aside this sale because I think it is an equitable maxim that equity awards the
10 diligent and in this case Wells Fargo was not diligent. They knew everything that was going on
11 in this file. Had the notice of the right to redeem the file. They could have objected at that time
12 immediately as in this case that counsel has cited and that is to notify the County that they didn't
13 properly do the sale at the time that they received the redemption notice. But Wells Fargo did
14 nothing. And this is a case where equity is going to step in and because these parties have all
15 changed their positions. There has been no objections to the sale during the bankruptcy stay by
16 the Defendants Rutherfords. They in fact claimed the overage. Wells Fargo can't be looked at
17 to have sat and been unaware. They knew what was going on. So I know that is a lengthy
18 dissertation but I wanted to go over the time line here which I don't think that I have as everyone
19 was presenting their cases I went over the time line again and had the benefit of the other
20 foreclosure file plus the other file that involved Mooring. So I am not going to grant the relief. I
21 am not going to set aside the sale. I think Wells Fargo is guilty of laches in this case. And did
22 not monitor the case as they should have after due notice was given by the County. So all of the
23 other things as far as notices and everything else, as far as the bankruptcy. I think this is a matter
24 where equity trumps. So I am trying Mr. Hyde to figure if I can grant you the relief that you need
25 in this case as far as quieting title as to Sherman Acquisitions. They are a party. They are joined

1 and there may be some deficiencies in the way that they received their notice but include them. If
2 you and Mr. Harris and Mr. Ingalls can prepare the Order.
3 MR. HYDE: I will prepare the first draft.
4 THE COURT: And send it to counsel for the Plaintiff. Work on it. And also in the Order find
5 that the Sherman Acquisitions - that the Defendants' title is free and clear of any claims as far as
6 Sherman Acquisitions. However, you want to do that and that will take care of the other case and
7 you can go ahead and you can dismiss that case once this one is taken care of. Do you understand
8 what I am saying?
9 MR. HYDE: I do, Your Honor.
10 THE COURT: All right. Counsel any questions about what my ruling is?
11 MR. HARRIS: Your Honor, no question as to your ruling. Just for a notation perspective I want
12 to make sure I have two dates correct in the case that you referred to correct, if I may.
13 THE COURT: All right.
14 MR. HARRIS: Your Honor, the Court made reference to an April 7, 2010 supplemental hearing
15 and then it made reference with a final sale date of May 3, 2010.
16 THE COURT: Right.
17 MR. HARRIS: Then the Court made reference to an April 26, 2010 date and a May 11, 2010
18 date. And I am seeking clarification as to those date.
19 THE COURT: All right. April 26, 2010 was the date of the letter that I received from the
20 attorneys for the lender notifying me to take the property off of the May 3rd sale date.
21 MR. HARRIS: Okay.
22 THE COURT: So it cancelled at that point.
23 MR. HARRIS: And then there was a May 11th date?
24 THE COURT: That is the date of my order, the Form 4 Order, that cancel the sale.
25 MR. HARRIS: All right.

1 THE COURT: And that I put this case on a 40- J hold. I think those were the dates you were
2 seeking.

3 MR. HARRIS: Thank you, Your Honor. Those are the two dates. And then the Court made
4 reference a little bit later in its ruling with respect to a case cited by counsel but did not specify the
5 case and I thought that it might be helpful to clarify that case?

6 THE COURT: That case is -- it was the Georgia case, the Litton Service case. Okay. U. S.
7 Bankruptcy Court, Northern District of Georgia. It was the matter of *John Leroy Howard and*
8 *Nohemi Beltran Howard versus Rockdale, Georgia*. It is cited as 391 B.R. 511.

9 MR. HARRIS: Thank you, Your Honor.

10 THE COURT: All right gentlemen. Any questions about the ruling or how I want that
11 procedure?

12 MR. HYDE: No sir.

13 MR. INGALLS: No sir.

14 MR. HARRIS: No sir.

15 THE COURT: All right.

16 MR. FOERSTER: Thank you, Your Honor.

17 THE COURT: All right. Have a good day gentlemen.

18 ----- END OF MOTIONS -----
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF SOUTH CAROLINA

2 COURT OF COMMON PLEAS

3 COUNTY OF SPARTANBURG

4

5 CERTIFICATE

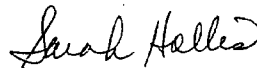
6

7 I, the undersigned Sarah Hollis, Court Reporter for the Master-In-Equity for the County of
8 Spartanburg, State of South Carolina, do hereby certify that the foregoing is a true and accurate
9 Transcript of Testimony of the proceedings had at the Motion hearing of the captioned case,
10 before the Honorable Gordon G. Cooper, Master-In-Equity for Spartanburg County, South
11 Carolina, on the 12th day of February, 2013.

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

13

14



Sarah Hollis
Court Reporter

15

16

17 **SWORN** to before me this
18 25th day of July, 2013.

19

Spartanburg, South Carolina.

20

21



Notary Public for South Carolina

22

My Commission Expires: January 31, 2015.

23

24

25

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
Pl. - 1	Copy of Mortgage, Book 2404, Page 553.		7
Pl. - 2	Copy of Assignment of Mortgage.		8
Pl. - 3	Copy of Judgment of Foreclosure and Sale.		8
Pl. - 4	Copy of Voluntary Petition.		9
Pl. - 5	Copy of the Chapter 13 Plan.		10
Pl. - 6	Copy of Notice of Chapter 13.		11
Pl. - 7	Copy of Request for Admissions.		11
Pl. - 8	Copy of Response to Request.		12
Pl. - 9	Copy of Order of Dismissal.		12
Pl. -10	Copy of Tax Deed, Book 95-V, Page 404.		13
Pl. -11	Copy of Supplemental Order.		13

WHEN RECORDED MAIL TO:
OPTION ONE MORTGAGE CORPORATION
P.O. BOX 57076
IRVINE, CA 92619-7076
ATTN: QUALITY CONTROL

Loan Number: 341000560
Servicing Number: 385037-7

REM 2404 PAGE 553

RECORDED
00 NOV 15 PM 12:25
RMC
SPARTANBURG, S.C.



(Space Above This Line For Recording Data)

207-212

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on November 08, 2000. The mortgagor is
RANDY S RUTHERFORD AND
TARA P RUTHERFORD HUSBAND AND WIFE

ORIGINAL

("Borrower"). This Security Instrument is given to
Option One Mortgage Corporation, a California Corporation
which is organized and existing under the laws of CALIFORNIA, and whose address is
3 Ada, Irvine, CA 92618

("Lender"). Borrower owes Lender the principal sum of ONE HUNDRED TEN THOUSAND SEVEN HUNDRED

AND NO/100THS Dollars (U.S.\$110,700.00).
This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which
provides for monthly payments, with the full debt, if not paid earlier, due and payable on
November 01, 2015. This Security Instrument secures to Lender: (a) the repayment of the debt
evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment
of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument;
and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note.
For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and
assigns the following described property located in Spartanburg County, South Carolina:
513839

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART THEREOF.

Derivation Clause: Being the same property conveyed to
by Deed of Dated and recorded Page
in the RNC Office for County in Book

which has the address of 327 PALMETTO CIRCLE,
[Street]

GREER South Carolina 29651 ("Property Address");
[City] [Zip Code]

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever,
together with all the improvements now or hereafter erected on the property, and all easements, appurtenances,
and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this
Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

SOUTH CAROLINA - Single Family
Page 4 of 7

SCD10011 (04-07-00)

111RMC 212111500#142 \$15.00 *

Tuesday, January 09, 2007.max

ROA_000094

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

COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

Loan Number: 341000560

Servicing Number: 385037-7

Date: 11/08/00

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, or applicable Law otherwise requires, insurance proceeds shall be applied first to reimburse Lender for costs and expenses incurred in connection with obtaining any such insurance proceeds, and then, at Lender's option, in such order and proportion as Lender may determine in its sole and absolute discretion, and regardless of any impairment of security or lack thereof: (i) to the sums secured by this Security Instrument, whether or not then due, and to such components thereof as Lender may determine in its sole and absolute discretion; and/or (ii) to Borrower to pay the costs and expenses of necessary repairs or restoration of the Property to a condition satisfactory to Lender. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, Lender may collect the insurance proceeds. Lender may, in its sole and absolute discretion, and regardless of any impairment of security or lack thereof, use the proceeds to repair or restore the Property or to pay the sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

If Borrower obtains earthquake insurance, any other hazard insurance, or any other insurance on the Property and such insurance is not specifically required by Lender, then such insurance shall (i) name Lender as loss payee thereunder, and (ii) be subject to the provisions of this paragraph 5.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower acknowledges that the Lender does not desire to make a loan to Borrower secured by this property on the terms contained in the Note unless the property is to be occupied by Borrower as Borrower's primary/secondary residence. Lender makes non-owner residence loans of different terms. Borrower promises and assures Lender that Borrower intends to occupy this property as Borrower's primary/secondary residence and that Borrower will so occupy this property as its sole primary/secondary residence within sixty (60) days after the date of the Security Instrument. If Borrower breaches this promise to occupy the property as Borrower's primary/secondary residence, then Lender may invoke any of the following remedies, in addition to the remedies provided in the Security Instrument: (1) Declare all sums secured by the Security Instrument due and payable and foreclose the Security Instrument, (2) Decrease the term of the loan and adjust the monthly payments under the Note accordingly, increase the interest rate and adjust the monthly payments under the Note accordingly, or (3) require that the principal balance be reduced to a percentage of either the original purchase price or the appraised value then being offered on non-owner occupied loans.

Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

Borrower shall, at Borrower's own expense, appear in and defend any action or proceeding purporting to affect the Property or any portion thereof or Borrower's title thereto, the validity or priority of the lien created by this Security Instrument, or the rights or powers of Lender with respect to this Security Instrument or the Property. All causes of action of Borrower, whether accrued before or after the date of this Security Instrument, for damage or injury to the Property or any part thereof, or in connection with any transaction financed in whole or in part by the proceeds of the Note or any other note secured by this Security Instrument, by Lender, or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid directly to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by this Security Instrument or to any deficiency under this Security Instrument or may release any monies so received by it or any part thereof, as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and any other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien

Tuesday, January 09, 2007.max

which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate in effect from time to time and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. **Mortgage Insurance.** If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Lender may apply, use or release the condemnation proceeds in the same manner as provided in paragraph 5 hereof with respect to insurance proceeds.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

Loan Number: 341000560

Servicing Number: 385037-7

Date: 11/08/00

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

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

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

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law. The holder of the Note and this Security Instrument shall be deemed to be the Lender hereunder.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

Borrower shall be solely responsible for, shall indemnify, defend and hold harmless Lender, its directors, officers, employees, attorneys, agents, and their respective successors and assigns, from and against any and all claims, demands, causes of action, loss, damage, cost (including actual attorneys' fees and court costs and costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, abatement, containment, remedial or other required plan), expenses and liability directly or indirectly arising out of or attributable to (a) the use, generation, storage, release, threatened release, discharge, disposal, abatement or presence of Hazardous Substances on, under or about the Property, (b) the transport to or from the Property of any Hazardous Substances, (c) the violation of any Hazardous Substances law, and (d) any Hazardous Substances claims.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

ADDITIONAL COVENANTS. Borrower and Lender further covenant and agree as follows:

21. Acceleration; Remedies. If any installment under the Note or notes secured hereby is not paid when due, or if Borrower should be in default under any provision of this Security Instrument, or if Borrower is in default under any other mortgage or other instrument secured by the Property, all sums secured by this Security Instrument and accrued interest thereon shall at once become due and payable at the option of Lender without prior notice, except as otherwise required by applicable law, and regardless of any prior forbearance. In such event, Lender, at its option, and subject to applicable law, may then or thereafter invoke the power of sale and/or any other remedies or take any other actions permitted by applicable law. Lender will collect all expenses incurred in pursuing the remedies described in this Paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

22. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any

Tuesday, January 09, 2007.max

ROA_000098

recordation costs. Lender may charge such person or persons a fee for releasing the Property for services rendered if the charging of the fee is permitted under applicable law.

23. **Waiver.** Borrower waives all rights of homestead exemption in the Property. Borrower waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgement obtained by Lender against Borrower in the event of foreclosure under this Security Instrument.

24. **Future Advances.** The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to one hundred fifty percent (150%) of the original principal amount of the Note plus interest therein, attorneys' fees and court costs.

25. **Misrepresentation and Nondisclosure.** Borrower has made certain written representations and disclosures in order to induce Lender to make the loan evidenced by the Note or notes which this Security Instrument secures, and in the event that Borrower has made any material misrepresentation or failed to disclose any material fact, Lender, at its option and without prior notice or demand, shall have the right to declare the indebtedness secured by this Security Instrument, irrespective of the maturity date specified in the Note or notes secured by this Security Instrument, immediately due and payable. To the extent permitted by applicable law, Lender, upon presentation to it of an affidavit signed by Lender setting forth facts showing a default by Borrower under this paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

26. **Time is of the Essence.** Time is of the essence in the performance of each provision of this Security Instrument.

27. **Waiver of Statute of Limitations.** The pleading of the statute of limitations as a defense to enforcement of this Security Instrument, or any and all obligations referred to herein or secured hereby, is hereby waived to the fullest extent permitted by applicable law.

28. **Modification.** This Security Instrument may be modified or amended only by an agreement in writing signed by Borrower and Lender.

29. **Reimbursement.** To the extent permitted by applicable law, Borrower shall reimburse Trustee and Lender for any and all costs, fees and expenses which either may incur, expend or sustain in the execution of the trust created hereunder or in the performance of any act required or permitted hereunder or by law or in equity or otherwise arising out of or in connection with this Security Instrument, the Note, any other note secured by this Security Instrument or any other instrument executed by Borrower in connection with the Note or Security Instrument. To the extent permitted by applicable law, Borrower shall pay to Trustee and Lender their fees in connection with Trustee and Lender including, but not limited to assumption application fees; fees for payoff demands and, statements of loan balance; fees for making, transmitting and transporting copies of loan documents, verifications, full or partial lien releases and other documents requested by borrower or necessary for performance of Lender's rights or duties under this Security Instrument; fees arising from a returned or dishonored check; fees to determine whether the Property is occupied, protected, maintained or insured or related purposes; appraisal fees, inspection fees, legal fees, broker fees, insurance mid-term substitutions, repair expenses, foreclosure fees and costs arising from foreclosure of the Property and protection of the security for this Security Instrument; and all other fees and costs of a similar nature not otherwise prohibited by law.

30. **Clerical Error.** In the event Lender at any time discovers that the Note, any other note secured by this Security Instrument, the Security Instrument, or any other document or instrument executed in connection with the Security Instrument, Note or notes contains an error that was caused by a clerical mistake, calculation error, computer malfunction, printing error or similar error, Borrower agrees, upon notice from Lender, to reexecute any documents that are necessary to correct any such error(s). Borrower further agrees that Lender will not be liable to Borrower for any damages incurred by Borrower that are directly or indirectly caused by any such error.

31. **Lost, Stolen, Destroyed or Mutilated Security Instrument and Other Documents.** In the event of the loss, theft or destruction of the Note, any other note secured by this Security Instrument, the Security Instrument or any other documents or instruments executed in connection with the Security Instrument, Note or notes (collectively, the "Loan Documents"), upon Borrower's receipt of an indemnification executed in favor of Borrower by Lender, or, in the event of the mutilation of any of the Loan Documents, upon Lender's surrender to Borrower of the mutilated Loan Document, Borrower shall execute and deliver to Lender a Loan Document in form and content identical to, and to serve as a replacement of, the lost, stolen, destroyed, or mutilated Loan document, and such replacement shall have the same force and effect as the lost, stolen, destroyed, or mutilated Loan Documents, and may be treated for all purposes as the original copy of such Loan Document.

32. **Assignment of Rents.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property. Borrower shall have the right to collect and retain the rents of the Property as they become due and payable provided Lender has not exercised its rights to require immediate payment in full of the sums secured by this Security Instrument and Borrower has not abandoned the Property.

33. **Riders to this Security Instrument.** If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

[Check applicable box(es)]

☐ Adjustable Rate Rider

☐ Condominium Rider

☐ 1-4 Family Rider

☐ Manufactured Home Rider

☐ Planned Unit Development Rider

☐ Occupancy Rider

☒ Other(s) (specify) Balloon Rider

Tuesday, January 09, 2007.max

REN 2404 PAGE 559

Loan Number: 341000560

Servicing Number: 385037-7

Date: 11/08/2000

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

Signed, sealed and delivered in the presence of:

Witness

Witness

RANDY S RUTHERFORD

(Seal)
Borrower

(Seal)
Borrower

TARA P RUTHERFORD

(Seal)
Borrower

(Seal)
Borrower

[Space Below This Line For Acknowledgment]

STATE OF SOUTH CAROLINA,

Greenville

County

as:

Before me personally appeared Nancy W Doppelheuer and made oath that

she saw the within named Borrower sign, seal, and as her act and deed,

deliver the within written Mortgage; and that she with Ronald G Bruce witnessed the execution thereof.

Sworn before me this 8th day of Nov 2000

Witness

Notary Public for South Carolina

My Commission Expires:

8-31-01

(Seal)

Tuesday, January 09, 2007.max

Loan Number: 341000540 Servicing Number: 395037-7 Date: 11/08/00

BALLOON RIDER TO SECURITY INSTRUMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned agree that certain Promissory Note and Security Instrument (Deed of Trust/Mortgage/Security Deed) of even date to which this Rider is attached shall be subject to the following provisions, notwithstanding any provisions to the contrary contained in said Promissory Note or Security Instrument securing same:

BALLOON PAYMENT

This loan is payable at the end of FIFTEEN (15) years. You must repay the entire principal balance of the loan and the unpaid interest then due. The lender is under no obligation to refinance the loan at that time. You will, therefore, be required to make payment out of other assets you may own, or you will have to find a lender willing to lend you the money at prevailing market rates, which may be considerably higher or lower than the interest rate on this loan. If you refinance this loan at maturity, you may have to pay some or all closing costs normally associated with a new loan, even if you obtain refinancing from the same lender.

Randy S. Rutherford 11-8-00
RANDY S RUTHERFORD Date

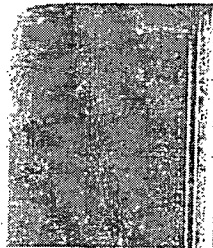
Tara P. Rutherford 11-8-00
TARA P RUTHERFORD Date

Date

Date

Date

Date



Tuesday, January 09, 2007.max



341000560001
341000560001

PREPARED BY AND
WHEN RECORDED MAIL TO:
Option One Mortgage Corporation
3 Ada, Irvine, CA 92618
ATTN: QUALITY CONTROL

Loan Number: 341000560
Servicing Number: 0003850377

MTG-2007-3280
Recorded 1 Pages on 1/22/2007 2:44:16 PM
Recording Fee: \$6.00 Documentary Stamps: \$0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register



ASSIGNMENT OF MORTGAGE

FOR VALUABLE CONSIDERATION the undersigned,
OPTION ONE MORTGAGE CORPORATION, A CALIFORNIA CORPORATION,
Whose address is: 3 Ada, Irvine, CA 92618 Phone: (800)704-0800
the sole owner and holder of the mortgage dated November 8, 2000 from
RANDY S RUTHERFORD AND
TARA P RUTHERFORD HUSBAND AND WIFE

to: Option One Mortgage Corporation, A California Corporation
securing a loan in the amount of one hundred ten thousand seven hundred
(\$110,700.00) Dollars, which mortgage was recorded in Book 2404 at Page 553
of the records of the Office of Spartanburg on November 15, 2000
for said County and State, does hereby transfer, assign and set over the same with the Note which it was given to
secure unto Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset-
Backed Certificates, Series 2000-D

its successors and assigns.

Whose address is: 1015 10th Ave. S.E., MS 0031 Minneapolis, MN 55414

LEGAL DESCRIPTION AS DESCRIBED ON MORTGAGE REFERRED TO HEREIN
IN WITNESS WHEREOF, OPTION ONE MORTGAGE CORPORATION, A CALIFORNIA CORPORATION
by Tracy M. Solomon, Assistant Secretary

has caused its Corporate Seal to be hereunto affixed this 8th day of January, 2007.

Witnesses:

Phyllis Robinson

OPTION ONE MORTGAGE CORPORATION,
a California Corporation

By Tracy M. Solomon Assistant Secretary

Daylce Combs - Adam Canahuff

(Space Below This Line For Acknowledgment)

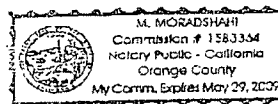
State of California
County of Orange

On January 8, 2007 before me, M. Moradshahi, personally appeared, Tracy M. Solomon,
personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature (Seal)

M. Moradshahi, Notary Public
My Commission Expires May 29, 2009





STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option
One Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Randy S. Rutherford; Tara P. Rutherford; Sherman
Acquisition Limited Partnership;

Defendant(s).

(005052-01661 RPC)
Loan Number: 0003850377
Second Loan Number:

Reginald P. Corley, Esquire
Attorney for the Plaintiff

Adam S. Tesh, Esquire
Attorney for Sherman Acquisition Limited Partnership

IN THE COURT OF COMMON PLEAS

DOCKET NO. 07-CP-42-0039

JUDGMENT OF FORECLOSURE AND SALE
Deficiency Judgment Waived

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 FEB 28 AM 11:56
MARCO KITCHENS

A hearing was held February 28, 2007 at 09:30 AM. The testimony was taken, which is reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on January 4, 2007.
2. The Summons and Complaint were filed on January 4, 2007.
3. Service was made upon the Defendant(s) named in this report as shown by the proof(s) of service filed herein.
4. The Defendant(s) Randy S. Rutherford and Tara P. Rutherford are in default as shown by affidavit or order filed herein.
5. Sherman Acquisition Limited Partnership filed an answer through their attorney/guardian, Adam S. Tesh.
6. The Defendant(s) and/or all attorneys of record were notified of the time, date, and place of the hearing in this matter.

7. According to the affidavit filed herein, the Defendant(s) Randy S. Rutherford and Tara P. Rutherford are in default and that the Defendant(s) Randy S. Rutherford and Tara P. Rutherford are not in the Military Service of the United States of America, as contemplated under The Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. Seq.

8. For value received, Randy S. Rutherford and Tara P. Rutherford made, executed and delivered a Note dated November 8, 2000 promising thereby to pay the sum of \$110,700.00 with interest at 12% per annum. Other terms and conditions are stated in the Note, which is of record herein.

9. To better secure the payment of the Note described above Randy S. Rutherford and Tara P. Rutherford made, executed, and delivered to Option One Mortgage Corporation a certain real estate first Mortgage in writing, dated November 8, 2000 covering real property in Spartanburg County, which is the same as that described in the Complaint. The first Mortgage was filed on November 15, 2000, and is of record in the Office of RMC/ROD in Book 2404 at Page 553. This mortgage was subsequently assigned to the Plaintiff herein.

10. This first Mortgage constitutes a first mortgage lien on the subject property, subject only to ad valorem or other liens/taxes given priority by statute.

11. The Plaintiff in this action is the owner and holder or nominee for the owner and holder of the Note and first Mortgage it is seeking to foreclose.

12. Any notice required by the terms of the first mortgage or by state or federal statutes has been given to the applicable defendant(s) prior to the commencement of this action.

13. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder or nominee for the holder thereof, has elected to require immediate payment of the entire amount due thereon and has placed the Note and first Mortgage in the hands of the attorney herein for collection by foreclosure.

14. The sum of \$4,500.00 is a reasonable fee to allow as attorney fees for 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 first Mortgage. These sums are likewise reasonable based on the time necessarily devoted to representation of the Plaintiff during the several month course of these proceedings. The services of counsel performed for the Plaintiff, including the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the amount awarded. The fees are also reasonable given the professional standing of the Plaintiff's counsel and their experience in handling foreclosure matters. The fees awarded herein are also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion

beyond the normal time.

15. After all payments received by the Plaintiff have been credited to the subject loan, the amount due and owing on the Note, with interest at the rate provided in the Note, and other costs and expenses of the within action, including an attorney's fee, secured by the Note and first Mortgage, is as follows:

(a)	Principal due October 1, 2006.....	\$106,812.62
(b)	Interest from September 1, 2006 through March 1, 2007 at 12% per annum	\$6,408.78
(c)	Advances (Escrow advances, corporate charges and other charges)	\$-68.32
(d)	Costs of collection prior to hearing (service, filing, etc.)	\$1,086.00
(e)	Late Charges.....	\$961.80
(f)	Attorney's fee.....	\$4,500.00 <i>ML</i>
	TOTAL debt secured by Note and first Mortgage, including interest to date shown	\$119,700.88 <i>ML</i>

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 12% per annum (pursuant to the terms of the Note and first Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the first Mortgage through the date to which such interest is computed.

16. Plaintiff is seeking the usual foreclosure of the first mortgage and has in the Complaint (or subsequently thereto in writing) expressly waived the right to a personal or deficiency judgment.

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

a. Sherman Acquisition Limited Partnership, by virtue of a judgment against Randy S. Ruthersford in the amount of \$2,811.22, dated September 22, 2003 and recorded on September 22, 2003 in Judgment Roll No. 271849.

IT IS THEREFORE ORDERED THAT:

18. There is due on the Note and first Mortgage set forth in the Complaint the sum of \$119,700.88, as set out in the Findings of Fact *supra*, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

19. The amount due in the preceding paragraph (the "Final Total Debt" as set out in the Findings of Fact *supra*) shall accrue interest at the rate of the respective note rate(s) per annum and together with such interest shall constitute the total judgment debt due the Plaintiff.

20. The amount of the judgment shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. §14-11-310 (1976). It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs and/or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

21. The Defendant(s) liable for the aforesaid judgment debt of the Note and first Mortgage including interest at the rate of 12% per annum shall on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

22. On default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity at public auction, at the Spartanburg County Courthouse, in the City of Spartanburg, County and State aforesaid on April 2, 2007, at 11:00 AM, or on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the next business day succeeding such holiday), on the following terms, that is to say:

a. For cash: The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent) same to be applied to purchase price if compliance is made, but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to either make the required deposit at time of bid or comply with the other terms of the bid within 20 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent Sales Day, but at the risk of the defaulting bidder(s).

b. Interest on the balance of the bid shall be paid through the day of compliance at the rate of 12%.

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

d. Purchaser to pay for any statutory commission on sale from the proceeds of the final bid amount.

e. Purchaser to pay for deed preparation, costs of recording the deed, and transfer taxes on the deed.

23. A personal or deficiency judgment having been waived, the bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

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

25. The Master in Equity will, by advertisement according to law, give notice of the time and place of such sale and the terms thereof and will execute to the purchaser, or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity may advertise the said 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.

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

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

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

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

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

28. In the event the successful bidder is other than the Defendant(s) in possession herein, the Sheriff of Spartanburg County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or 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.

29. In the event the successful bidder is other than the Defendants in possession herein and the occupants have voluntarily vacated the premises or have been ejected from the premises leaving furnishings, fixtures and items not subject to the Plaintiff's Mortgage in said premises, the Plaintiff is authorized to remove therefrom all furnishings, fixtures and items not subject to the lien of the

Plaintiff's Mortgage, which personal property, being deemed abandoned, shall be removed by the Plaintiff or its agents from the subject property by placing said personal property on the public street or highway or by any other means.

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

31. In accordance with Rule 77(d), SCRPC, the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure upon all parties not in default for failure to appear herein.

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

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

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

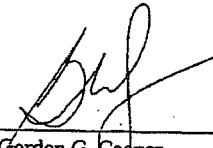
All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed of Durham Construction Company, Inc. dated June 16, 1998 and recorded on June 18, 1998 in Book 68-A at Page 961 in the Office of the RMC for Spartanburg County, South Carolina.

Property Address: 327 Palmetto Circle
Greer, SC 29651

TMS# 5-13-08-039.00

2-28, 2007
Spartanburg, South Carolina


Gordon G. Cooper
Master in Equity

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 FEB 28 AM 11:56
MARC KITCHENS

NOTICE OF SALE

BY VIRTUE of a decree heretofore granted in the case of: Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D vs. Randy S. Rutherford; Tara P. Rutherford; Sherman Acquisition Limited Partnership,, C/A No. 07-CP-42-0039, The following property will be sold on April 2, 2007, at 11:00 AM at the Spartanburg County Courthouse to the highest bidder:

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

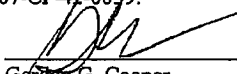
Derivation: Book 68-A at Page 961
327 Palmetto Circle, Greer, SC 29651

5-13-08-039.00

SUBJECT TO ASSESSMENTS, SPARTANBURG AD VALOREM TAXES, EASEMENTS AND/OR, RESTRICTIONS OF RECORD, AND OTHER SENIOR ENCUMBRANCES.

TERMS OF SALE: A 5% cash deposit is required. The deposit will be applied towards the purchase price unless the bidder defaults, in which case the deposit will be forfeited. If the successful bidder fails, or refuses, to make the required deposit, or comply with his bid within 20 days, then the property will be resold at his risk. No personal or deficiency judgment being demanded, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of 12% per annum. For complete terms of sale, see Judgment of Foreclosure and Sale filed with the Spartanburg County Clerk of Court at C/A #07-CP-42-0039.

Reginald P. Corley, Esq.
Attorney for Plaintiff
P.O. Box 100200
Columbia, SC 29202-3200
(803) 744-4444
005052-01661


Gordon G. Cooper
Master in Equity for
Spartanburg County

Website: www.rtt-law.com (see link to Resources/Foreclosure Sales)

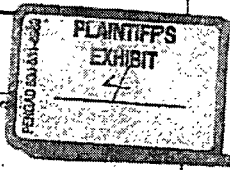
NOTICE TO PRINTER: Please insert:

____ Once during week commencing _____
____ Once during week commencing _____
____ Once during week commencing _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 FEB 28 AM 11:56
MARC KITCHENS

Official Form 1 (10/06)

United States Bankruptcy Court District of South Carolina		Voluntary Petition
Name of Debtor (if individual, enter Last, First, Middle): Rutherford, Randy Steven		Name of Joint Debtor (Spouse) (Last, First, Middle): Rutherford, Tara Patrice
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):		All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec./Complete EIN or other Tax ID No. (if more than one, state all): xxx-xx-3216		Last four digits of Soc. Sec./Complete EIN or other Tax ID No. (if more than one, state all): xxx-xx-3948
Street Address of Debtor (No. and Street, City, and State): 327 Palmetto Circle Greer, SC ZIP Code: 29651		Street Address of Joint Debtor (No. and Street, City, and State): 327 Palmetto Circle Greer, SC ZIP Code: 29651
County of Residence or of the Principal Place of Business: Spartanburg		County of Residence or of the Principal Place of Business: Spartanburg
Mailing Address of Debtor (if different from street address): ZIP Code:		Mailing Address of Joint Debtor (if different from street address): ZIP Code:
Location of Principal Assets of Business Debtor (if different from street address above):		
Type of Debtor (Form of Organization) (Check one box)	Nature of Business (Check one box)	Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box)
☒ Individual (includes Joint Debtors) See Exhibit D on page 2 of this form. ☐ Corporation (includes LLC and LLP) ☐ Partnership ☐ Other (if debtor is not one of the above entities, check this box and state type of entity below.)	☐ Health Care Business ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) ☐ Railroad ☐ Stockbroker ☐ Commodity Broker ☐ Clearing Bank ☐ Other Tax-Exempt Entity (Check box, if applicable) ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	☐ Chapter 7 ☐ Chapter 9 ☐ Chapter 11 ☐ Chapter 12 ☒ Chapter 13 ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding
Filing Fee (Check one box)		Nature of Debts (Check one box)
☒ Full Filing Fee attached ☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.		☒ Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." ☐ Debts are primarily business debts.
Chapter 11 Debtors Check one box: ☐ Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). ☐ Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2 million. Check all applicable boxes: ☐ A plan is being filed with this petition. ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).		
Statistical/Administrative Information		THIS SPACE IS FOR COURT USE ONLY
☒ Debtor estimates that funds will be available for distribution to unsecured creditors. ☐ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.		
Estimated Number of Creditors		
1-49 50-99 100-199 200-999 1000-5,000 5001-10,000 10,001-25,000 25,001-50,000 100,001-100,000 OVER 100,000		
☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐		
Estimated Assets		
☐ \$0 to \$10,000 ☐ \$10,001 to \$100,000 ☒ \$100,001 to \$1 million ☐ \$1,000,001 to \$100 million ☐ More than \$100 million		
Estimated Liabilities		
☐ \$0 to \$50,000 ☐ \$50,001 to \$100,000 ☒ \$100,001 to \$1 million ☐ \$1,000,001 to \$100 million ☐ More than \$100 million		



Official Form 1 (10/06)

Voluntary Petition

FORM B1, Page 2

(This page must be completed and filed in every case)

Name of Debtor(s):

Rutherford, Randy Steven
Rutherford, Tara Patrice

All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)

Location

Where Filed: - None -

Case Number:

Date Filed:

Location

Where Filed:

Case Number:

Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor:

- None -

Case Number:

Date Filed:

District:

Relationship:

Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts.)
I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that (he or she) may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

☒ /s/ Christopher M Edwards

March 29, 2007

Signature of Attorney for Debtor(s)

(Date)

Christopher M Edwards 9193

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.

☒ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☒ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

☒ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box)

- ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- ☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.
- ☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding (in a federal or state court) in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Statement by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes)

☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

(Name of landlord that obtained judgment)

(Address of landlord)

- ☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and
- ☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.

Official Form 1 (10/06)

FORM B1, Page 3

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):

Rutherford, Randy Steven
Rutherford, Tara Patrice

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Randy Steven Rutherford

Signature of Debtor Randy Steven Rutherford

X /s/ Tara Patrice Rutherford

Signature of Joint Debtor Tara Patrice Rutherford

Telephone Number (If not represented by attorney)

March 29, 2007

Date

Signature of Attorney

X /s/ Christopher M Edwards

Signature of Attorney for Debtor(s)

Christopher M Edwards 9193

Printed Name of Attorney for Debtor(s)

Moss & Associates, Attorneys, P.A.

Firm Name

11 Caledon Court, Suite D
Greenville, SC 29615

Address

Email: chris@mossattorneys.com

(864)272-3413 Fax: (864)272-3416

Telephone Number

March 29, 2007

Date

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Signatures

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.

☐ Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X

Signature of Foreign Representative

Printed Name of Foreign Representative

Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19B is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address

X

Date

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.

Official Form 1, Exhibit D (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.] [Summarize exigent circumstances here.]* _____

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

Software Copyright (c) 1998-2008 Best Case Solutions, Inc. - Evanston, IL - (800) 492-4037

Best Case Bankruptcy

Official Form 1, Exh. D (10/06) - Cont.

- ☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*
- ☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);
 - ☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);
 - ☐ Active military duty in a military combat zone.

- ☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Randy Steven Rutherford
Randy Steven Rutherford

Date: March 29, 2007

Official Form 1, Exhibit D (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

**EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT**

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.] [Summarize exigent circumstances here.]* _____

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

Software Copyright (c) 1998-2008 Best Case Solutions, Inc. - Evanston, IL - (800) 482-8037

Best Case Bankruptcy

Official Form 1, Exh. D (10/06) - Cont.

- ☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*
- ☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);
 - ☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);
 - ☐ Active military duty in a military combat zone.

- ☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Tara Patrice Rutherford
Tara Patrice Rutherford

Date: March 29, 2007

Form 6-Summary (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

Chapter 13

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	139,500.00		
B - Personal Property	Yes	4	21,181.44		
C - Property Claimed as Exempt	Yes	1			
D - Creditors Holding Secured Claims	Yes	1		145,561.18	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	Yes	1		0.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	8		116,442.62	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	4			6,822.64
J - Current Expenditures of Individual Debtor(s)	Yes	2			6,184.26
Total Number of Sheets of ALL Schedules		24			
Total Assets			160,681.44		
Total Liabilities				262,003.80	

Official Form 6 - Statistical Summary (10/06)

United States Bankruptcy Court
District of South Carolina

In re **Randy Staven Rutherford,
Tara Patrice Rutherford**

Debtors

Case No. _____

Chapter 13

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

☐ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	0.00
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E) (whether disputed or undisputed)	0.00
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E)	0.00
Student Loan Obligations (from Schedule F)	0.00
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	0.00
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	0.00
TOTAL	0.00

State the following:

Average Income (from Schedule I, Line 16)	6,822.64
Average Expenses (from Schedule J, Line 18)	6,184.28
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	4,110.85

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column		4,151.08
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column	0.00	
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column		0.00
4. Total from Schedule F		116,442.62
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)		120,593.70

Form 86A
(10/05)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE A. REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property." Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, Spartanburg County, (3) bed, (2) bath, vinyl siding home, TMS # (6143-26-3990.18), Tax Appraisal Value (\$120,000), Debtor purchased home June 1998 for (\$119,000), Fair market value (\$136,000)		J	135,000.00	131,240.10
CAMPING LOT: Lot 21 Hatteras Foxwood Hills Subdivision Oconee County, SC, Land was transferred after debtor's father passed away in August 1996, TMS # (306-01-06-016), Tax Appraisal Value (\$4,000), Fair market value (\$4,500)		J	4,500.00	0.00

Sub-Total > 139,500.00 (Total of this page)

Total > 139,500.00

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

Form B6B
(10/05)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." In providing the information requested in this schedule, do not include the name or address of a minor child. Simply state "a minor child."

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		BANK OF AMERICA: Checking account # (000048262258)	J	537.75
		BANK OF AMERICA: Savings account # (000784592708)	J	38.69
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		HOUSEHOLD FURNISHINGS: (2) bunk beds, bed, (3) dressers, sofa, love seat, dining room table with chairs, microwave, stove, dishwasher, refrigerator, washing machine, dryer, computer, desk, stereo, (3) televisions, DVD player, entertainment center, (2) end tables, gas grill, push mower, misc. other furnishings	J	2,200.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		WEARING APPAREL: Assorted used clothes	J	350.00
7. Furs and jewelry.		JEWELRY: Wedding ring, gold necklace	J	400.00
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		NATIONWIDE: 115 B West Wade Hampton Blvd. Greer, SC 29650, Policy # (L060996220), Face value of policy (\$325,000), cash surrender value (\$0)	J	0.00
10. Annuities. Itemize and name each issuer.	X			
				Sub-Total > 3,526.44
				(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

Form 968
(10/05)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors
SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c); Rule 1007(b)).	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			

Sub-Total > 0.00
(Total of this page)

Sheet 1 of 3 continuation sheets attached
to the Schedule of Personal Property

Form 86B
(10/05)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors
SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1999 TOYOTA SIENNA: VIN (4T3ZF13C2XU139084), (4) Door, (6) Cylinder, mileage (115,000), KBB Value (\$4,770)	J	4,770.00
		2002 TOYOTA SEQUOIA: VIN (5TDBT48A825067626), (4) Door, (8) cylinder, mileage (166,000), KBB Value (\$10,170)	J	10,170.00
		1993 FORD F-350: VIN (1FDJF37H8PNAQ5013), (2) Door, (8) cylinder, mileage (211,000), KBB Value (\$1,365)	J	1,365.00
		1993 CHEVORLET GEO TRACKER: VIN (2CNBE18U1P6904348), (2) Door, (4) cylinder, mileage (165,000), KBB Value (\$)	J	0.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment, and supplies used in business.		INVENTORY: Wavetek meter, trilithic meter, coring tools, docket strippers, center cleaners, torch, wrenches, screwdrivers, pliers, wirecutters, drill, climbing equipment, cones, signs	J	1,350.00
30. Inventory.	X			
31. Animals.	X			

Sub-Total > 17,655.00
(Total of this page)

Sheet 2 of 3 continuation sheets attached to the Schedule of Personal Property

Form B6B
(10/05)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			

Sheet 3 of 3 continuation sheets attached
to the Schedule of Personal Property

Copyright (c) 1998-2008 - Best Case Solutions - Evanston, IL - (800) 492-6037

Sub-Total > 0.00
(Total of this page)
Total > 21,181.44

(Report also on Summary of Schedules)

Best Case Bankruptcy

Form B4C
(10/05)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:
(Check one box)

☐ Check if debtor claims a homestead exemption that exceeds \$125,000.

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29661, Spartanburg County, (3) bed, (2) bath, vinyl siding home, TMS # (6143-28-3990.18), Tax Appraisal Value (\$120,000), Debtor purchased home June 1998 for (\$119,000), Fair market value (\$136,000)	S.C. Code Ann. § 15-41-30(1)	50,000.00	135,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
BANK OF AMERICA: Checking account # (000048252258)	S.C. Code Ann. § 15-41-30(5)	1,000.00	537.75
Household Goods and Furnishings			
HOUSEHOLD FURNISHINGS: (2) bunk beds, bed, (3) dressers, sofa, love seat, dining room table with chairs, microwave, stove, dishwasher, refrigerator, washing machine, dryer, computer, desk, stereo, (3) televisions, DVD player, entertainment center, (2) end tables, gas grill, push mower, misc. other furnishings	S.C. Code Ann. § 15-41-30(3)	2,200.00	2,200.00
Wearing Apparel			
WEARING APPAREL: Assorted used clothes	S.C. Code Ann. § 15-41-30(3)	350.00	350.00
Furs and Jewelry			
JEWELRY: Wedding ring, gold necklace	S.C. Code Ann. § 15-41-30(4)	400.00	400.00
Interests in Insurance Policies			
NATIONWIDE: 115 B West Wade Hampton Blvd. Greer, SC 29660, Policy # (L060996220), Face value of policy (\$325,000), cash surrender value (\$0)	S.C. Code Ann. § 38-63-40(C)	0.00	0.00
Automobiles, Trucks, Trailers, and Other Vehicles			
1993 FORD F-350: VIN (1FDJF37H8PNAQ5013), (2) Door, (8) cylinder, mileage (211,000), KBB Value (\$1,365)	S.C. Code Ann. § 15-41-30(2)	1,200.00	1,365.00
Machinery, Fixtures, Equipment and Supplies Used in Business			
INVENTORY: Wavetek meter, trillithic meter, coring tools, docket strippers, center cleaners, torch, wrenches, screwdrivers, pliers, wirecutters, drill, climbing equipment, cones, signs	S.C. Code Ann. § 15-41-30(6)	1,500.00	1,350.00

Total: 56,650.00 141,202.75

0 continuation sheets attached to Schedule of Property Claimed as Exempt

Copyright (c) 1996-2006 - Best Case Solutions - Evanston, IL - (800) 492-8037

Best Case Bankruptcy

Official Form 40 (10/06)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor". Include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
Account No. 7352			3/04					
GREENVILLE HOSPITAL SYSTEM 255 ENTERPRISE BLVD STE 210 Greenville, SC 29615-3556			Judgment Lien PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, AVOID LIEN.					
			Value \$ 135,000.00				8,728.00	0.00
Account No. 0377			11/00					
OPTION ONE PO BOX 57054 Irvine, CA 92619			Mortgage PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, ARREARS TO BE PAID IN PLAN (\$12,960), DEBTOR TO RESUME REGULAR MORTGAGE PAYMENTS MAY 2007.					
			Value \$ 135,000.00				119,700.88	0.00
Account No. 1849			9/03					
SHERMAN ACQUISITION 726 EXCHANGE STREET SUITE 700 Buffalo, NY 14210			Judgment Lien PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, AVOID LIEN.					
			Value \$ 135,000.00				2,811.22	0.00
Account No. 3048			12/01					
SOUTHEAST TOYOTA FINANCE PO BOX 70832 Charlotte, NC 28272			Auto loan 2002 TOYOTA SEQUOIA: TO BE PAID IN PLAN.					
			Value \$ 10,170.00				14,321.08	4,151.08
Subtotal							145,561.18	4,151.08
(Total of this page)								
Total							145,561.18	4,151.08
(Report on Summary of Schedules)								

0 continuation sheets attached

Official Form 42E (10/06)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 or 13 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☒ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic support obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trust or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$10,000* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$4,925* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,225* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered provided. 11 U.S.C. § 507(a)(7).

☐ **Taxes and certain other debts owed to governmental units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to maintain the capital of an insured depository institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

☐ **Claims for death or personal injury while debtor was intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on April 1, 2007, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

0 continuation sheets attached

Official Form 67 (10/06)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts filing a case under chapter 7, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	Husband, Wife, Joint, or Community		DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
	H	W					
Account No. APPLIED CARD BANK 4700 EXCHANGE CT Boca Raton, FL 33431			10/99 Collections				2,897.00
Account No. 8877 BUSINESS REVENUE SYSTEMS PO BOX 8986 Fort Wayne, IN 46898			10/05 Collections				286.00
Account No. 8939 CAPITAL ONE PO BOX 30281 Salt Lake City, UT 84130			9/99 Credit card purchases				3,480.00
Account No. 7963 CAPITAL ONE PO BOX 85149 Richmond, VA 23296			4/99 Credit card purchases				1,320.00
Subtotal (Total of this page)							7,983.00

7 continuation sheets attached

Official Form 6F (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B I T O R	H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 9426 CAROLINA CREDIT EXCHANGE PO BOX 1764 Spartanburg, SC 29304		J		9/04 Collections				192.00
Account No. 3724 CAROLINA EXCHANGES PO BOX 1764 Spartanburg, SC 29304		J		8/04 Medical bills				122.00
Account No. 0432 CBE GROUP PO BOX 900 Waterloo, IA 50704		J		5/01 Collections				149.00
Account No. 5122 CHILDRENS MEDICAL CENTER 131 COMMONWEALTH DRIVE Greenville, SC 29615		J		12/06 Medical bills				897.00
Account No. 8513 CREDIT BUREAU PO BOX 1051 Spartanburg, SC 29304		J		8/02 Collections				2,306.00
Sheet no. <u>1</u> of <u>7</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims								
								Subtotal (Total of this page)
								3,665.00

Official Form 67 (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H W J C	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 4139 CREDIT BUREAU ASSOCIATIONS PO BOX 1051 Spartanburg, SC 29304		J	10/04 Medical bills				3,128.00
Account No. 6895 DISCOVER CARD PO BOX 15316 Wilmington, DE 19850		J	11/95 Credit card purchases				1,258.00
Account No. 2492 FOXWOOD HILLS PROPERTY 800 HICKORY TRAIL Westminster, SC 29693		J	4/03 Collections				1,748.00
Account No. 0454 GASTROENTEROLOGY ASSOC. P.O. BOX 8676 Greenville, SC 29604-8676		J	12/06 Medical bills				548.00
Account No. GHS 305 E MAIN ST. Greenville, SC 29601		J	2/01 Medical bills				8,728.00
Subtotal (Total of this page)							15,410.00

Sheet no. 2 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 66 (10/99) - Cont.

In re Randy Steven Rutherford,
Tara Patricia Rutherford

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B Y T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	D A T E C L A I M W A S I N C U R R E D A N D C O N S I D E R A T I O N F O R C L A I M. I F C L A I M I S S U E D S U B J E C T T O S E T O F F, S O S T A T E.	C O N T I N G E N T	D I S P U T E D	A M O U N T O F C L A I M
Account No. 3193 GHS HOSPITAL PO BOX 19051 Greenville, SC 29602	J		11/06 Medical bills			696.16
Account No. 6936 GHS UNIVERSITY MEDICAL GROUP PO BOX 60087 Charlotte, NC 28260-0087	J		12/06 Medical bills			2,111.30
Account No. 4486 GREENVILLE HOSPITAL SYSTEM 255 ENTERPRISE BLVD STE 210 Greenville, SC 29615-3556	J		11/06 Medical bills			48,913.20
Account No. 3193 GREENVILLE HOSPITAL SYSTEM 255 ENTERPRISE BLVD STE 210 Greenville, SC 29615-3556	J		11/05 Medical bills			22,584.96
Account No. 1870 GREENVILLE RADIOLOGY 1210 W FARIS ROAD Greenville, SC 29605	J		11/06 Medical bills			58.00
Subtotal (Total of this page)						74,363.62

Sheet no. 3 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 67 (10/06) - Cont.

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C C O D E D E B I T O R	H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G U E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 3086				12/06 Medical bills				597.00
HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J						
Account No. 3216				12/06 Medical bills				1,027.00
HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J						
Account No. 6474				12/06 Medical bills				2,811.00
HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J						
Account No. 6589				5/05 Medical bills				233.00
HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J						
Account No. 3070				2/04 Collections				938.00
HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J						
Subtotal (Total of this page)								5,606.00

Sheet no. 4 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 07 (10/06) - Cont.

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	D I S P U T E D	A M O U N T O F C L A I M
Account No. IRS DEPT OF REVENUE Memphis, TN 37501		J	NOTICE			0.00
Account No. 6577 LVNV FUNDING, LLC PO BOX 10497 Greenville, SC 29603		J	6/03 Collections			3,206.00
Account No. 0753 MIDLAND CREDIT MANAGEMENT 8875 AERO DR STE 2 San Diego, CA 92123		J	12/06 Collections			1,700.00
Account No. 6472 PATHOLOGY ASSOC. OF GREENVILLE PO BOX 9279 Greenville, SC 29604		J	12/06 Collections			766.00
Account No. 4538 PRINCE-PARKER ASSOCIATES PO BOX 17208 Charlotte, NC 28227		J	9/04 Collections			82.00
Sheet no. <u>5</u> of <u>7</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims						Subtotal (Total of this page) 5,754.00

Official Form 6F (10/06) - Cont.

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B O R R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. SC DEPARTMENT OF REVENUE PO BOX 125 Columbia, SC 29214		J	NOTICE				0.00
Account No. 0340 SCA COLLECTIONS 300 EAST ARLINGTON BLVD. STE 6A Greenville, NC 27858		J	10/06 Collections				206.00
Account No. 8838 SCA COLLECTIONS 300 E. ARLINGTON BOULEVARD Greenville, NC 27858-5016		J	4/01 Medical bills				48.00
Account No. 3180 SPARTAN FINANCIAL SERVICE 13730 SOUTH POINT BLVD Charlotte, NC 28273		J	4/01 Collections				2,446.00
Account No. SPARTANBURG COUNTY PO BOX 5807 Spartanburg, SC 29304		J	NOTICE				0.00
Sheet no. <u>6</u> of <u>7</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							
Subtotal (Total of this page)							2,700.00

Official Form 6F (10/06) - Cont.

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B O R R	H U S B A N D W I F E J O I N T C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I T E D	D I S P U T E D	AMOUNT OF CLAIM	
Account No. 8877 TOTAL RECOVERY 2419 SPY RUN AVE. # 8 Fort Wayne, IN 46805		J	5/06 Collections				286.00	
Account No. 1837 TOTAL RECOVERY 2419 SPY RUN AVE. # 8 Fort Wayne, IN 46805		J	10/06 Collections				675.00	
Account No.								
Account No.								
Account No.								
Account No.								
Sheet no. <u>7</u> of <u>7</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							Subtotal (Total of this page) Total (Report on Summary of Schedules)	961.00 116,442.62

Form B6C
(10/05)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112; Fed.R. Bankr. P. 1007(m).

☐ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code, of Other Parties to Lease or Contract	Description of Contract or Lease and Nature of Debtor's Interest. State whether lease is for nonresidential real property. State contract number of any government contract.

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases.

Form B6H
(10/05)

In re **Randy Steven Rutherford,
Tara Patrice Rutherford**

Case No. _____

Debtors

SCHEDULE H. CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the eight year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state, commonwealth, or territory. Include all names used by the nondebtor spouse during the eight years immediately preceding the commencement of this case. If a minor child is a codebtor or a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112; Fed. Bankr. P. 1007(m).

☒ Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR

NAME AND ADDRESS OF CREDITOR

0 continuation sheets attached to Schedule of Codebtors

Official Form 41 (10/06)

In re **Randy Steven Rutherford**
Tara Patrice Rutherford

Case No. _____

Debtor(s)

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP(S):	AGE(S):
	Son	13
	Son	16
	Daughter	9
Employment:	DEBTOR	SPOUSE
Occupation	SUB-CONTRACTOR	
Name of Employer	SELF EMPLOYED	HOMEMAKER
How long employed	9.5 YEARS	11 YEARS
Address of Employer		

INCOME: (Estimate of average or projected monthly income at time case filed)

1: Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify): _____

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify): _____

12. Pension or retirement income

13. Other monthly income

(Specify): income tax refund

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:
Debtor does not expect any drastic changes in income in the next year.

	DEBTOR	SPOUSE
1: Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	\$ 0.00	\$ 0.00
2. Estimate monthly overtime	\$ 0.00	\$ 0.00
3. SUBTOTAL	\$ 0.00	\$ 0.00
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	\$ 0.00	\$ 0.00
b. Insurance	\$ 0.00	\$ 0.00
c. Union dues	\$ 0.00	\$ 0.00
d. Other (Specify):	\$ 0.00	\$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS	\$ 0.00	\$ 0.00
6. TOTAL NET MONTHLY TAKE HOME PAY	\$ 0.00	\$ 0.00
7. Regular income from operation of business or profession or farm (Attach detailed statement)	\$ 6,418.72	\$ 0.00
8. Income from real property	\$ 0.00	\$ 0.00
9. Interest and dividends	\$ 0.00	\$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	\$ 0.00	\$ 0.00
11. Social security or government assistance	\$ 0.00	\$ 0.00
(Specify):	\$ 0.00	\$ 0.00
12. Pension or retirement income	\$ 0.00	\$ 0.00
13. Other monthly income	\$ 0.00	\$ 0.00
(Specify): <u>income tax refund</u>	\$ 403.92	\$ 0.00
	\$ 0.00	\$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13	\$ 6,822.64	\$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	\$ 6,822.64	\$ 0.00
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)	\$ 6,822.64	

PROFIT & LOSS STATEMENT

Month February Year 2007

(Do Not Include Personal Household Expenses. Include Only Business Expenses.)

INCOME		\$	<u>4868.95</u>
1	Gross Receipts or Sales		
2	Cost of Goods Sold:	\$	<u>0</u>
2(a)	Purchases	\$	<u>0</u>
2(b)	Cost of Labor (do not include employee salaries)	\$	<u>0</u>
2(c)	Materials and Supplies	\$	<u>0</u>
3	Gross Profit (subtract line 2 from line 1)	\$	<u>4868.95</u>
4	Other Income	\$	<u>0</u>
5	Gross Income (add lines 3 and 4)	\$	<u>4868.95</u>
EXPENSES (do not list chapter 13 plan payment)		\$	<u>0</u>
6	Business Property Rent/Lease	\$	<u>0</u>
7	Salaries and Wages of Employees	\$	<u>0</u>
8	Employee Benefits	\$	<u>0</u>
9	Equipment Lease Payments	\$	<u>0</u>
10	Secured Debt Payments	\$	<u>0</u>
11	Supplies (not included in 2(c))	\$	<u>0</u>
12	Utilities	\$	<u>0</u>
13	Telephone	\$	<u>95.143</u>
14	Repairs & Maintenance	\$	<u>24.27</u>
15	Miscellaneous Office Expense	\$	<u>0</u>
16	Advertising	\$	<u>1221.45</u>
17	Travel & Entertainment	\$	<u>0</u>
18	Professional Fees	\$	<u>0</u>
	Name _____ Purpose _____	\$	<u>0</u>
19	Insurance:	\$	<u>0</u>
19(a)	Liability	\$	<u>0</u>
19(b)	Property	\$	<u>0</u>
19(c)	Vehicle	\$	<u>0</u>
19(d)	Worker's Compensation	\$	<u>0</u>
19(e)	Other	\$	<u>0</u>
20	Taxes:	\$	<u>0</u>
20(a)	Payroll	\$	<u>0</u>
20(b)	Sales	\$	<u>0</u>
20(c)	Other	\$	<u>0</u>
21	Total Expenses (add lines 6 through line 20)	\$	<u>1351.25</u>

TOTAL PROFIT (LOSS) FOR MONTH (subtract line 21 from line 5) \$ 3517.60

WE declare under penalty of perjury that the information provided is true and correct to the best of my/our knowledge, information and belief.

Dated: 3/20/07

Debtors: [Signature]

PROFIT & LOSS STATEMENT

Month March Year 2007

(Do Not Include Personal Household Expenses. Include Only Business Expenses.)

INCOME			\$ <u>8566.15</u>
1	Gross Receipts or Sales		
2	Cost of Goods Sold:		
2(a)	Purchases	\$ <u>0</u>	
2(b)	Cost of Labor (do not include employee salaries)	\$ <u>0</u>	
2(c)	Materials and Supplies	\$ <u>0</u>	\$ <u>8566.15</u>
3	Gross Profit (subtract line 2 from line 1)		\$ <u>8566.15</u>
4	Other Income		\$ <u>8566.15</u>
5	Gross Income (add lines 3 and 4)		
EXPENSES (do not list chapter 13 plan payment)			
6	Business Property Rent/Lease	\$ <u>0</u>	
7	Salaries and Wages of Employees	\$ <u>0</u>	
8	Employee Benefits	\$ <u>0</u>	
9	Equipment Lease Payments	\$ <u>0</u>	
10	Secured Debt Payments	\$ <u>0</u>	
11	Supplies (not included in 2(c))	\$ <u>0</u>	
12	Utilities	\$ <u>0</u>	
13	Telephone	\$ <u>110.02</u>	
14	Repairs & Maintenance	\$ <u>81.05</u>	
15	Miscellaneous Office Expense	\$ <u>0</u>	
16	Advertising	\$ <u>2087.63</u>	
17	Travel & Entertainment	\$ <u>0</u>	
18	Professional Fees	\$ <u>0</u>	
	Name _____ Purpose _____		
19	Insurance:		
19(a)	Liability	\$ <u>0</u>	
19(b)	Property	\$ <u>0</u>	
19(c)	Vehicle	\$ <u>233.00</u>	
19(d)	Worker's Compensation	\$ <u>0</u>	
19(e)	Other	\$ <u>0</u>	\$ <u>233.00</u>
20	Taxes:		
20(a)	Payroll	\$ <u>0</u>	
20(b)	Sales	\$ <u>0</u>	
20(c)	Other	\$ <u>0</u>	\$ <u>0</u>
21	Total Expenses (add lines 6 through line 20)	\$ <u>2278.70</u>	
TOTAL PROFIT (LOSS) FOR MONTH (subtract line 21 from line 5)		\$ <u>6287.45</u>	

I/WE declare under penalty of perjury that the information provided is true and correct to the best of my/our knowledge, information and belief.

Dated: 3/20/07

Debtors: [Signature]

STATE OF SOUTH CAROLINA

) AFFIDAVIT OF INCOME FOR
) Tara Patrice Rutherford
)

COUNTY OF GREENVILLE

I hereby state under the penalty of perjury that I have no source of income.

March 6, 2007

Date

Tara P. Rutherford
Debtor

Official Form 6J (10/06)

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No. _____

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	\$	1,139.00
a. Are real estate taxes included?	Yes _____ No <u>X</u>	
b. Is property insurance included?	Yes _____ No <u>X</u>	
2. Utilities:		
a. Electricity and heating fuel	\$	150.00
b. Water and sewer	\$	0.00
c. Telephone	\$	50.00
d. Other <u>See Detailed Expense Attachment</u>	\$	115.00
3. Home maintenance (repairs and upkeep)	\$	150.00
4. Food	\$	1,000.00
5. Clothing	\$	100.00
6. Laundry and dry cleaning	\$	35.00
7. Medical and dental expenses	\$	100.00
8. Transportation (not including car payments)	\$	300.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	100.00
10. Charitable contributions	\$	0.00
11. Insurance (not deducted from wages or included in home mortgage payments)		
a. Homeowner's or renter's	\$	63.00
b. Life	\$	39.00
c. Health	\$	0.00
d. Auto	\$	150.46
e. Other _____	\$	0.00
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) _____	\$	0.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		
a. Auto	\$	0.00
b. Other <u>Auto Property Tax</u>	\$	78.00
c. Other <u>Real Estate Tax</u>	\$	120.57
d. Other _____	\$	0.00
14. Alimony, maintenance, and support paid to others	\$	0.00
15. Payments for support of additional dependents not living at your home	\$	0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	2,414.24
17. Other <u>Children's School Expenses</u>	\$	80.00
Other _____	\$	0.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	\$	6,184.26
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: <u>Debtor does not expect any drastic changes in expenses in the next year.</u>		
20. STATEMENT OF MONTHLY NET INCOME		
a. Average monthly income from Line 15 of Schedule I	\$	6,822.64
b. Average monthly expenses from Line 18 above	\$	6,184.26
c. Monthly net income (a. minus b.)	\$	638.38

Official Form 6J (10/06)

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No. _____

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Detailed Expense Attachment

Other Utility Expenditures:

<u>Cable</u>	\$	<u>90.00</u>
<u>Internet</u>	\$	<u>25.00</u>
<u>Total Other Utility Expenditures</u>	\$	<u>115.00</u>

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 26 sheets [total shown on summary page plus 2], and that they are true and correct to the best of my knowledge, information, and belief.

Date March 29, 2007

Signature /s/ Randy Steven Rutherford
Randy Steven Rutherford
Debtor

Date March 29, 2007

Signature /s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Joint Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

Official Form 7
(10/05)

United States Bankruptcy Court
District of South Carolina

In re **Randy Steven Rutherford**
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. Do not include the name or address of a minor child in this statement. Indicate payments, transfers and the like to minor children by stating "a minor child." See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. If the answer to an applicable question is "None," mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None
☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$19,256.15	YEAR TO DATE: Subcontracting for Bigham
\$97,077.10	2006: Subcontracting for Bigham
\$22,337.00	2005: Subcontracting for Bigham

2. Income other than from employment or operation of business

None ☐ State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the two years immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT SOURCE

3. Payments to creditors

None ☐ Complete a. or b., as appropriate, and c.

a. *Individual or joint debtor(s) with primarily consumer debts.* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within 90 days immediately preceding the commencement of this case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$600. Indicate with an (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING

None ☐ b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within 90 days immediately preceding the commencement of the case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$5,000. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING

None ☐ c. *All debtors:* List all payments made within one year immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING

4. Suits and administrative proceedings, executions, garnishments and attachments

None ☐ a. List all suits and administrative proceedings to which the debtor is or was a party within one year immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION

None ☐ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY

5. Repossessions, foreclosures and returns

None ☒ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY

6. Assignments and receiverships

None ☒ a. Describe any assignment of property for the benefit of creditors made within 120 days immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT

None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY

7. Gifts

None ☒ List all gifts or charitable contributions made within one year immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT

8. Losses

None ☒ List all losses from fire, theft, other casualty or gambling within one year immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS

9. Payments related to debt counseling or bankruptcy

None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within one year immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Moss & Associates, Attorneys, P.A. 11 Caledon Court, Suite D Greenville, SC 29615	2/07	Attorney's fees: (\$1,026) Court filing fee: (\$274)

NAME AND ADDRESS OF PAYEE Consumer Credit Counseling Services 100 Edgewood Ave. Suite 1800 Atlanta, GA 30303	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR 2/07	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY Credit counseling fee: (\$50)

10. Other transfers

None ☒ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED

None ☒ b. List all property transferred by the debtor within ten years immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY

11. Closed financial accounts

None ☒ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING

12. Safe deposit boxes

None ☒ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY

13. Setoffs

None ☒ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF

14. Property held for another person

None ☐ List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY

15. Prior address of debtor

None ☐ If the debtor has moved within three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY

16. Spouses and Former Spouses

None ☐ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within eight years immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None ☐ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

None ☐ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

None ☐ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION

18. Nature, location and name of business

None



a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOC. SEC. NO./ COMPLETE EIN OR OTHER TAXPAYER I.D. NO.	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES

None



b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor or self-employed in a trade, profession, or other activity, either full- or part-time:

(An individual or joint debtor should complete this portion of the statement only if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, records and financial statements

None



a. List all bookkeepers and accountants who within two years immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS	DATES SERVICES RENDERED

None



b. List all firms or individuals who within the two years immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME	ADDRESS	DATES SERVICES RENDERED

None



c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME	ADDRESS

None



d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within two years immediately preceding the commencement of this case.

NAME AND ADDRESS	DATE ISSUED

20. Inventories

- ✓ None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)

- None ☐ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY	NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS

21. Current Partners, Officers, Directors and Shareholders

- None ☐ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST

- None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP

22. Former partners, officers, directors and shareholders

- None ☐ a. If the debtor is a partnership, list each member who withdrew from the partnership within one year immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL

- None ☐ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within one year immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION

23. Withdrawals from a partnership or distributions by a corporation

- None ☐ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during one year immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY

24. Tax Consolidation Group.

- None ☐ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within six years immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds.

- None ☐ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within six years immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date March 29, 2007

Signature /s/ Randy Steven Rutherford
Randy Steven Rutherford
Debtor

Date March 29, 2007

Signature /s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Joint Debtor

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.

Chapter 13

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept.....	\$	<u>3,000.00</u>
Prior to the filing of this statement I have received.....	\$	<u>1,026.00</u>
Balance Due.....	\$	<u>1,974.00</u>

2. \$ 274.00 of the filing fee has been paid.
3. The source of the compensation paid to me was:
☒ Debtor ☐ Other (specify):
4. The source of compensation to be paid to me is:
☒ Debtor ☐ Other (specify):
5. ☒ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.
☐ I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached.
6. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:
a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
d. Representation of the debtor in adversary proceedings and other contested bankruptcy matters;
e. [Other provisions as needed]
Negotiations with secured creditors to reduce to market value; exemption planning; preparation and filing of reaffirmation agreements and applications as needed; preparation and filing of motions pursuant to 11 USC 522(f)(2)(A) for avoidance of liens on household goods.
7. By agreement with the debtor(s), the above-disclosed fee does not include the following service:
Representation of the debtors in any dischargeability actions, judicial lien avoidances, relief from stay actions or any other adversary proceeding.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Dated: March 29, 2007

/s/ Christopher M Edwards
Christopher M Edwards 9193
Moss & Associates, Attorneys, P.A.
11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413 Fax: (864)272-3416
chris@mossattorneys.com

B 201 (04/09/06)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

**NOTICE TO INDIVIDUAL CONSUMER DEBTOR UNDER § 342(b)
OF THE BANKRUPTCY CODE**

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case. You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days before the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses.

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation (\$245 filing fee, \$39 administrative fee, \$15 trustee surcharge: Total Fee \$299)

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

2. Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

4. Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$39 administrative fee: Total fee \$274)

1. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

2. Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

3. After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

B 201 (04/09/06)

Chapter 11: Reorganization (\$1000 filing fee, \$39 administrative fee: Total fee \$1039)

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$39 administrative fee: Total fee \$239)

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

Certificate of Attorney

I hereby certify that I delivered to the debtor this notice required by § 342(b) of the Bankruptcy Code.

Christopher M Edwards 9193

Printed Name of Attorney

Address:

11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413

X /s/ Christopher M Edwards

Signature of Attorney

March 29, 2007

Date

Certificate of Debtor

I (We), the debtor(s), affirm that I (we) have received and read this notice.

Randy Steven Rutherford

Tara Patrice Rutherford

Printed Name of Debtor

X /s/ Randy Steven Rutherford

Signature of Debtor

March 29, 2007

Date

Case No. (if known) _____

X /s/ Tara Patrice Rutherford

Signature of Joint Debtor (if any)

March 29, 2007

Date

LOCAL OFFICIAL FORM 1007-1(b) TO SC LBR 1007-1

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

CERTIFICATION VERIFYING CREDITOR MATRIX

The above named debtor, or attorney for the debtor if applicable, hereby certifies pursuant to South Carolina Local Bankruptcy Rule 1007-1 that the master mailing list of creditors submitted either on computer diskette, electronically filed via CM/ECF, or conventionally filed in a typed hard copy scannable format which has been compared to, and contains identical information to, the debtor's schedules, statements and lists which are being filed at this time or as they currently exist in draft form.

Master mailing list of creditors submitted via:

- (a) _____ computer diskette
(b) _____ scannable hard copy
(number of sheets submitted _____)
(c) X electronic version filed via CM/ECF

Date: March 29, 2007

/s/ Randy Steven Rutherford
Randy Steven Rutherford
Signature of Debtor

Date: March 29, 2007

/s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Signature of Debtor

Date: March 29, 2007

/s/ Christopher M Edwards
Signature of Attorney
Christopher M Edwards 9193
Moss & Associates, Attorneys, P.A.
11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413 Fax: (864)272-3416
Typed/Printed Name/Address/Telephone

9193
District Court I.D. Number

APPLIED CARD BANK
4700 EXCHANGE CT
BOCA RATON FL 33431

DISCOVER CARD
PO BOX 15316
WILMINGTON DE 19850

LVNV FUNDING, LLC
PO BOX 10497
GREENVILLE SC 29603

BUSINESS REVENUE SYSTEMS
PO BOX 8986
FORT WAYNE IN 46898

FOXWOOD HILLS PROPERTY
800 HICKORY TRAIL
WESTMINSTER SC 29693

MIDLAND CREDIT MANAGEMENT
8875 AERO DR
STE 2
SAN DIEGO CA 92123

CAPITAL ONE
PO BOX 30281
SALT LAKE CITY UT 84130

GASTROENTEROLOGY ASSOC.
P.O. BOX 8676
GREENVILLE SC 29604-8676

OPTION ONE
PO BOX 57054
IRVINE CA 92619

CAPITAL ONE
PO BOX 85149
RICHMOND VA 23295

GHS
305 E MAIN ST.
GREENVILLE SC 29601

PATHOLOGY ASSOC. OF GREENV
PO BOX 9279
GREENVILLE SC 29604

CAROLINA CREDIT EXCHANGE
PO BOX 1764
SPARTANBURG SC 29304

GHS HOSPITAL
PO BOX 19051
GREENVILLE SC 29602

PRINCE-PARKER ASSOCIATES
PO BOX 17208
CHARLOTTE NC 28227

CAROLINA EXCHANGES
PO BOX 1764
SPARTANBURG SC 29304

GHS UNIVERSITY MEDICAL GROUP
PO BOX 60087
CHARLOTTE NC 28260-0087

SC DEPARTMENT OF REVENUE
PO BOX 125
COLUMBIA SC 29214

CBE GROUP
PO BOX 900
WATERLOO IA 50704

GREENVILLE HOSPITAL SYSTEM
255 ENTERPRISE BLVD STE 210
GREENVILLE SC 29615-3556

SCA COLLECTIONS
300 EAST ARLINGTON BLVD.
STE 6A
GREENVILLE NC 27858

CHILDRENS MEDICAL CENTER
131 COMMONWEALTH DRIVE
GREENVILLE SC 29615

GREENVILLE RADIOLOGY
1210 W FARIS ROAD
GREENVILLE SC 29605

SCA COLLECTIONS
300 E. ARLINGTON BOULEVARD
GREENVILLE NC 27858-5016

CREDIT BUREAU
PO BOX 1051
SPARTANBURG SC 29304

HEALTHCARE RESOURCES
13730 S POINT BLVD
CHARLOTTE NC 28273

SHERMAN ACQUISITION
726 EXCHANGE STREET
SUITE 700
BUFFALO NY 14210

CREDIT BUREAU ASSOCIATIONS
PO BOX 1051
SPARTANBURG SC 29304

IRS
DEPT OF REVENUE
MEMPHIS TN 37501

SOUTHEAST TOYOTA FINANCE
PO BOX 70832
CHARLOTTE NC 28272

SPARTAN FINANCIAL SERVICE
13730 SOUTH POINT BLVD
CHARLOTTE NC 28273

SPARTANBURG COUNTY
PO BOX 5807
SPARTANBURG SC 29304

TOTAL RECOVERY
2419 SPY RUN AVE.
8
FORT WAYNE IN 46805

Official Form 22C (Chapter 13) (10/06)

In re **Randy Steven Rutherford**
Tara Patrice Rutherford
 Debtor(s)
 Case Number: _____
 (If known)

According to the calculations required by this statement:

☒ The applicable commitment period is 3 years.
☐ The applicable commitment period is 5 years.
☐ Disposable income is determined under § 1325(b)(3).
☒ Disposable income is not determined under § 1325(b)(3).
 (Check the boxes as directed in Lines 17 and 23 of this statement.)

CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME AND CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME

In addition to Schedules I and J, this statement must be completed by every individual Chapter 13 debtor, whether or not filing jointly. Joint debtors may complete one statement only.

Part I. REPORT OF INCOME															
	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed.	Column A Debtor's Income	Column B Spouse's Income												
1	a. ☐ Unmarried. Complete only Column A ("Debtor's Income") for Lines 2-10. b. ☒ Married. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 2-10. All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.														
2	Gross wages, salary, tips, bonuses, overtime, commissions.	\$ 0.00	\$ 0.00												
3	Income from the operation of a business, profession, or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part IV. <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th></th> <th>Debtor</th> <th>Spouse</th> </tr> </thead> <tbody> <tr> <td>a. Gross receipts</td> <td style="text-align: right;">\$ 6,935.13</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>b. Ordinary and necessary business expenses</td> <td style="text-align: right;">\$ 2,824.49</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>c. Business income</td> <td colspan="2">Subtract Line b from Line a</td> </tr> </tbody> </table>		Debtor	Spouse	a. Gross receipts	\$ 6,935.13	\$ 0.00	b. Ordinary and necessary business expenses	\$ 2,824.49	\$ 0.00	c. Business income	Subtract Line b from Line a		\$ 4,110.65	\$ 0.00
	Debtor	Spouse													
a. Gross receipts	\$ 6,935.13	\$ 0.00													
b. Ordinary and necessary business expenses	\$ 2,824.49	\$ 0.00													
c. Business income	Subtract Line b from Line a														
4	Rents and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part IV. <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th></th> <th>Debtor</th> <th>Spouse</th> </tr> </thead> <tbody> <tr> <td>a. Gross receipts</td> <td style="text-align: right;">\$ 0.00</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>b. Ordinary and necessary operating expenses</td> <td style="text-align: right;">\$ 0.00</td> <td style="text-align: right;">\$ 0.00</td> </tr> <tr> <td>c. Rent and other real property income</td> <td colspan="2">Subtract Line b from Line a</td> </tr> </tbody> </table>		Debtor	Spouse	a. Gross receipts	\$ 0.00	\$ 0.00	b. Ordinary and necessary operating expenses	\$ 0.00	\$ 0.00	c. Rent and other real property income	Subtract Line b from Line a		\$ 0.00	\$ 0.00
	Debtor	Spouse													
a. Gross receipts	\$ 0.00	\$ 0.00													
b. Ordinary and necessary operating expenses	\$ 0.00	\$ 0.00													
c. Rent and other real property income	Subtract Line b from Line a														
5	Interest, dividends, and royalties.	\$ 0.00	\$ 0.00												
6	Pension and retirement income.	\$ 0.00	\$ 0.00												
7	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include amounts paid by the debtor's spouse.	\$ 0.00	\$ 0.00												
8	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 8. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below: Unemployment compensation claimed to be a benefit under the Social Security Act Debtor \$ 0.00 Spouse \$ 0.00	\$ 0.00	\$ 0.00												
9	Income from all other sources. Specify source and amount. If necessary, list additional sources on a separate page. Total and enter on Line 9. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. <table border="1" style="width: 100%; margin-top: 5px;"> <thead> <tr> <th></th> <th>Debtor</th> <th>Spouse</th> </tr> </thead> <tbody> <tr> <td>a.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>b.</td> <td style="text-align: right;">\$</td> <td style="text-align: right;">\$</td> </tr> </tbody> </table>		Debtor	Spouse	a.	\$	\$	b.	\$	\$	\$ 0.00	\$ 0.00			
	Debtor	Spouse													
a.	\$	\$													
b.	\$	\$													
10	Subtotal. Add Lines 2 thru 9 in Column A, and, if Column B is completed, add Lines 2 through 9 in Column B. Enter the total(s).	\$ 4,110.65	\$ 0.00												
11	Total. If Column B has been completed, add Line 10, Column A to Line 10, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 10, Column A.	\$ 4,110.65													

Part II. CALCULATION OF § 1325(b)(4) COMMITMENT PERIOD		
12	Enter the amount from Line 11.	\$ 4,110.65
13	Marital Adjustment. If you are married, but are not filing jointly with your spouse, AND if you contend that calculation of the commitment period under § 1325(b)(4) does not require inclusion of the income of your spouse, enter the amount of the income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of you or your dependents. Otherwise, enter zero.	\$ 0.00
14	Subtract Line 13 from Line 12 and enter the result.	\$ 4,110.65
15	Annualized current monthly income for § 1325(b)(4). Multiply the amount from Line 14 by the number 12 and enter the result.	\$ 49,327.80
16	Applicable median family income. Enter the median family income for applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: SC b. Enter debtor's household size: 5	\$ 66,103.00
17	Application of § 1325(b)(4). Check the applicable box and proceed as directed. ☒ The amount on Line 15 is less than the amount on Line 16. Check the box for "The applicable commitment period is 3 years" at the top of page 1 of this statement and continue with this statement. ☐ The amount on Line 15 is not less than the amount on Line 16. Check the box for "The applicable commitment period is 5 years" at the top of page 1 of this statement and continue with this statement.	
Part III. APPLICATION OF § 1325(b)(3) FOR DETERMINING DISPOSABLE INCOME		
18	Enter the amount from Line 11.	\$ 4,110.65
19	Marital Adjustment. If you are married, but are not filing jointly with your spouse, enter the amount of the income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of you or your dependents. If you are unmarried or married and filing jointly with your spouse, enter zero.	\$ 0.00
20	Current monthly income for § 1325(b)(3). Subtract Line 19 from Line 18 and enter the result.	\$ 4,110.65
21	Annualized current monthly income for § 1325(b)(3). Multiply the amount from Line 20 by the number 12 and enter the result.	\$ 49,327.80
22	Applicable median family income. Enter the amount from Line 16.	\$ 66,103.00
23	Application of § 1325(b)(3). Check the applicable box and proceed as directed. ☐ The amount on Line 21 is more than the amount on Line 22. Check the box for "Disposable income is determined under § 1325(b)(3)" at the top of page 1 of this statement and complete the remaining parts of this statement. ☒ The amount on Line 21 is not more than the amount on Line 22. Check the box for "Disposable income is not determined under § 1325(b)(3)" at the top of page 1 of this statement and complete Part VII of this statement. Do not complete Parts IV, V, or VI.	
Part IV. CALCULATION OF DEDUCTIONS ALLOWED UNDER § 707(b)(2)		
Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)		
24	National Standards: food, clothing, household supplies, personal care, and miscellaneous. Enter the "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable family size and income level. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$
25A	Local Standards: housing and utilities; non-mortgage expenses. Enter amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$

25B	Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 47; subtract Line b from Line a and enter the result in Line 25B. Do not enter an amount less than zero. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">a.</td> <td style="width: 70%;">IRS Housing and Utilities Standards; mortgage/rent Expense</td> <td style="width: 25%;">\$</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by your home, If any, as stated in Line 47</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Net mortgage/rental expense</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Housing and Utilities Standards; mortgage/rent Expense	\$	b.	Average Monthly Payment for any debts secured by your home, If any, as stated in Line 47	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$
a.	IRS Housing and Utilities Standards; mortgage/rent Expense	\$									
b.	Average Monthly Payment for any debts secured by your home, If any, as stated in Line 47	\$									
c.	Net mortgage/rental expense	Subtract Line b from Line a.									
26	Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 25A and 25B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below:	\$									
27	Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation. Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 7. ☐ 0 ☐ 1 ☐ 2 or more. Enter the amount from IRS Transportation Standards, Operating Costs & Public Transportation Costs for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$									
28	Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.) ☐ 1 ☐ 2 or more. Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, First Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 47; subtract Line b from Line a and enter the result in Line 28. Do not enter an amount less than zero. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">a.</td> <td style="width: 70%;">IRS Transportation Standards, Ownership Costs, First Car</td> <td style="width: 25%;">\$</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Net ownership/lease expense for Vehicle 1</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, First Car	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs, First Car	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$									
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.									
29	Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" Box in Line 28. Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, Second Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 47; subtract Line b from Line a and enter the result in Line 29. Do not enter an amount less than zero. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">a.</td> <td style="width: 70%;">IRS Transportation Standards, Ownership Costs, Second Car</td> <td style="width: 25%;">\$</td> </tr> <tr> <td>b.</td> <td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Net ownership/lease expense for Vehicle 2</td> <td>Subtract Line b from Line a.</td> </tr> </table>	a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs, Second Car	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$									
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.									
30	Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state, and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. Do not include real estate or sales taxes.	\$									
31	Other Necessary Expenses: mandatory payroll deductions. Enter the total average monthly payroll deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as non-mandatory 401(k) contributions.	\$									

32	Other Necessary Expenses: life insurance. Enter average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.		\$												
33	Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to court order, such as spousal or child support payments. Do not include payments on past due support obligations included in line 49.		\$												
34	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.		\$												
35	Other Necessary Expenses: childcare. Enter the average monthly amount that you actually expend on childcare - such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.		\$												
36	Other Necessary Expenses: health care. Enter the average monthly amount that you actually expend on health care expenses that are not reimbursed by insurance or paid by a health savings account. Do not include payments for health insurance listed in Line 39.		\$												
37	Other Necessary Expenses: telecommunication services. Enter the average monthly amount that you actually pay for telecommunication services other than your basic home telephone service - such as cell phones, pagers, call waiting, caller id, special long distance, or internet service-to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.		\$												
38	Total Expenses Allowed under IRS Standards. Enter the total of Lines 24 through 37.		\$												
Subpart B: Additional Expense Deductions under § 707(b)															
Note: Do not include any expenses that you have listed in Lines 24-37															
39	Health Insurance, Disability Insurance, and Health Savings Account Expenses. List and total the average monthly amounts that you actually pay for yourself, your spouse, or your dependents in the following categories. <table border="1" style="width: 100%;"> <tr> <td>a.</td> <td>Health Insurance</td> <td>\$</td> </tr> <tr> <td>b.</td> <td>Disability Insurance</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Health Savings Account</td> <td>\$</td> </tr> <tr> <td colspan="2"></td> <td>Total: Add Lines a, b, and c</td> </tr> </table>		a.	Health Insurance	\$	b.	Disability Insurance	\$	c.	Health Savings Account	\$			Total: Add Lines a, b, and c	\$
a.	Health Insurance	\$													
b.	Disability Insurance	\$													
c.	Health Savings Account	\$													
		Total: Add Lines a, b, and c													
40	Continued contributions to the care of household or family members. Enter the actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. Do not include payments listed in Line 34.		\$												
41	Protection against family violence. Enter any average monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.		\$												
42	Home energy costs. Enter the average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.		\$												
43	Education expenses for dependent children less than 18. Enter the average monthly expenses that you actually incur, not to exceed \$125 per child, in providing elementary and secondary education for your dependent children less than 18 years of age. You must provide your case trustee with documentation demonstrating that the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.		\$												
44	Additional food and clothing expense. Enter the average monthly amount by which your food and clothing expenses exceed the combined allowances for food and apparel in the IRS National Standards, not to exceed five percent of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.		\$												
45	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).		\$												
46	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 39 through 45.		\$												

Subpart C: Deductions for Debt Payment		
47	Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of creditor, identify the property securing the debt, and state the Average Monthly Payment. The Average Monthly Payment is the total of all amounts contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. Mortgage debts should include payments of taxes and insurance required by the mortgage. If necessary, list additional entries on a separate page.	
	Name of Creditor	Property Securing the Debt
	a.	60-month Average Payment
		\$
	Total: Add Lines	
	\$	
48	Other payments on secured claims. If any of debts listed in Line 47 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 47, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.	
	Name of Creditor	Property Securing the Debt
	a.	1/60th of the Cure Amount
		\$
	Total: Add Lines	
	\$	
49	Payments on priority claims. Enter the total amount of all priority claims (including priority child support and alimony claims), divided by 60.	
	\$	
50	Chapter 13 administrative expenses. Multiply the amount in Line a by the amount in Line b, and enter the resulting administrative expense.	
	a.	Projected average monthly Chapter 13 plan payment.
	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)
	c.	Average monthly administrative expense of Chapter 13 case
		Total: Multiply Lines a and b
	\$	
51	Total Deductions for Debt Payment. Enter the total of Lines 47 through 50.	
	\$	
Subpart D: Total Deductions Allowed under § 707(b)(2)		
52	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 38, 46, and 51.	
	\$	

Part V. DETERMINATION OF DISPOSABLE INCOME UNDER § 1325(b)(2)		
53	Total current monthly income. Enter the amount from Line 20.	
	\$	
54	Support income. Enter the monthly average of any child support payments, foster care payments, or disability payments for a dependent child, included in Line 7, that you received in accordance with applicable nonbankruptcy law, to the extent reasonably necessary to be expended for such child.	
	\$	
55	Qualified retirement deductions. Enter the monthly average of (a) all contributions or wage deductions made to qualified retirement plans, as specified in § 541(b)(7) and (b) all repayments of loans from retirement plans, as specified in § 362(b)(19).	
	\$	
56	Total of all deductions allowed under § 707(b)(2). Enter the amount from Line 52.	
	\$	
57	Total adjustments to determine disposable income. Add the amounts on Lines 54, 55, and 56 and enter the result.	
	\$	
58	Monthly Disposable Income Under § 1325(b)(2). Subtract Line 57 from Line 53 and enter the result.	
	\$	

Part VI. ADDITIONAL EXPENSE CLAIMS

59	Other Expenses. List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.	
	Expense Description	Monthly Amount
	a.	\$
	b.	\$
	c.	\$
	d.	\$
	Total: Add Lines a, b, c and d	

Part VII. VERIFICATION

60	I declare under penalty of perjury that the information provided in this statement is true and correct. (If this is a joint case, both debtors must sign.)	
	Date: <u>March 29, 2007</u>	Signature: <u>/s/ Randy Steven Rutherford</u> Randy Steven Rutherford (Debtor)
	Date: <u>March 29, 2007</u>	Signature: <u>/s/ Tara Patrice Rutherford</u> Tara Patrice Rutherford (Joint Debtor, if any)

Current Monthly Income Details for the Debtor

Debtor Income Details:

Income for the Period 09/01/2006 to 02/28/2007.

Line 3 - Income from operation of a business, profession, or farm

Source of Income: CABLE

Income/Expense/Net by Month:

	Date	Income	Expense	Net
6 Months Ago:	09/2006	\$7,200.00	\$1,628.00	\$5,572.00
5 Months Ago:	10/2006	\$7,823.70	\$3,521.18	\$4,302.52
4 Months Ago:	11/2006	\$8,073.40	\$5,006.80	\$3,066.60
3 Months Ago:	12/2006	\$7,823.70	\$1,826.90	\$5,996.80
2 Months Ago:	01/2007	\$5,821.05	\$3,612.68	\$2,208.37
Last Month:	02/2007	\$4,868.95	\$1,351.35	\$3,517.60
Average per month:		\$6,935.13	\$2,824.49	
Average Monthly NET Income:				\$4,110.65

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

07-01612



IN RE:
Randy Steven Rutherford
Tara Patrice Rutherford

CASE NO: _____

NOTICE, CHAPTER 13 PLAN
AND RELATED MOTIONS

Debtor(s).

**NOTICE OF: 1) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN;
2) MOTION FOR VALUATION; 3) MOTION TO AVOID CERTAIN LIENS; AND
4) ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS**

The following chapter 13 plan (the "Chapter 13 Plan") and related motions (the "Related Motions") have been filed in the above-captioned case. They will be considered at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. Any objections to the confirmation of the plan, to the payment of attorney's fees, to the Motion to Value Security, to the Motion to Avoid Judicial Lien or to Avoid a Nonpurchase Money, Nonpossessory Security Interest and Lien, or to the assumption or rejection of an executory contract, all as requested herein, must be made in writing, served upon the undersigned counsel for the debtor(s), Christopher M Edwards 9193, the chapter 13 trustee, Gretchen D. Holland, 301 N. Main Street, Suite 1904, Greenville, SC 29601 and filed with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-five (25) days from the date of filing this Notice, Chapter 13 Plan and Related Motions. All objections must comply with South Carolina Local Bankruptcy Rule 9014-4 (SC LBR 9014-4).

The Notice and Chapter 13 Plan shall be served on or before the date they are filed with the Court and according to Federal Rules of Bankruptcy Procedure, Rules 3015 and 2002. Related Motions shall be served on or before the date of their filing with the Court and according to Federal Rules of Bankruptcy Procedure, Rule 7004.

The Chapter 13 Plan and Related Motions propose to value the security of the following creditors:
-NONE-

The Chapter 13 Plan and Related Motions propose to avoid a judicial lien or to avoid a nonpurchase money, nonpossessory security interest and lien of the following creditors:
GREENVILLE HOSPITAL SYSTEM
SHERMAN ACQUISITION

The Chapter 13 Plan and Related Motions propose the assumption of executory contracts as follows:
-NONE-

**NOTE THAT A FAILURE TO OBJECT TO CONFIRMATION MAY CONSTITUTE AN IMPLIED
ACCEPTANCE OF THE PLAN.**

**REVIEW THE PLAN AND RELATED MOTIONS CAREFULLY
TO DETERMINE TREATMENT OF YOUR CLAIM**

If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed before the Confirmation Hearing, the objection will be heard at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed after the Confirmation Hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

If no objection is timely filed in accordance with SC LBR 9014-4, the Court, upon the recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan following the Meeting of Creditors (11 U.S.C. § 341 meeting) and granting the other relief requested therein.

NOTICE
(TO BE COMPLETED ONLY IF FORM PLAN IS ALTERED)

The plan below contains language that is in addition to that approved for use in the Chapter 13 Plans in the United States Bankruptcy Court for the District of South Carolina, or otherwise alters the approved Form Plan. Such language is highlighted by ___ (state whether by bold type, italics, or underlining).

The unapproved language referred to above appears in Paragraph ___. Parties wishing to object to the inclusion of unapproved language or any other provision of the plan should review the Notice, Chapter 13 Plan and Related Motions for the correct procedure to be followed.

CHAPTER 13 PLAN AND RELATED MOTIONS

1. The future earnings and income of the debtor(s) are submitted to the supervision and control of the chapter 13 trustee, and the debtor(s) shall pay to the chapter 13 trustee the sum of \$ 630.00 per month for a period of 60 months, or longer if necessary, for completion of this plan according to its terms, but not to exceed 60 months. In addition to the above, the debtor(s) will pay any portion of a recovery under a pre-petition claim or cause of action, that constitutes disposable income or is not exempt, to the chapter 13 trustee.
2. After the deduction from all disbursements of the allowed chapter 13 trustee's commission and expenses, the chapter 13 trustee shall make disbursements as follows:
3. Subject to review and objection, a proof of claim for the attorney's fees of the debtor(s) in the amount of \$ 1,974.00 will be filed, and may be amended from time to time, and shall be paid at a rate of ___% of the monthly payments to creditors (if no percentage rate is stated, then payment will be made at twenty-five (25%), until paid in full). This percentage may be reduced or increased by the chapter 13 trustee in order to ensure that there are funds available for payment to secured and domestic support creditors as set forth below.
4. Secured creditors will be treated as follows:
 - (a) Long term or mortgage debt - ARREARAGE ONLY (including, but not limited to, all past due payments and escrow amounts), to be paid to OPTION ONE at \$ 216 or more per month, along with 0% interest. Regular payments will be made directly by the debtor(s), beginning MAY 2007.
 - (b) Long term or mortgage debt - ARREARAGE ONLY (including, but not limited to, all past due payments and escrow amounts), to be paid to ___ at \$ ___ or more per month, along with ___% interest. Regular payments will be made directly by the debtor(s), beginning ___.
 - (c) The liens of the following creditors shall be satisfied as follows:

Payments of \$ 294 or more per month, to SOUTHEAST TOYOTA FINANCE until the net balance/ value of the lien, plus 8.5% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ ___ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s') value is as follows: ___ vehicle mileage (if applicable) ___. Liens senior to the above-named creditor are held by the following creditors in the following amounts:
None

Secured, tax debt: Payments of \$ ___ or more per month, to ___ on its claim secured by a tax lien until the net balance/value of lien plus ___% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ ___ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s') value is as follows: ___. Liens senior to the above-named creditor are held by the following creditors in the following amounts: ___. Of the remaining tax claim, the amount of \$ ___ will be accorded priority unsecured tax status and the balance of the claim will be accorded general unsecured status and paid in accordance with paragraph 6(a) if a proof of claim is timely filed.
 - (d) Other secured debt(s) to be treated as follows:
-NONE-
 - (e) The following payments to mortgage creditors are current and the debtor(s) will continue making regular payments directly to:
-NONE-
 - (f) The debtor(s) hereby move(s) to avoid the following non-possessory, non-purchase-money security interest liens pursuant to 11 U.S.C. § 522(f), and SC LBR 3015-1, and the notice attached hereto. If the debtor(s) intend(s) to

avoid a security interest pursuant to other applicable sections of the United States Bankruptcy Code (Code), then the debtor(s) shall so state below and shall file and serve necessary pleadings on or before the date set for the initial meeting of creditors.

Name of Creditor -NONE-	Amount of Security Interest	Amount of Security Interest Not Avoided and to be Paid as Set In Paragraph 4(c) Above

- (g) The debtor(s) hereby move(s) to avoid the following judicial liens pursuant to 11 U.S.C. § 522(f), SC LBR 3015-1, and the notice attached hereto. If debtor(s) intend(s) to avoid a judicial lien pursuant to other applicable sections of the Code, the debtor(s) shall so state below and shall file and serve the necessary pleadings on or before the date set for the initial meeting of creditors.¹

Name of Creditor	Amt. of Judicial Lien	Total Amt of All Other + Liens	Amt of Exemption + Claimed =	Enter Amount -	Value of Debtor's Interest in Property=	Amount of Judicial Lien to be Avoided	Amount of Judicial Lien Not to be Avoided
GREENVILLE HOSPITAL SYSTEM	8,728.00	119,700.88	50000	178428.88	135,000.00	8,728.00	0.00
SHERMAN ACQUISITION	2,811.22	128,428.88	50000	181240.10	135,000.00	2,811.22	0.00

¹ In certain cases, the Court's equity analysis for co-owned property pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001) may be applicable. In such instances, the formula provided in Exhibit C to SC LBR 4003-1 may be utilized.

5. (a) All 11 U.S.C. § 507(a)(1) priority creditors (pre-petition domestic support obligations) shall be treated as follows:
-NONE-
- To _____, the pre-petition domestic support obligations shall be paid in full, by paying \$____ or more per month until the balance is paid in full.
- All post-petition domestic support obligations will be paid by the debtor(s) outside the plan and shall be kept current.
- (b) Subsequent to the above, all other 11 U.S.C. § 507 priority creditors (including, but not limited to, pre-petition taxes or other claims by governmental units) will have the allowed amounts of their pre-petition claims paid on a pro-rata basis. The debtor(s) shall pay all similar post-petition priority obligations to such creditors as they come due directly to such creditors.
6. Subsequent to the above, unsecured creditors will be treated as follows:
- (a) General unsecured creditors will be paid not less than 1 % of their allowed claims, on a pro-rata basis. If no percentage is stated, then general unsecured claims will be paid 100% of their allowed claims, on a pro-rata basis. If the unsecured claims are entitled to full payment on their claims plus interest, then interest shall be paid at the rate of ____%.
- (b) The following creditors who hold unsecured consumer claims with co-debtors will be paid 100 % of their allowed claims plus 0 % interest on a pro-rata basis:
-NONE-
- (c) The following creditors who hold unsecured claims of the kind specified in 11 U.S.C. § 1328(a) will be paid 0 % of their allowed claims plus 0 % interest on a pro-rata basis:
-NONE-
7. The debtor(s) move(s) for the assumption of the executory contracts and leases listed below. The debtor agrees to abide by all terms of the agreements and to cure any pre-petition arrearage or defaults in the manner listed below.

Creditor	Amount of regular payment	Amt. of default (state if none)	Cure Provisions	Regular pymts and cure pymts pd by debtor(s)/by trustee
-NONE-				

An executory contract or lease not specifically mentioned above is treated as rejected.

8. Upon confirmation of the plan, property of the estate will remain property of the estate, but title to the property shall revert in the debtor(s). With respect to secured claims being paid through the plan, the holders of secured claims shall retain liens until the earlier of payment of the underlying debt, as determined under non-bankruptcy law, or discharge under 11 U.S.C. § 1328(a). If this case is dismissed or converted without completion of the plan, all liens shall be retained to the extent recognized by non-bankruptcy law. The terms of the debtor's(s') pre-petition agreement with a secured creditor shall continue to apply except as otherwise provided for in this plan or the order confirming the plan. Completion of all plan payments shall impose an affirmative duty on secured creditors paid under the plan to satisfy liens as required by applicable law. Any party entitled to collect child support or alimony under applicable non-bankruptcy law may collect post-petition obligations from the income or assets of the debtor-parent/spouse without further order or relief from the automatic stay. Any claim for pre-petition child support or alimony must be collected in accordance with 11 U.S.C. § 507(a)(1) and 11 U.S.C. § 1322(a)(2).

To receive payment from the chapter 13 trustee, a secured creditor must file a proof of claim. Secured claims which are not filed within the time required by Fed. R. Bankr. P. 3002(c) may be disallowed or subordinated to other claims upon further order of the Court.

Confirmation of this plan does not bar a party in interest from objecting to a claim which is not filed in accordance with Fed. R. Bankr. P. 3001 or Fed. R. Bankr. P. 3002.

If property is to be released or otherwise surrendered pursuant to this plan, the creditors holding a lien on, or interest in, the property to be released must provide the chapter 13 trustee with acceptable evidence of perfection of the lien or interest, otherwise the property may not be released or surrendered.

Any creditor holding a claim secured by property which is removed from the protection of the automatic stay, whether by judicial action, voluntary surrender, or through operation of the plan, will receive no further distribution from the chapter 13 trustee, unless an itemized proof of claim for any deficiency is filed within a reasonable time after the removal of the property from the protection of the automatic stay. Any funds that would have been paid to such a creditor will be distributed to other creditors, unless the Court orders otherwise. This also applies to creditors who may claim an interest in, or lien on, property which is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise.

If a tax creditor files a claim which is allegedly a secured claim but does not timely object to confirmation of this plan, then the claim may be paid as a priority claim.

If a claim is listed in the plan as secured, and the creditor files a proof of claim as an unsecured creditor, the creditor may be treated as unsecured for purposes of distribution under the plan.

The debtor(s) will not incur indebtedness or sell property outside the ordinary course of business without permission of the Court.

The debtor(s) is/are responsible for protecting the non-exempt value of all property of the estate and for protecting the estate from any liability resulting from operation of a business by the debtor(s).

If a claim is scheduled as unsecured, and the creditor files a proof of claim alleging that the claim is secured, but does not timely object to the confirmation of the plan, then the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph is not intended to limit the right of a creditor affected by this paragraph to seek relief from the stay or to object to the discharge of the debt. Nothing in this paragraph shall be deemed to affect the lien rights of the creditor except as otherwise specifically provided under the plan or by order of the Court.

Nothing herein is intended to waive or affect adversely any rights of the debtor, chapter 13 trustee, or party with respect to any causes of action.

9. Pay order request or other plan provisions not inconsistent with the above:
Debtor request no pay order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she served the foregoing Notice, Plan and Related Motions on all creditors and parties in interest entitled to such notice. The parties served are individually listed on the accompanying list or mailing matrix.

APPLIED CARD BANK

4700 EXCHANGE CT
Boca Raton, FL 33431

BUSINESS REVENUE SYSTEMS
PO BOX 8986
Fort Wayne, IN 46898

CAPITAL ONE
PO BOX 30281
Salt Lake City, UT 84130

CAPITAL ONE
PO BOX 85149
Richmond, VA 23295

CAROLINA CREDIT EXCHANGE
PO BOX 1764
Spartanburg, SC 29304

CAROLINA EXCHANGES
PO BOX 1764
Spartanburg, SC 29304

CBE GROUP
PO BOX 900
Waterloo, IA 50704

CHILDRENS MEDICAL CENTER
131 COMMONWEALTH DRIVE
Greenville, SC 29615

CREDIT BUREAU
PO BOX 1051
Spartanburg, SC 29304

CREDIT BUREAU ASSOCIATIONS
PO BOX 1051
Spartanburg, SC 29304

DISCOVER CARD
PO BOX 15316
Wilmington, DE 19850

FOXWOOD HILLS PROPERTY
800 HICKORY TRAIL
Westminster, SC 29693

GASTROENTEROLOGY ASSOC.
P.O. BOX 8676
Greenville, SC 29604-8676

GHS
305 E MAIN ST.
Greenville, SC 29601

GHS HOSPITAL
PO BOX 19051
Greenville, SC 29602

GHS UNIVERSITY MEDICAL GROUP
PO BOX 60087
Charlotte, NC 28260-0087

GREENVILLE HOSPITAL SYSTEM
255 ENTERPRISE BLVD STE 210
Greenville, SC 29615-3556

GREENVILLE HOSPITAL SYSTEM
255 ENTERPRISE BLVD STE 210
Greenville, SC 29615-3556

GREENVILLE HOSPITAL SYSTEM
255 ENTERPRISE BLVD STE 210

Greenville, SC 29615-3556

GREENVILLE RADIOLOGY
1210 W FARIS ROAD
Greenville, SC 29605

HEALTHCARE RESOURCES
13730 S POINT BLVD
Charlotte, NC 28273

HEALTHCARE RESOURCES
13730 S POINT BLVD
Charlotte, NC 28273

HEALTHCARE RESOURCES
13730 S POINT BLVD
Charlotte, NC 28273

HEALTHCARE RESOURCES
13730 S POINT BLVD
Charlotte, NC 28273

HEALTHCARE RESOURCES
13730 S POINT BLVD
Charlotte, NC 28273

IRS
DEPT OF REVENUE
Memphis, TN 37501

LVNV FUNDING, LLC
PO BOX 10497
Greenville, SC 29603

MIDLAND CREDIT MANAGEMENT
8875 AERO DR
STE 2
San Diego, CA 92123

OPTION ONE
PO BOX 57054
Irvine, CA 92619

PATHOLOGY ASSOC. OF GREENVILLE
PO BOX 9279
Greenville, SC 29604

PRINCE-PARKER ASSOCIATES
PO BOX 17208
Charlotte, NC 28227

SC DEPARTMENT OF REVENUE
PO BOX 125
Columbia, SC 29214

SCA COLLECTIONS
300 EAST ARLINGTON BLVD.
STE 6A
Greenville, NC 27858

SCA COLLECTIONS
300 E. ARLINGTON BOULEVARD
Greenville, NC 27858-5016

SHERMAN ACQUISITION
726 EXCHANGE STREET
SUITE 700
Buffalo, NY 14210

SOUTHEAST TOYOTA FINANCE
PO BOX 70832
Charlotte, NC 28272

SPARTAN FINANCIAL SERVICE
13730 SOUTH POINT BLVD
Charlotte, NC 28273

SPARTANBURG COUNTY
PO BOX 5807
Spartanburg, SC 29304

TOTAL RECOVERY
2419 SPY RUN AVE.
8
Fort Wayne, IN 46805

TOTAL RECOVERY
2419 SPY RUN AVE.
8
Fort Wayne, IN 46805

Date: March 26, 2007

BY: /s/ Christopher M Edwards

Christopher M Edwards
11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413
District Court J.D. 9193
Attorney for the Debtor

/s/ Randy Steven Rutherford
Randy Steven Rutherford
Debtor

/s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Debtor

SPARTAN FINANCIAL SERVICE
13730 SOUTH POINT BLVD
Charlotte, NC 28273

SPARTANBURG COUNTY
PO BOX 5807
Spartanburg, SC 29304

TOTAL RECOVERY
2419 SPY RUN AVE.
8
Fort Wayne, IN 46805

TOTAL RECOVERY
2419 SPY RUN AVE.
8
Fort Wayne, IN 46805

Date: March 26, 2007

BY: /s/ Christopher M Edwards

Christopher M Edwards
11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413
District Court I.D. 9193
Attorney for the Debtor

/s/ Randy Steven Rutherford

Randy Steven Rutherford
Debtor

/s/ Tara Patrice Rutherford

Tara Patrice Rutherford
Debtor

UNITED STATES BANKRUPTCY COURT District of South Carolina	
Notice of Chapter 13 Bankruptcy Case Meeting of Creditors & Deadlines	
The debtor(s) listed below filed a chapter 13 bankruptcy case on 3/29/07. You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to determine your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.	
See Reverse Side For Important Explanations.	
Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address): Randy Steven Rutherford 327 Palmetto Circle Greer, SC 29651 Tara Parrice Rutherford 327 Palmetto Circle Greer, SC 29651	
Case Number: 07-01612-hb	Social Security/Taxpayer ID/Employer ID/Other Nos.: xx-xx-3216 xx-xx-3948
Attorney for Debtor(s) (name and address): Christoener M. Edwards Moss & Associates 11 Caledon Court, Suite D Greenville, SC 29615 Telephone number: 864-272-3413	Bankruptcy Trustee (name and address): Gretchen D. Holland 301 N. Main Street Suite 1904 Greenville, SC 29601 Telephone number: (864) 242-0314
Meeting of Creditors	
Date: April 24, 2007 Time: 01:30 PM Location: Donald Stuart Russell Federal Courthouse, 201 Magnolia Street, Spartanburg, SC 29306-2355	
Deadlines	
Papers must be received by the bankruptcy clerk's office by the following deadlines.	
Deadline to File a Proof of Claim or Interest For all creditors (except a governmental unit): 7/23/07 For a governmental unit (except as otherwise provided in Fed. R. Bankr. P. 2002(c)(1)): 9/25/07	
Deadline to File a Complaint to Determine Dischargeability of Certain Debts: 6/25/07	
Deadline to Object to Exemptions: Thirty (30) days after the conclusion of the meeting of creditors.	
Filing of Plan, Hearing on Confirmation of Plan The hearing on confirmation will be held: Date: 5/17/07 Time: 09:00 AM Location: Donald Stuart Russell Federal Courthouse, 201 Magnolia Street, Spartanburg, SC 29306-2355	
Creditors May Not Take Certain Actions In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.	
Foreign Creditors A creditor to whom this notice is sent at a foreign address should read the information under "Claims or Interest" on the reverse side.	
Mailing Address of the Bankruptcy Clerk's Office: United States Bankruptcy Court J. Bratton Davis United States Bankruptcy Courthouse 1100 Laurel Street Columbia, SC 29201-2423 Telephone: 1-803-765-5211 and 1-800-669-8767 Public Business Hours: 9:00 AM - 4:30 PM	FILED BY THE COURT ON 03/29/07 Tammi M. Hallwig Clerk U.S. Bankruptcy Court Dated: 3/30/07



EXPLANATIONS		FORM 891 (10/06)
Filing of Chapter 13 Bankruptcy Case	A bankruptcy case under chapter 13 of the Bankruptcy Code (Title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts pursuant to a plan. A plan is not effective unless confirmed by the bankruptcy court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan will be sent to you later and the confirmation hearing will be held on the date indicated on the front of this notice. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business, if any, unless the court orders otherwise.	
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain co-debtors are listed in Bankruptcy Code § 362 and § 1301. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.	
Meeting of Creditors	A meeting of creditors is scheduled for the date, time and location listed on the front side. The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee, and by creditors. Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date without further notice.	
Claims or Interest	A Proof of Claim or Interest is a signed statement describing a creditor's claim or interest. If a Proof of Claim or Interest form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim or Interest. If you do not file a Proof of Claim or Interest by the "Deadline to File a Proof of Claim or Interest" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid you must file a Proof of Claim or Interest even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim or Interest submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim or Interest may surrender important nonmonetary rights, including the right to a jury trial. Filing Deadline for a Foreign Creditor: The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.	
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a)(2) or (4), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.	
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.	
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of property claimed as exempt, at the bankruptcy clerk's office.	
Foreign Creditors	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.	
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. You may want to consult an attorney to determine your rights.	
Confirmation Hearing	The debtor is required to appear at the Confirmation Hearing. Any objection to confirmation of the proposed plan and related motions must be filed and served in compliance with SC LBR 3015-1 and SC LBR 9014-4. If objections to confirmation are timely filed, they will be heard at the Confirmation Hearing at the time and place set forth above or at a hearing, separate notice of which will be given by the court. Objections to confirmation may be overruled if the objecting creditor fails to appear and prosecute the objection. If no objection is timely filed in accordance with SC LBR 3015-1 and SC LBR 9014-4, the plan may be confirmed and related motions resolved on recommendation of the trustee. Should this happen, the Confirmation Hearing may be canceled.	
Secured Claims	Any creditor that takes possession of its collateral, whether by judicial action, voluntary surrender, or through operation of the plan, will be paid nothing unless a proof of claim for any deficiency is filed after disposal of the collateral. This also applies to creditors who may claim an interest in collateral released to another lienholder or collateral on which the stay has been modified by another lienholder.	
Abandonment	All property of the estate which the trustee considers to be burdensome or of inconsequential value and benefit may be abandoned by the trustee at the meeting of creditors unless creditors or parties in interest object.	
Plan Summary	Pursuant to SC LBR 3015-1, the debtor's attorney or a pro se debtor is required to serve, under separate cover, a copy of the plan on all creditors. SC LBR 3015-1 requires that this plan conform to the form plan set forth in Exhibit 1 to SC LBR 3015-1. This form plan requires periodic payment (usually monthly) by the debtor to the trustee. This form plan also provides for payment of any unpaid fees owed to the debtor's attorney at a specified percentage of payments made to creditors. This form plan also provides for periodic payment (usually monthly) on the allowed secured claims of some secured creditors, followed by pro rata payment of the allowed amounts of priority claims, and pro rata payment of allowed unsecured claims until a specified percentage of unsecured claims is paid. The plan may contain other provisions which affect the rights of creditors, therefore, the plan itself should be consulted.	
Dismissal	This case may be dismissed without further notice or hearing should the debtor fail to comply with SC LBR 1006-1 (Payment of Filing Fee) or SC LBR 1007-2 (Filing of Lists, Schedules or Statements), or SC LBR 2003-1 (Failure of the Debtor(s) or Attorney of the Debtor(s) to Attend the Meeting of Creditors), or SC LBR 3015-1 (Chapter 13 Requirements) or SC LBR 3015-2 (Providing Documents in Chapter 13 Cases). Failure to comply with SC LBR 3015-1 may be addressed at the confirmation hearing in a Chapter 13 case and may result in the dismissal of the case and the imposition of sanctions. If confirmation of a plan is denied, or if payments to the Trustee required by 11 USC 1326(a) are not timely made by the debtor, the case may be dismissed without further notice or hearing, at the confirmation hearing.	
— Refer to Other Side for Important Deadlines and Notices —		

Name of Debtor Randy Steven Rutherford Tara Patrice Rutherford		Case Number 07-01612-HB	PROOF OF CLAIM	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.		 07-01612		
Name of Creditor (The person or other entity to whom the debtor owes money or property):	☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. ☐ Check box if you have never received any notices from the bankruptcy court in this case. ☐ Check box if the address differs from the address on the envelope sent to you by the court.			
Name and Address where notices should be sent:	Telephone Number: _____			
Last four digits of account or other number by which creditor identifies debtor:		Check here if ☐ replaces this claim ☐ amends a previously filed claim, dated: _____		
1. Basis for Claim ☐ Goods sold ☐ Retiree benefits as defined in 11 U.S.C. §1114(a) ☐ Services performed ☐ Wages, salaries, and compensation (fill out below) ☐ Money loaned Last four digits of your SS #: _____ ☐ Personal injury/wrongful death Unpaid compensation for services performed from _____ to _____ ☐ Taxes (date) (date) ☐ Other				
2. Date debt was incurred: _____		3. If court judgment, date obtained: _____		
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations.				
Unsecured Nonpriority Claim \$ ☐ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or c) none or only part of your claim is entitled to priority.		Secured Claim ☐ Check this box if your claim is secured by collateral (including a right of setoff).		
Unsecured Priority Claim ☐ Check this box if you have an unsecured priority claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: ☐ Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). ☐ Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). ☐ Contributions to an employee benefit plan - 11 U.S.C. §507(a)(5).		Brief Description of Collateral: ☐ Real Estate ☐ Motor Vehicle ☐ Other _____ Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____ ☐ Up to \$ 2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(). *Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
5. Total Amount of Claim at Time Case Filed: \$ _____ (unsecured) (secured) (priority) (Total) ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.				
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		THIS SPACE IS FOR COURT USE ONLY		
7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.				
8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.				
Date	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):			

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In particular types of cases or circumstances, such as bankruptcy cases that are not filed voluntarily by a debtor, there may be exceptions to these general rules.

— DEFINITIONS —

Debtor

The person, corporation, or other entity that has filed a bankruptcy case is called the debtor.

Creditor

A creditor is any person, corporation, or other entity to whom the debtor owed a debt on the date that the bankruptcy case was filed.

Proof of Claim

A form telling the bankruptcy court how much the debtor owed a creditor at the time the bankruptcy case was filed (the amount of the creditor's claim). This form must be filed with the clerk of the bankruptcy court where the bankruptcy case was filed.

Secured Claim

A claim is a secured claim to the extent that the creditor has a lien on property of the debtor (collateral) that gives the creditor the right to be paid from that property before creditors who do not have liens on the property.

Examples of liens are a mortgage on real estate and a security interest in a car, truck, boat, television set, or other item of property. A lien may have been obtained through a court proceeding before the bankruptcy case began; in some states a court judgment is a lien. In addition, to the extent a creditor also owes money to the debtor (has a right of setoff), the creditor's claim may be a secured claim. (See also *Unsecured Claim*.)

Unsecured Claim

If a claim is not a secured claim it is an unsecured claim. A claim may be partly secured and partly unsecured if the property on which a creditor has a lien is not worth enough to pay the creditor in full.

Unsecured Priority Claim

Certain types of unsecured claims are given priority, so they are to be paid in bankruptcy cases before most other unsecured claims (if there is sufficient money or property available to pay these claims). The most common types of priority claims are listed on the proof of claim form. Unsecured claims that are not specifically given priority status by the bankruptcy laws are classified as *Unsecured Nonpriority Claims*.

Items to be completed in Proof of Claim form (if not already filled in)

Court, Name of Debtor, and Case Number:

Fill in the name of the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the name of the debtor in the bankruptcy case, and the bankruptcy case number. If you received a notice of the case from the court, all of this information is near the top of the notice.

Information about Creditor:

Complete the section giving the name, address, and telephone number of the creditor to whom the debtor owes money or property, and the debtor's account number, if any. If anyone else has already filed a proof of claim relating to this debt, if you never received notices from the bankruptcy court about this case, if your address differs from that to which the court sent notice, or if this proof of claim replaces or changes a proof of claim that was already filed, check the appropriate box on the form.

1. Basis for Claim:

Check the type of debt for which the proof of claim is being filed. If the type of debt is not listed, check "Other" and briefly describe the type of debt. If you were an employee of the debtor, fill in your social security number and the dates of work for which you were not paid.

2. Date Debt Incurred:

Fill in the date when the debt first was owed by the debtor.

3. Court Judgments:

If you have a court judgment for this debt, state the date the court entered the judgment.

4. Classification of Claim

Secured Claim:

Check the appropriate place if the claim is a secured claim. You must state the type and value of property that is collateral for the claim, attach copies of the documentation of your lien, and state

the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See DEFINITIONS, above).

Unsecured Priority Claim:

Check the appropriate place if you have an unsecured priority claim, and state the amount entitled to priority. (See DEFINITIONS, above). A claim may be partly priority and partly nonpriority if, for example, the claim is for more than the amount given priority by the law. Check the appropriate place to specify the type of priority claim.

Unsecured Nonpriority Claim:

Check the appropriate place if you have an unsecured nonpriority claim, sometimes referred to as a "general unsecured claim". (See DEFINITIONS, above). If your claim is partly secured and partly unsecured, state here the amount that is unsecured. If part of your claim is entitled to priority, state here the amount not entitled to priority.

5. Total Amount of Claim at Time Case Filed:

Fill in the total amount of the entire claim. If interest or other charges in addition to the principal amount of the claim are included, check the appropriate place on the form and attach an itemization of the interest and charges.

6. Credits:

By signing this proof of claim, you are stating under oath that in calculating the amount of your claim you have given the debtor credit for all payments received from the debtor.

7. Supporting Documents:

You must attach to this proof of claim form copies of documents that show the debtor owes the debt claimed or, if the documents are too lengthy, a summary of those documents. If documents are not available, you must attach an explanation of why they are not available.

BAC SYSTEMS

Bankruptcy Noticing Center
2525 Network Place, 3rd Floor
Herndon, Virginia 20171-3514

612-hb Doc 7 Filed 04/01/07 Entered 04/02/07 00:44:08 Desc Imaged
Certificate of Service Page 5 of 5
CERTIFICATE OF SERVICE

District/off: 0420-7
Case: 07-01612

User: schmidt
Form ID: 181iBNC

Page 1 of 1
Total Served: 38

Date Rcvd: Mar 30, 2007

The following entities were served by first class mail on Apr 01, 2007.

db +Randy Steven Rutherford, 327 Palmetto Circle, Greer, SC 29651-6251
jdb +Tara Patrice Rutherford, 327 Palmetto Circle, Greer, SC 29651-6251
aty +Christopher M. Edwards, Moss & Associates, 11 Caledon Court, Suite D,
Greenville, SC 29615-3170
tr +Gretchen D. Holland, 301 N. Main Street, Suite 1904, Greenville, SC 29601-2184
ust +US Trustee, Strom Thurmond Federal Bldg, 1835 Assembly Street, Suite 953,
Columbia, SC 29201-2448
540508672 +APPLIED CARD BANK, 4700 EXCHANGE CT, Boca Raton FL 33431-4420
540508673 +BUSINESS REVENUE SYSTEMS, PO BOX 8986, Fort Wayne IN 46898-8986
540508674 +CAPITAL ONE, PO BOX 30281, Salt Lake City UT 84130-0281
540508676 +CAROLINA CREDIT EXCHANGE, PO BOX 1764, Spartanburg SC 29304-1764
540508677 +CAROLINA EXCHANGES, PO BOX 1764, Spartanburg SC 29304-1764
540508678 +CBE GROUP, PO BOX 900, Waterloo IA 50704-0900
540508679 +CHILDRENS MEDICAL CENTER, 131 COMMONWEALTH DRIVE, Greenville SC 29615-4899
540508680 +CREDIT BUREAU, PO BOX 1051, Spartanburg SC 29304-1051
540508681 +CREDIT BUREAU ASSOCIATIONS, PO BOX 1051, Spartanburg SC 29304-1051
540508683 +FOXWOOD HILLS PROPERTY, 800 HICKORY TRAIL, Westminster SC 29693-6221
540508684 +GASTROENTEROLOGY ASSOC., P.O. BOX 8676, Greenville SC 29604-8676
540508685 +GHS, 305 E MAIN ST., Greenville SC 29601
540508686 +GHS HOSPITAL, PO BOX 19051, Greenville SC 29602-9051
540508687 +GHS UNIVERSITY MEDICAL GROUP, PO BOX 60087, Charlotte NC 28260-0087
540508688 +GREENVILLE HOSPITAL SYSTEM, 255 ENTERPRISE BLVD STE 210, Greenville SC 29615-3546
540508689 +GREENVILLE RADIOLOGY, 1210 W FARIS ROAD, Greenville SC 29605-4460
540508690 +HEALTHCARE RESOURCES, 13730 S POINT BLVD, Charlotte NC 28273-7715
540508694 +OPTION ONE, PO BOX 57054, Irvine CA 92619-7054
540508695 +PATHOLOGY ASSOC. OF GREENVILLE, PO BOX 9279, Greenville SC 29604-9279
540508696 +PRINCE-PARKER ASSOCIATES, PO BOX 17208, Charlotte NC 28227-0097
540508697 +SC DEPARTMENT OF REVENUE, PO BOX 125, Columbia SC 29214-0001
540508698 +SCA COLLECTIONS, 300 EAST ARLINGTON BLVD., STE 6A, Greenville NC 27858-5043
540508699 +SCA COLLECTIONS, 300 E. ARLINGTON BOULEVARD, Greenville NC 27858-5043
540508700 +SHERMAN ACQUISITION, 726 EXCHANGE STREET, SUITE 700, Buffalo NY 14210-1464
540508701 +SOUTHEAST TOYOTA FINANCE, PO BOX 70832, Charlotte NC 28272-0832
540508702 +SPARTAN FINANCIAL SERVICE, 13730 SOUTH POINT BLVD, Charlotte NC 28273-7715
540508703 +SPARTANBURG COUNTY, PO BOX 5807, Spartanburg SC 29304-5807
540508704 +TOTAL RECOVERY, 2419 SPY RUN AVE., # 8, Port Wayne IN 46805-3250

The following entities were served by electronic transmission on Mar 30, 2007.

540508675 +EDI: CAPITALONE.COM Mar 30 2007 20:50:00 CAPITAL ONE, PO BOX 85149, Richmond VA 23295-0001
540508682 +EDI: DISCOVER.COM Mar 30 2007 20:50:00 DISCOVER CARD, PO BOX 15316,
Wilmington DE 19850-5316
540508691 +EDI: IRS.COM Mar 30 2007 20:50:00 IRS, DEPT OF REVENUE, Memphis TN 37501-0001
540508692 +EDI: RESURGENT.COM Mar 30 2007 20:51:00 LVNV FUNDING, LLC, PO BOX 10497,
Greenville SC 29603-0497
540508693 +EDI: MIDS.COM Mar 30 2007 20:50:00 MIDLAND CREDIT MANAGEMENT, 8875 AERO DR, STE 2,
San Diego CA 92123-2251
540508694 +EDI: OPTONE.COM Mar 30 2007 20:50:00 OPTION ONE, PO BOX 57054, Irvine CA 92619-7054
TOTAL: 6

***** BYPASSED RECIPIENTS *****

NONE.

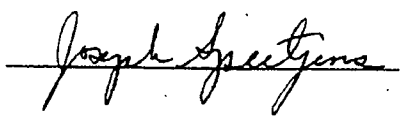
TOTAL: 0

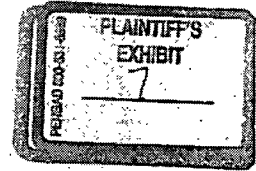
Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

I, Joseph Speetjens, declare under the penalty of perjury that I have served the attached document on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

First Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 01, 2007

Signature: 



STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford; and Spartanburg County;

Defendants.

(S05052-01661 SMF)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2010-CP-42-5798

PLAINTIFF'S REQUEST FOR ADMISSION TO
DEFENDANT SPARTANBURG COUNTY

TO: JOHN H. HARRIS, SENIOR DEPUTY COUNTY ATTORNEY, SPARTANBURG
COUNTY ATTORNEY'S OFFICE, ATTORNEY FOR DEFENDANT SPARTANBURG
COUNTY:

Pursuant to Rule 36, SCRPC, you are hereby served with this written request for the admissions of fact and genuineness of documents for the purpose of the pending action only. Such requests for admissions, pursuant to the Rule, shall be deemed admitted unless within thirty (30) days from the date hereof you serve a written answer or objection on the undersigned at the address set forth below. If objection is made, the reasons therefore shall be stated.

The answer to each request shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. Any such denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify an answer of deny only part of the matter which is requested to be admitted, you shall specify so much of the request as being true and qualify or deny the remainder.

PLEASE TAKE NOTICE that you may not give lack of information of knowledge as a reason for failure to admit or deny unless you state that you have made a reasonable inquiry into the information known or readily obtainable by you and it is insufficient to enable you to admit or deny.

You will hereby take notice that if you fail to admit these Requests for Admission or any part thereof, and if the undersigned thereafter proves the truth of the matter, the undersigned will apply to the Court for an order requiring the party to pay the reasonable expenses incurred in making such proof, which shall include reasonable attorney's fees.

REQUESTS

1. Admit that Exhibit 1, attached hereto, is a complete and accurate copy of everything contained in the County's tax sale file for the subject real property located at 327 Palmetto Circle, Greer, South Carolina, identified by Spartanburg County Tax Map No.: 5 13-08 039.00. If Exhibit 1 does not represent a complete and accurate copy of the County's tax sale file, please provide the undersigned with same.

(signature on following page)

*Plaintiff's Request for Admission to
Defendant Spartanburg County
C/A # 2010-CP-42-5798*


Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803) 771-7900 Tel
sean.foerster@rtt-law.com

Attorneys for Plaintiff Wells Fargo Bank, N.A., as
Trustee for Option One Mortgage Loan Trust 2000-D,
Asset Backed Certificates, Series 2000-D
Rogers Townsend & Thomas, PC, and its staff are debt collectors.

August 17, 2012

CERTIFICATE OF SERVICE
C/A # 2010-CP-42-5798

I, Sean M. Foerster, an attorney with the law offices of Rogers Townsend and Thomas, PC, attorneys for Plaintiff, do hereby
certify that I have served a copy of the following documents by mailing a copy of the same by United States mail, postage
prepaid, on August 17, 2012, to each of the following:

Documents: Plaintiff's Request for Admission to Defendant Spartanburg County

Parties served:
John H. Harris
Senior Deputy County Attorney
Spartanburg County Attorney's Office
P. O. Box 5666
Spartanburg, SC 29304-5666

Max T. Hyde, Jr., Esquire
Hyde Law Firm, P.A.
517 E. St John Street
Spartanburg, SC 29302

David C. Ingalls, Esquire
P.O. Box 2196
Spartanburg, SC 29304


Sean M. Foerster (SC Bar# 77466)

100-443887-100

UNITED STATES POSTAGE
02 16 \$ 10.04
000656667 APR 14 2001
MAILED FROM ZIP CODE 02100

7007 2680 0002 8745

CERTIFIED - RESTRICTED

NIXIE 297 SE 1 DO 05/02/10
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD
BC: ES204305080 *1954-05734-14-42
|||||

tabbier
EXHIBIT
1

SPARTANBURG COUNTY
DELINQUENT TAX OFFICE
POST OFFICE BOX 3060
SPARTANBURG, SC 29304-3060

DATE: DECEMBER 08, 2008

TO: RUTHERFORD RANDY S/TARA P

RUTHERFORD RANDY S/TARA P

327 PALMETTO CIR

GREER SC 29651-6251

FROM: Office of Tax Collector
SPARTANBURG COUNTY TAX COLLECTOR

RE: SALE OF PROPERTY FOR DELINQUENT TAXES

MAP # 5 13-08 039.00 DISTRICT 5TSTR

ITEM# 08-22783

327 PALMETTO CIR

This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on NOVEMBER 03, 2008. Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantee from the owner or any mortgage or judgement creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes penalties, and costs together with the appropriate percent of interest on the total bid price at the tax sale. If you wish to redeem the above described property, the redemption amount will be as listed below:

\$ <u>1,742.55</u>	(03%) due on or before <u>FEBRUARY 04, 2009</u>
\$ <u>2,642.55</u>	Redemption Execution <u>MARCH 16, 2009</u>
\$ <u>3,466.61</u>	(06%) due on or before <u>MAY 04, 2009</u>
\$ <u>4,366.61</u>	(09%) due on or before <u>AUGUST 04, 2009</u>
\$ <u>4,371.14</u>	(12%) due on or before <u>NOVEMBER 04, 2009</u>

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON/BEFORE NOVEMBER 04, 2009 !!!

If you fail to redeem the property by said date, a tax deed will be issued to the successful bidder.

OFFICE OF TAX COLLECTOR

366 North Church Street, Suite 400
Spartanburg, South Carolina 29303
(864) 596-2597

Stephen B. Ford
Interim Delinquent Tax Collector



Mailing Address:
PO Box 3060
Spartanburg, SC 29304
Facsimile (864) 596-2362

Real Estate Sold for Delinquent Taxes Final Notification to Owner of Record End of Redemption CERTIFIED - RESTRICTED DELIVERY

October 1, 2009

08-22783
RUTHERFORD RANDY S/TARA P
RUTHERFORD RANDY S/TARA P
327 PALMETTO CIR
GREER SC 29651-6251

Map Number: 5 13-08 039.00
Location: 327 PALMETTO CIR

Our records indicate that you are now or were formerly the owner of the property listed above. This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on November 3, 2008.

Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantee from the owner or any mortgage or judgment creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes, penalties and costs together with the appropriate percent of interest on the total bid price at the tax sale. The current redemption amount is \$4,371.14, which must be paid in full on or before November 4, 2009.

Accepted methods of payment are Visa or MasterCard, Cash and/or a certified check or money order made payable to 'SPARTANBURG COUNTY TAX COLLECTOR'. Neither personal nor business checks will be accepted.

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON / BEFORE NOVEMBER 4TH 2009

Failure to redeem the property by said date will result in a deed being issued to the successful bidder.

Thank you,

Stephen B. Ford

Spartanburg County
Interim Tax Collector

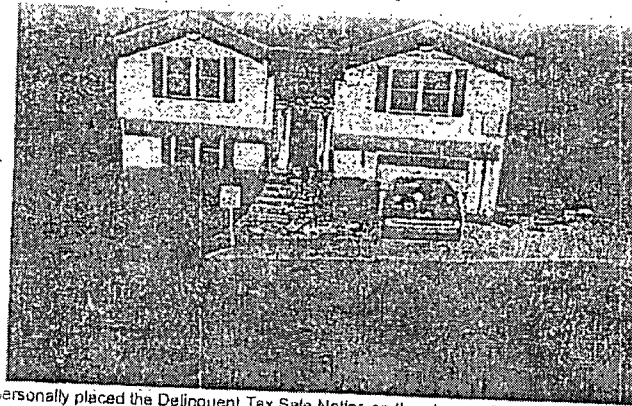
PostingPro

Spartanburg

Printed On: 10/06/2008 4:34 pm

Acres 0
Book Page 961
Building 1
County Item No 22783
Deed Number
District 5
Image Comment Completed
Lot 1
MailAddr1 327 PALMETTO CIR
MailAddr2 GREER SC
MailCity
MailState
MailZip9 290510251
MHDescription
MHLandMapNo 5-13-08-039 00
MHRegistration
MHVIN50
PDATimeStamp
PostingYear 2007
PropertyAddr1
PropertyAddr2

PropertyCity
PropertyDesc Residential
PropertyName 327 PALMETTO CIR
PropertyState
PropertyZip9
TaxMapNo 5-13-08-039 00
Tax Name RUTHERFORD RANDY S/TARA P



I, the undersigned, personally placed the Delinquent Tax Sale Notice on the above reference property on August 04, 2008

Bill Simmons
Bill Simmons

ROA_000184

STATE OF SOUTH CAROLINA

DEED 68 A PG 961

85 Carroll St
Spartanburg SC 29387

COUNTY OF SPARTANBURG

KNOW ALL MEN BY THESE PRESENTS, that the Durham Construction Company, Inc.

One Half Section One, Township and No 100 (5119 000 00)

being hereinbefore duly and lawfully granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the County of Spartanburg and to the heirs and assigns forever

See Exhibit A

RECORDED
89 JUL 18 AM 11:07

together with all and singular the right, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appurtenant to the same, unto the County of Spartanburg and to the heirs and assigns forever, and the grantor(s) do hereby bind the grantor(s) and the grantor(s)' heirs or successors, executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee(s)' heirs or successors, and against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS the hand(s) and seal(s) of this 16 day of June 1941 Durham Construction Co. Inc.

SIGNED: [Signature] and attested in the presence of [Signature]

[Signature] (SEAL)
[Signature] (SEAL)
[Signature] (SEAL)

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF SPARTANBURG

Personally appeared the undersigned witness and made oath that (s)he saw the within named grantor(s) sign, seal and as their grantor(s) see and deed, deliver the within written deed and that (s)he, with the other witnesses subscribed above, witnessed the execution thereof.

SWORN to before me this 16 day of June 1941

[Signature] (SEAL)

Notary Public for South Carolina

My commission expires 6-30-41

DEED 814 - PG 962

EXHIBIT A

That certain piece, parcel or lot of land with improvements located thereon situated, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot 25 on original plat of Palmetto Estates prepared by Valley Company, Inc. dated August 1, 1968 and recorded in Plat Book 57, Page 518.

Tract 575-1012-10

This is the same property conveyed to grantor by deed of record in the REC office of Spartanburg County on August 1, 1968, in Deed Book 57, at Page 452, and subject to all restrictions, easements, rights of way and roadways of record on the recorded plat or on the premises.

This conveyance is made subject to all easements, conditions, covenants, rights of way, if any, appearing of record on the premises or on the recorded plat which may affect the property hereinabove described.

SENDER: COMPLETE THIS SECTION

1. Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
 2. Print your name and address on the reverse so that we can return the card to you.
 3. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

08-22783
 WELLS FARGO BANK NA
 1015 10 AVE SE
 MINNEAPOLIS MN 55414-0000

COMPLETE THIS SECTION ON DELIVERY

A. Signature
Marilyn Smith

B. Received by (Printed Name)
Marilyn Smith

C. Date
01-09-2009

D. If delivery is not as indicated from item 17, enter delivery address below:

3. Service Type
☐ First-Class Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☒ No

7007 2680 0001 8749 7262

U.S. Postal Service
CERTIFIED MAIL - RECEIPT
 (Domestic Mail Only, No Insurance Coverage Provided)
 For delivery information, visit our website at www.usps.com

OFFICIAL USE

Postage \$
 Certified Fee
 Return Receipt Fee (Endorsement Required)
 Restricted Delivery Fee (Endorsement Required)

Postmark Here

08-22783
 WELLS FARGO BANK NA
 1015 10 AVE SE
 MINNEAPOLIS MN 55414-0000

Article Number
 Transfer from service label
 Item 3811, February 2004
 08-22783
 WELLS FARGO BANK NA
 1015 10 AVE SE
 MINNEAPOLIS MN 55414-0000

Domestic Return Receipt
 102985-02-11-1540

Map Number: 5 13-08 039.00
 Location: 327 PALMETTO CIR
 Owner of Record: RUTHERFORD RANDY S/TARA P

This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on November 3, 2008. Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantees from the owner or any mortgage or judgment creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes, penalties and costs together with the appropriate percent of interest on the total bid price at the tax sale. The current redemption amount is \$4,371.14, which must be paid in full on or before November 4, 2009.

Accepted methods of payment are Visa or MasterCard, Cash and/or a certified check or money order made payable to 'SPARTANBURG COUNTY TAX COLLECTOR'. Neither personal nor business checks will be accepted.

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON / BEFORE NOVEMBER 4TH 2009

Failure to redeem the property by said date will result in a deed being issued to the successful bidder.

Thank you,

Stephen B. Ford

Spartanburg County
 Interim Tax Collector

OFFICE OF TAX COLLECTOR

366 North Church Street, Suite 400
Spartanburg, South Carolina 29303
(864) 596-2597

Stephen B. Ford
Interim Delinquent Tax Collector



Mailing Address:
PO Box 3060
Spartanburg, SC 29304
Facsimile (864) 596-2362

Real Estate Sold for Delinquent Taxes
Final Notification to Owner of Record End of Redemption
CERTIFIED – RESTRICTED DELIVERY

October 1, 2009

08-22783
RUTHERFORD RANDY S/TARA P
85 CANTRELL DR
TAYLORS SC 29687-0000

Map Number: 5 13-08 039.00
Location: 327 PALMETTO CIR

Our records indicate that you are now or were formerly the owner of the property listed above. This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on November 3, 2008.

Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantee from the owner or any mortgage or judgment creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes, penalties and costs together with the appropriate percent of interest on the total bid price at the tax sale. The current redemption amount is \$4,371.14, which must be paid in full on or before November 4, 2009.

Accepted methods of payment are Visa or MasterCard, Cash and/or a certified check or money order made payable to 'SPARTANBURG COUNTY TAX COLLECTOR'. Neither personal nor business checks will be accepted.

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON / BEFORE NOVEMBER 4TH 2009

Failure to redeem the property by said date will result in a deed being issued to the successful bidder.

Thank you,

Stephen B. Ford

Spartanburg County
Interim Tax Collector

SPARTANBURG COUNTY
DELINQUENT TAX OFFICE
POST OFFICE BOX 3060
SPARTANBURG, SC 29304-3060

DATE: DECEMBER 08, 2008

TO: RUTHERFORD RANDY S/TARA P

08-22/83

RUTHERFORD RANDY S/TARA P

85 CANTRELL DR

TAYLORS SC 29687

6251

FROM: Office of Tax Collector
SPARTANBURG COUNTY TAX COLLECTOR

RE: SALE OF PROPERTY FOR DELINQUENT TAXES

MAP # 5 13-08 039.00 DISTRICT 5TSTR

ITEM# 08-22783

327 PALMETTO CIR

This letter is to advise you that the property listed above was sold at public auction for delinquent taxes on NOVEMBER 03, 2008. Section 12-51-90 of the South Carolina Code of Laws provides that the defaulting taxpayer, any grantee from the owner or any mortgage or judgement creditor may redeem the above property within (12) months from the date of the delinquent tax sale by paying to this office delinquent taxes penalties, and costs together with the appropriate percent of interest on the total bid price at the tax sale. If you wish to redeem the above described property, the redemption amount will be as listed below:

\$ <u>1,742.55</u>	(03%) due on or before	<u>FEBRUARY 04, 2009</u>
\$ <u>2,642.55</u>	Redemption Execution	<u>MARCH 16, 2009</u>
\$ <u>3,466.61</u>	(06%) due on or before	<u>MAY 04, 2009</u>
\$ <u>4,366.61</u>	(09%) due on or before	<u>AUGUST 04, 2009</u>
\$ <u>4,371.14</u>	(12%) due on or before	<u>NOVEMBER 04, 2009</u>

FINAL DATE TO REDEEM THE ABOVE PROPERTY IS ON/BEFORE NOVEMBER 04, 2009 !!!

If you fail to redeem the property by said date, a tax deed will be issued to the successful bidder.

SPARTANBURG COUNTY, S.C.

FINAL TAX NOTICE 2007



PLEASE RETURN THIS NOTICE WITH REMITTANCE TO:
SPARTANBURG COUNTY TAX COLLECTOR
P.O. BOX 3060
SPARTANBURG, SOUTH CAROLINA 29304-3060
PHONE : (864) 586-2697

PROPERTY INFORMATION				
MAP REFERENCE #	S 13-08 039.00			
DESCRIPTION	327 PALMETTO CTR AD#08-22783			
ASSESS. %	4%	DISTRICT	5TSTR	ITEM # 22783

CURRENT PROPERTY OWNER	
RUTHERFORD RANDY S/TRRÀ P	
327 PALMETTO CTR	
GREEN	SC 29651 6251

NOTICE OF SEIZURE, Levy AND TRY SALE
If these delinquent taxes, penalties, assessments, and costs are not paid, the property must be advertised and sold to satisfy the delinquency.
Property will be SOLD if not paid by 5:00 P.M. on Friday 10/31/08.

PAYMENT METHODS
* CASH * * MONEY ORDER * * CERTIFIED CHECK *
* VISA OR MASTER CARD (WALK-IN ONLY) *
* PERSONAL CHECKS NOT ACCEPTED

** SEE INFORMATION ON REVERSE SIDE

SUMMARY OF TAXES DUE BY TAX YEAR		
TAX YEAR	RECEIPT #	AMOUNT DUE
2007	128703-07-3	807.55

AMOUNT DUE NOW	
	807.55
TOTAL AMOUNT DUE 07/07/08	
	852.55
TOTAL AMOUNT DUE 10/01/08	
	887.55

PROPERTY WILL BE SOLD AT PUBLIC AUCTION ON MONDAY, NOVEMBER 3, 2008 BEGINNING AT 10:00 A.M.

SOUTH CAROLINA LAW REQUIRES A NOTICE TO BE SENT TO THE OWNER OF RECORD ON 12/31/06 AND ANY NEW OWNERS SINCE THAT DATE

FAILURE OF ALL OWNERS TO SIGN FOR CERTIFIED NOTICES WILL RESULT IN PROPERTY BEING POSTED (A SIGN PLACED ON THE PROPERTY) FOR TAX SALE

THESE CHARGES WILL BE IN ADDITION TO THE PENALTIES AND COSTS ALREADY LEVIED ON MARCH 17TH. (SOME CHARGES SUBJECT TO CHANGE WITHOUT FURTHER NOTICE)

ON JUNE 6, 2008 AN ADDITIONAL \$ 45.00 COST WAS ADDED FOR:

- FORMS
- PROCESSING NOTICES
- POSTAGE FOR EXECUTION NOTICES
- POSTAGE FOR CERTIFIED MAILING

ON JULY 7, 2008 \$45.00 COST WILL BE ADDED FOR:

- PHASE I TITLE SEARCH
- CERTIFIED FORMS
- POSTING

ON OCTOBER 1, 2008 AN ADDITIONAL \$ 35.00 WILL BE ADDED FOR:

- NEWSPAPER ADVERTISEMENT
- POSTAGE FOR REDEMPTION NOTICES
- PHASE II TITLE SEARCH
- ALL OTHER COST ASSOCIATED WITH THE COLLECTION OF DELINQUENT TAX.

7100 5868 2454 2808 5034

004473

United States Postal Service



First-Class Mail
Postage & Fees Paid

ITEM NUMBER

022783

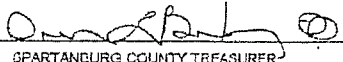
**EXECUTION
TAX YEAR 2007**

I, Oren L. Brady III, Treasurer for Spartanburg County to the Delinquent Tax Collector of Spartanburg County or his deputy:

Whereas, this property owner has been duly assessed the sum of 717.55 dollars for school, county, and special taxes for the year beginning January 1, 2007 and has failed to pay the taxes, this execution commands you in the name of the State to levy by distress and sale on so much of the delinquent taxpayer's property as is sufficient to satisfy the delinquent taxes, assessments, penalties, and costs. This execution is sufficient warrant for a levy by distress and sale.

03-17-2008

DATE


SPARTANBURG COUNTY TREASURER (L.S.)**RECEIPT NUMBER**

128703-07-3

MAP NUMBER

S 13-08 039.00

NAME AND ADDRESS

RUTHERFORD RANDY S/TARA P
327 PALMETTO CIR
GREER SC 29651-6251

OFFICE OF TAX COLLECTOR

356 North Church St
Spartanburg, South Carol
(864) 596-2597

Stephen B. Ford
Interim Delinquent Tax Collector



April 14, 2010

08-22783
RANDY S/TARA P RUTHERFORD
186 LYMAN LODGE RD
LYMAN SC 29365-9758

Map Number: 5 13-08 039.00
2008 Tax Sale Item: 22783

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE	
Postage	\$
Carried Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

Sent To
Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

2007 2680 0001 8749 8726

Dear Previous Owner:

South Carolina Code of Laws, 12-51-130 states: "If the tax sale of an item produced more cash than the full amount due in taxes, assessments, penalties and costs, the overage belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law."

The property located at the map number indicated above was sold at the 2008 tax sale and a deed has been issued to the new owner. You may be entitled to claim the overage of the tax bid. If you believe you are entitled to the claim, please fill out the enclosed claim form and return it to my office along with the required items as shown in the instructions.

Sincerely,
Stephen B. Ford
Spartanburg County
Interim Delinquent Tax Collector

OFFICE OF TAX CO.

366 North Church Street
Spartanburg, South Carolina
(864) 596-2597

Stephen B. Ford
Interim Delinquent Tax Collector



April 2, 2010

08-22783
RANDY S/TARA P RUTHERFORD
327 PALMETTO CIR
GREER SC 29651-

Map Number: 5 13-08 039.00
2008 Tax Sale Item: 22783

Dear Previous Owner:

South Carolina Code of Laws, 12-51-130 states: "If the tax sale of an item produced more cash than the full amount due in taxes, assessments, penalties and costs, the overage belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law."

The property located at the map number indicated above was sold at the 2008 tax sale and a deed has been issued to the new owner. You may be entitled to claim the overage of the tax bid. If you believe you are entitled to the claim, please fill out the enclosed claim form and return it to my office along with the required items as shown in the instructions.

Sincerely,
Stephen B. Ford
Spartanburg County
Interim Delinquent Tax Collector

U.S. Postal Service	
CERTIFIED MAIL - RECEIPT	
(Domestic Mail Only - No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Registered Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, June 2009 PSN 7530-02-000-9000 See Reverse for Instructions	

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS

**Wells Fargo Bank, N.A., as Trustee for
Option One Mortgage Loan Trust
2000-D, Asset Backed Certificates,
Series 2000-D**

Plaintiffs

vs.

Mooring Secured Liquidity, *et al.*

Defendants

**DEFENDANT SPARTANBURG
COUNTY'S RESPONSES TO
PLAINTIFF'S FIRST REQUEST
TO ADMIT**

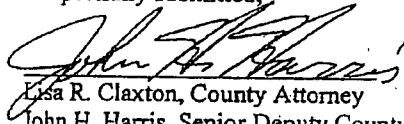
C.A. NO.: 2010-CP-42-05798

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Defendant Spartanburg County incorrectly identified as "Spartanburg County Tax Collector" ("Tax Collector"), makes these responses to Plaintiff's First Request for Admission. These responses reflect Defendant's present knowledge and the results of its investigation to date. Defendant reserves the right to amend or supplement these responses as may be necessary or appropriate in the future.

REQUEST TO ADMIT NO. 1: Admit that Exhibit 1, attached hereto, is a complete and accurate copy of everything contained in the County's tax sale file for the subject real property located at 327 Palmetto Circle, Greer, South Carolina, identified by Spartanburg County Tax Map No.: 5 13-08 039.00.

RESPONSE: Defendant denies the statement in Request to Admit No. 1. Defendant submits that all documents contained in Exhibit 1 are from the County's tax sale file for the subject real property identified by Spartanburg County Map No.: 5 13-08 039.00. Each and every remaining allegation is denied.

Respectfully submitted,



Lisa R. Claxton, County Attorney
John H. Harris, Senior Deputy County Attorney
Virginia Dupont, Deputy County Attorney
Spartanburg County Attorney's Office
P.O. Box 5666
Spartanburg, SC 29304-5666
Telephone: (864)596-2526
Facsimile: (864)596-2232

Attorneys for Defendant
County of Spartanburg

Dated: September 20, 2012
Spartanburg, South Carolina

95 VP6404

TAX DEED

MAP REFERENCE# 5 13-08 039.00
GRANTEE'S ADDRESS:

DEE-2010-10970
Recorded 3 Pages on 3/23/2010 12:02:34 PM
Recording Fee: \$10.00 Documentary Stamp: \$111.00
Office of Registrar of Deeds, Spartanburg, S.C.
Stephen Ford, Registrar



COUNTY OF SPARTANBURG)

MOORING SECURED LIQUIDITY
C/O 5TH 3RD Bank
PO BOX 83296
WOBURN, MA 01813-3296

Owner of Record / Defaulting Taxpayer:
Randy S. Rutherford and Tara P Rutherford

ALL WHOM THESE PRESENTS MAY CONCERN that the Tax Collector of Spartanburg County, acting pursuant to the acts of the General Assembly of South Carolina and the statute laws for said state, did on the first day of May, 2008 mail via "certified Mail, Return Receipt Requested, Restricted Delivery" a notice of delinquent property taxes, penalties and cost owed in the amount of \$807.55 (EIGHT HUNDRED SEVEN DOLLARS AND FIFTY FIVE CENTS) for the year 2007 to Randy S. Rutherford and Tara P Rutherford with such notice being returned unsigned by Randy S. Rutherford and Tara P. Rutherford; and

WHEREAS Bill Simmons did on August 4, 2008 post said property against which said taxes were assessed and levied as hereinafter described; and

WHEREAS on sales day, the third day of November, 2008 the Tax Collector did during the usual hours of sale, after due advertisement in the Spartanburg Herald-Journal as item number 08-22783 sell the said property of the said tax defaulter(s): Randy S. Rutherford and Tara P. Rutherford to Mooring Secured Liquidity purchaser hereinafter known as "grantee" and the highest bidder at such sale for the sum of \$30,000.00 (THIRTY THOUSAND DOLLARS AND NO CENTS) and gave a receipt of the total amount of said purchase money to him; and

WHEREAS more than twelve months have elapsed since the date of said sale and he defaulting taxpayers, and grantee from the owner or any mortgage or judgment creditor have failed to redeem said land so sold for taxes;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Tax Collector of and for the County and State aforesaid, in consideration of the premises and \$30,000.00 (THIRTY THOUSAND DOLLARS AND NO CENTS) have granted, bargain unto Mooring Secured Liquidity their heirs and assigns:

Refer to Exhibit A—Attached

South Carolina code of Laws 12-51-160 Deed of evidence of good title; statute of limitations. In all cases the tax sale the deed of conveyance, whether executed to a private person, a corporation, or

95- VP6405

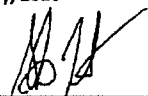
a forfeited land commission, must be held and taken as prima facie evidence of a good title in the holder, that all proceeding have been regular and that all legal requirements have been complied with. No action for the recovery of land sold under the provisions of this chapter for

The recovery of the possession may be maintained unless brought within two years for the date of sale.

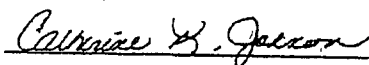
TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident of appertaining.

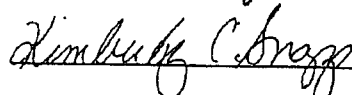
TO have and to hold all singular the premises herby granted, with the appurtenances, unto the said grantee his heirs forever, according to the form in force and effect of the laws and usages of the State of South Carolina and in such cases made and provided.

WITNESS my hand and seal this 15th day of January, 2010


Stephen B. Ford, Interim Delinquent Tax Collector

Signed, sealed and delivered in the presence of:

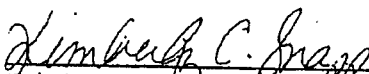

Catherine B. Jackson


Kimberly C. Snapp

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

The foregoing instrument was acknowledged before me this 15th day of January, 2010 by Stephen B. Ford.


Kimberly C. Snapp

Kimberly C. Snapp, Notary Public for South Carolina
My commission expires: January 17, 2017

95 - VP6406

MAP # 5 13-08 039.00

EXHIBIT A

ITEM# 22783

All that certain piece, parcel or lot of land with all improvements located thereon, situate, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot No. 25 on original plat of Palmetto Estates, prepared by Farley-Collins & Associates, dated August 7, 1968, and recorded in Plat Book 57, Page 518, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

This being the same property conveyed to Randy S. Rutherford and Tara P Rutherford by deed from Durham Construction Company, Inc, dated June 16, 1998 and recorded on June 18, 1998 in Deed Book 68A Page 961 R.M.C. Office for Spartanburg County, S.C.

This conveyance is made subject to all easements, conditions, covenants, rights-of-ways, if any, appearing of record on the premises or on the recorded plat which may affect the property hereinabove described.



U.S. BANKRUPTCY COURT
District of South Carolina

Case Number: 07-01612-hb

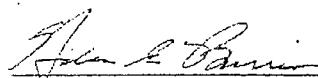
ORDER

The relief set forth on the following pages for a total of two (2) pages,
including this page, is hereby ORDERED.

FILED BY THE COURT
01/15/2010



Entered: 01/19/2010


US Bankruptcy Court Judge
District of South Carolina

United States Bankruptcy Court
District of South Carolina

IN RE:

RANDY STEVEN RUTHERFORD
TARA PATRICE RUTHERFORD
327 PALMETTO CIRCLE
GREER, SC 29651

CASE NO.: 07-01612-hb
CHAPTER 13

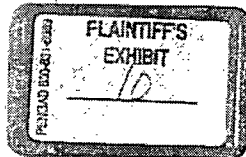
DEBTOR(S)

ORDER DISMISSING CASE

This matter came before the Court pursuant to the Trustee's Motion to Dismiss this case which states that the Debtor(s) has/have failed to comply with the Court's Order of May 06, 2009, as the Debtor(s) failed to make timely payments. Pursuant to that Motion and the Court's prior Order, this case is hereby DISMISSED.

95-V/404
R-3-23-10

95 VPG 404



TAX DEED

MAP REFERENCE# S 13-08 039.00

GRANTEE'S ADDRESS:

DEE/2010-10970
Recorded 3 Pages on 3/23/2010 12:02:34 PM
Recording Fee: \$10.00 Documentary Stamps: \$111.00
Office of Registrar of Deeds, Spartanburg, S.C.
Stephen Ford, Register



COUNTY OF SPARTANBURG)

MOORING SECURED LIQUIDITY
C/O 5TH 3RD Bank
PO BOX 83296
WOBBURN, MA 01813-3296

Owner of Record / Defaulting Taxpayer:
Randy S. Rutherford and Tara P Rutherford

ALL WHOM THESE PRESENTS MAY CONCERN that the Tax Collector of Spartanburg County, acting pursuant to the acts of the General Assembly of South Carolina and the statute laws for said state, did on the first day of May, 2008 mail via "certified Mail, Return Receipt Requested, Restricted Delivery" a notice of delinquent property taxes, penalties and cost owed in the amount of \$807.55 (EIGHT HUNDRED SEVEN DOLLARS AND FIFTY FIVE CENTS) for the year 2007 to Randy S. Rutherford and Tara P Rutherford with such notice being returned unsigned by Randy S. Rutherford and Tara P. Rutherford; and

WHEREAS Bill Simmons did on August 4, 2008 post said property against which said taxes were assessed and levied as hereinafter described; and

WHEREAS on sales day, the third day of November, 2008 the Tax Collector did during the usual hours of sale, after due advertisement in the Spartanburg Herald-Journal as item number 08-22783 sell the said property of the said tax defaulter(s): Randy S. Rutherford and Tara P. Rutherford to Mooring Secured Liquidity purchaser hereinafter known as "grantee" and the highest bidder at such sale for the sum of \$30,000.00 (THIRTY THOUSAND DOLLARS AND NO CENTS) and gave a receipt of the total amount of said purchase money to him; and

WHEREAS more than twelve months have elapsed since the date of said sale and the defaulting taxpayers, and grantee from the owner or any mortgage or judgment creditor have failed to redeem said land so sold for taxes;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Tax Collector of and for the County and State aforesaid, in consideration of the premises and \$30,000.00 (THIRTY THOUSAND DOLLARS AND NO CENTS) have granted, bargain unto Mooring Secured Liquidity their heirs and assigns:

Refer to Exhibit A-Attached

South Carolina code of Laws 12-51-160 Deed of evidence of good title; statute of limitations. In all cases the tax sale the deed of conveyance, whether executed to a private person, a corporation, or

95-VP6405

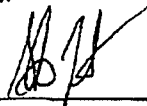
a forfeited land commission, must be held and taken as prima facie evidence of a good title in the holder, that all proceeding have been regular and that all legal requirements have been complied with. No action for the recovery of land sold under the provisions of this chapter for

The recovery of the possession may be maintained unless brought within two years for the date of sale.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging, or in anywise incident of appertaining.

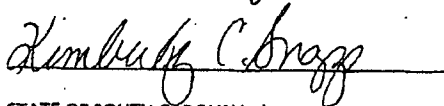
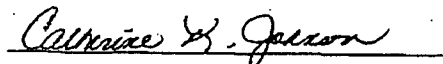
TO have and to hold all singular the premises herby granted, with the appurtenances, unto the said grantee his heirs forever, according to the form in force and effect of the laws and usages of the State of South Carolina and in such cases made and provided.

WITNESS my hand and seal this 15th day of January, 2010



Stephen B. Ford, Interim Delinquent Tax Collector

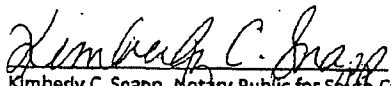
Signed, sealed and delivered in the presence of:



STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

The foregoing instrument was acknowledged before me this 15th day of January, 2010 by Stephen B. Ford.



Kimberly C. Snapp, Notary Public for South Carolina
My commission expires: January 17, 2017

95 - VP6406

MAP # 5 13-08 039.00

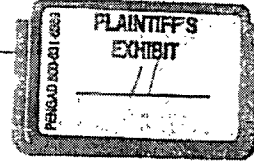
EXHIBIT A

ITEM# 22783

All that certain piece, parcel or lot of land with all improvements located thereon, situate, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot No. 25 on original plat of Palmetto Estates, prepared by Farley-Collins & Associates, dated August 7, 1968, and recorded in Plat Book 57, Page 518, RMC Office for Spartanburg County, S.C. For a more complete and particular description, reference is hereby made to the above referred to plat and record thereof.

This being the same property conveyed to Randy S. Rutherford and Tara P Rutherford by deed from Durham Construction Company, Inc, dated June 16, 1998 and recorded on June 18, 1998 in Deed Book 68A Page 961 R.M.C. Office for Spartanburg County, S.C.

This conveyance is made subject to all easements, conditions, covenants, rights-of-ways, if any, appearing of record on the premises or on the recorded plat which may affect the property hereinabove described.



1 STATE OF SOUTH CAROLINA
2
3 COUNTY OF SPARTANBURG
4
5 Wells Fargo Bank, N.A., as Trustee for Option
6 One Mortgage Loan Trust 2000-D, Asset Backed
7 Certificates, Series 2000-D,
8

Plaintiff,

9

10 v.

11

12 Randy S. Rutherford; Tara P. Rutherford; Sherman
13 Acquisition Limited Partnership;
14

15 Defendant(s).
16

17 (005052-01661)
18

19 Robert P. Davis
20 Attorney for the Plaintiff
21

22 Adam S. Tesh
23 Attorney for Sherman Acquisition Limited Partnership
24
25

IN THE COURT OF COMMON PLEAS

DOCKET NO. 07-CP-42-0039

SUPPLEMENTAL ORDER POST JUDGMENT
Deficiency Judgment Waived

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -7 PM 4:48

26 Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, the above-entitled matter was
27 referred to me with finality to enter a final judgment in the case. On February 28, 2007, a Judgment of
28 Foreclosure and Sale was issued. Prior to the scheduled sales date, the Defendant(s), Randy S. Rutherford
29 and Tara P. Rutherford filed for relief under Chapter 13, U. S. Bankruptcy Code on March 29, 2007.
30 Subsequent to such filing, the bankruptcy was dismissed on January 15, 2010. In order to supplement this
31 Court's previous Judgment of Foreclosure and Sale and to reflect the effect of the Defendants' Chapter 13
32 filing, a supplemental order was presented to the Court.

33 THEREFORE, upon motion of the Plaintiff's counsel and for good cause indicated;

34 IT IS HEREBY ORDERED that the previous judgment debt be amended as follows:

- 35 1. The amount due and owing on the note from the previous judgment was as follows:
36 (a) Principal due \$106,812.62
37 (b) Interest from September 1, 2006 through
38 March 1, 2007 at 12% per annum \$6,408.78
39
40 (c) Advances (Escrow Advances, Corporate Charges,
41 and Other Charges) \$-68.32
42
43 (d) Late Charges \$961.80

1
2 (e) Costs of collection prior to
3 hearing (service, filing, etc.) \$1,086.00
4
5 (f) Attorney's Fees \$4,500.00
6
7 PREVIOUS TOTAL DEBT \$119,700.88
8
9 2. Amended judgment debt is as follows:
10 (a) Principal now due \$104,263.69
11 (b) Interest from April 1, 2009 through
12 April 7, 2010 at 12% per annum \$12,751.63
13
14 (c) Advances (Escrow Advances, Corporate Charges including attorney
15 fees, costs, and other charges previously paid) \$1,836.66
16
17 (d) Late Charges \$204.96
18
19 (e) Additional Costs of collection since previous
20 hearing \$25.00
21
22 (f) Attorney's Fees \$3,685.00
23
24 NEW TOTAL DEBT now secured by Note and Mortgage
25 including interest to date shown \$122,766.94
26

27 The new total debt shall accrue interest hereafter at the rate of 12% per annum.

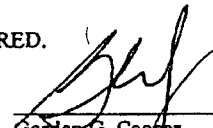
28 3. Pursuant to an Administrative Order of the South Carolina Supreme Court dated May 22,
29 2009, the Plaintiff has set forth its belief in its Complaint or by Affidavit, which is already of record in
30 this case, that the mortgage loan which is the subject of this foreclosure action is not eligible for
31 modification pursuant to the terms of the Home Affordable Modification Program (HMP), and therefore
32 Plaintiff has fully complied with said Order, and the foreclosure may proceed. Also Plaintiff called
33 attention that pursuant to Administrative Order of the South Carolina Supreme Court dated May 22, 2009,
34 Plaintiff's attorney has not received a counter affidavit from the Defendant(s).

35 4. The mortgaged property shall be sold under the terms of the original Judgment of
36 Foreclosure and Sale.

37 AND IT IS SO ORDERED.

38
39
40
41
42 Spartanburg, South Carolina

43 April 7, 2010
44


Gordon G. Cooper
Master in Equity for Spartanburg County

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR - 7 PM 4:18

NOTICE OF SALE

BY VIRTUE of a decree heretofore granted in the case of: Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D vs. Randy S. Rutherford; Tara P. Rutherford; Sherman Acquisition Limited Partnership; , C/A No. 07-CP-42-0039, The following property will be sold on May 3, 2010, at 11:00 AM at the Spartanburg County Courthouse to the highest bidder

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

Book 68-A; Page 961

327 Palmetto Circle, Greer, SC 29651

5-13-08-039.00

SUBJECT TO ASSESSMENTS, SPARTANBURG AD VALOREM TAXES, EASEMENTS AND/OR, RESTRICTIONS OF RECORD, AND OTHER SENIOR ENCUMBRANCES.

TERMS OF SALE: A 5% cash deposit is required . The deposit will be applied towards the purchase price unless the bidder defaults, in which case the deposit will be forfeited. If the successful bidder fails, or refuses, to make the required deposit, or comply with his bid within 20 days, then the property will be resold at his risk. No personal or deficiency judgment being demanded, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of 12% per annum. For complete terms of sale, see Judgment of Foreclosure and Sale filed with the Spartanburg County Clerk of Court at C/A #07-CP-42-0039.

NOTICE: The foreclosure deed is not a warranty deed. Interested bidders should satisfy themselves as to the quality of title to be conveyed by obtaining an independent title search prior to the foreclosure sale date.

Samuel C. Waters, Esq.
Attorney for Plaintiff
P.O. Box 100200
Columbia, SC 29202-3200
(803) 744-4444
005052-01661


Gordon G. Cooper
Master in Equity for
Spartanburg County

NOTICE TO PRINTER: Please insert:

____ Once during week commencing _____
____ Once during week commencing _____
____ Once during week commencing _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -7 PM 4:59

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

FORM 4
JUDGMENT IN A CIVIL CASE

IN THE COURT OF COMMON PLEAS

CASE NO. 07-CP-42-0039

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed Certificates,
Series 2000-D,
PLAINTIFF(S)

vs

Randy S. Rutherford; Tara P. Rutherford; Sherman Acquisition
Limited Partnership;
DEFENDANT(S)

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):** ☐ Rule12(b), SCRPC; ☐ Rule41(a), SCRPC (Vol. Nonsuit); ☐ Rule43(k), SCRPC (Settled); ☐ Other - _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule40(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. (Formal order to follow)
☐ Statement of Judgment by the Court:

THE PROPERTY WHICH IS THE SUBJECT OF THIS ACTION SHALL BE SOLD AT PUBLIC SALE PURSUANT TO THE JUDGMENT OF FORECLOSURE AND SALE.

Dated at Spartanburg, South Carolina, this 14th day of April, 2010

PRESIDING JUDGE/MASTER/SPECIAL REFEREE

This judgment was entered on the 8th day of April, 2010, and a copy mailed first class this 8th day of April, 2010 to attorneys of record or parties (when appearing pro se) as follows:

Samuel C. Waters (SC Bar #5958)
Rogers Townsend & Thomas, PC
P. O. Box 100200
Columbia, SC 29202-3400
ATTORNEY FOR THE PLAINTIFF(S)

Randy S. Rutherford
327 Palmetto Circle
Greer, SC 29651

Tara P. Rutherford
327 Palmetto Circle
Greer, SC 29651

M. Hope Blackley
Clerk or Officer of the Court

Sharon Winstead, D.C.
Adam S. Tesh
PO Drawer 7788
Columbia, SC 29202
Attorney for Sherman Acquisition Limited Partnership

✓ Occupant
327 Palmetto Circle
Greer, SC 29651

U.S. BANKRUPTCY COURT
District of South Carolina



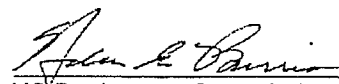
Case Number: 07-01612-B

Order Granting Relief

The relief set forth on the following pages, for a total of 2 pages including this page, is hereby **ORDERED**.

FILED BY THE COURT
12/03/2009




US Bankruptcy Court Judge
District of South Carolina

Entered: 12/04/2009

UNITED STATES BANKRUPTCY COURT FOR THE
DISTRICT OF SOUTH CAROLINA

IN RE:

Randy Steven Rutherford and Tara
Patrice Rutherford,

Debtor(s).

305052-01745

CHAPTER 13
CASE NO.: 07-01612-B

ORDER GRANTING RELIEF
FROM AUTOMATIC STAY

THIS MATTER comes before me upon the Affidavit of the attorney for Option One Mortgage Corporation ("Movant"), secured creditor of the above-named Debtors for relief from the 11 U.S.C. §362 Automatic Stay regarding real property and any improvements thereon located at: 327 Palmetto Circle, Greer in Spartanburg County South Carolina.

It appearing that the Debtors and Movant had previously reached an agreement to bring post-petition regular payments current, which they incorporated into a Settlement Order heretofore filed on May 9, 2008 and entered on May 9, 2008; that the Debtors have failed to comply with the terms and conditions of the aforementioned Order by failing to pay the regular monthly payment due September 1, 2009, as outlined in said Settlement Order.

IT IS, THEREFORE, ORDERED that the Automatic Stay pursuant to 11 U.S.C. §362 is hereby lifted, and that Movant be permitted to pursue its remedies against its security, including sending any required notice to the Debtors. The Court further finds that Rule 4001(a)(3) does not apply and that this Order is immediately enforceable. Movant agrees to waive any claim arising under 11 U.S.C. §503(b) or §507(b) as a result of this Motion. Movant further acknowledges that any funds realized from the foreclosure sale, in excess of all liens, costs, and expenses, will be paid to the trustee.

District/Off: 0420-7
Case: 07-01612-hb

User: phipps
Form ID: pdm1

Date Created: 12/4/2009
Total: 6

Recipients of Notice of Electronic Filing:

tr	Gretchen D. Holland	gdh@upstate13.com
aty	Cheryl H. Fisher	Bankruptcy@rtt-law.com
aty	Christopher M. Edwards	Chris@mossattorneys.com
aty	William S. Kochler	wkochler@rtt-law.com

TOTAL: 4

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Randy Steven Rutherford	327 Palmetto Circle	Greer, SC 29651
jdb	Tara Patrice Rutherford	327 Palmetto Circle	Greer, SC 29651

TOTAL: 2

COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

MOTION INFORMATION

COUNTY OF LEXINGTON

CASE NO. 2010-CP-42-5798

FORM
AND COVER SHEET

Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ☒
Plaintiff

v.
Mooring Secured Liquidity; Randy S. Rutherford; and Tara P. Rutherford; ☐ Defendant

Check box above indicating submitting party

name, S.C. Bar no. and address of plaintiff's attorney

Sean M. Foerster (SC Bar #77466)

Rogers Townsend & Thomas, PC

220 Executive Center Drive

Columbia, SC 29210

telephone: 803-771-7900

fax: 803-343-7013

name, S.C. Bar no. and address of Defendant's attorney

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (Complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Summary Judgment

Estimated Time Needed:

Court Reporter Needed: YES/NO

This case has been referred to the Honorable James O. Spence, Master in Equity for Lexington County. Once this motion is filed, Plaintiff's counsel will schedule a hearing with Judge Spence's office.

SECTION II: Motion Fee

☒ PAID—AMOUNT: \$ 25.00

☐ EXEMPT:

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication

☐ Motion for Execution (Rule 69, SCRCP)

☐ 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: _____

☐ Other: _____

SECTION III: Motion Type

☒ Written motion attached

☐ Form Motion —

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff/Defendant

November 3, 2011
Date submitted

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other

JUDGE
CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

(print name)

☐ MOTION FEE COLLECTED: _____

☐ CONTESTED—AMOUNT DUE: _____

SCCA/233 (11/2003) 505052.1661

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4: 5
M. HOE-BLACKLEY

DM

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford;

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2010-CP-42-5798

PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR SUMMARY JUDGMENT

(505052-01661 SMF)

**TO: MAX T. HYDE, JR., ESQUIRE, ATTORNEY FOR DEFENDANT MOORING SECURED
LIQUIDITY; AND DAVID G. INGALLS, ESQUIRE, ATTORNEY FOR DEFENDANTS
RANDY S. RUTHERFORD AND TARA P. RUTHERFORD**

YOU WILL PLEASE TAKE NOTICE that at such time and place as is set by the Court, Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff") will move before this Honorable Court for an order granting summary judgment in its favor for the reasons set forth herein.

FACTS

This is an action to set aside a Spartanburg County tax sale of real property at 327 Palmetto Circle, Greer, SC 29651 ("subject property").

Plaintiff is the real party in interest¹ to challenge this tax sale by virtue of a Judgment of Foreclosure and Sale entered in civil action # 2007-CP-42-0039 on February 28, 2007 (see Exhibit 1 to the Affidavit of Roger Kistler), in favor of Plaintiff and against Defendants Randy S. Rutherford and Tara P. Rutherford ("Rutherfords") in the amount of \$119,700.88, as well as by virtue of a Supplemental Order Post Judgment in the same foreclosure action entered on April 7, 2010, against the Rutherfords in the amount of \$122,766.94 (see Exhibit 2 to Kistler Aff.).

In the Judgment of Foreclosure and Sale entered in civil action # 2007-CP-42-0039 on February 28, 2007, the Master in Equity ordered that the subject property be sold at a foreclosure sale to take place on April 2, 2007. (See ¶ 22 of Exhibit 1 to Kistler Aff.)

¹ See *Mid-State Trust, II v. Wright*, 323 S.C. 303, 306, 474 S.E.2d 421, 423 (1996) ("[W]e believe the Special Referee erred in holding [the mortgagee] lacks standing to challenge the tax sale...").

However, on March 29, 2007, days before the foreclosure sale was to occur, the Rutherfords filed for Chapter 13 bankruptcy. (See copy of Voluntary Petition, *In re Randy Steven Rutherford and Tara Patrice Rutherford*, Case # 07-01612-hb, United States Bankruptcy Court, District of South Carolina attached as Exhibit A.)

On November 3, 2008, while the Rutherfords' bankruptcy action was still pending, the Spartanburg County Tax Collector ("Tax Collector") sold the subject property at a tax sale for unpaid 2007 real estate taxes to Mooring Secured Liquidity for \$30,000, resulting in an overage that is currently being held by the Tax Collector.

There is no record in the bankruptcy action of the Tax Collector ever applying for or the bankruptcy court ever granting the Tax Collector relief from the automatic stay imposed by 11 U.S.C. § 362(a).

The Tax Collector issued a Tax Deed to Mooring Secured Liquidity dated January 15, 2010, and recorded on March 23, 2010, in Deed Book 2010 at Page 10970 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

Randy S. Rutherford and Tara P. Rutherford's bankruptcy case was dismissed on January 15, 2010. (See copy of Order Dismissing Case attached as Exhibit B.)

To date, the Rutherfords have failed to satisfy the Judgment of Foreclosure and Sale against them (Kistler Aff. ¶ 6) and Plaintiff has been unable to enforce its judgment through a foreclosure sale due to the subject property being sold at the tax sale.

LAW

1. Plaintiff's Cause of Action to Set Aside the Tax Sale

The tax sale of the subject property on November 3, 2008, is void because the sale occurred in violation of the automatic stay imposed by 11 U.S.C. § 362(a).

The subject property became part of the bankruptcy estate on March 29, 2007, when the Rutherfords filed for Chapter 13 bankruptcy. "All of a debtor's property becomes part of the bankruptcy estate upon the filing of a bankruptcy petition," including "all legal or equitable interests of the debtor of the petition date, wherever located and by whomever held." *United States v. Gold* (In re Arie), 127 F.3d 718, 720 (4th Cir. 1999) (citing 11 U.S.C. § 541(a)(1)).

The Rutherfords' filing of the bankruptcy petition on March 29, 2007, "operated] as a stay, applicable to all entities, of ... any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate" and "any act to create, perfect, or enforce any lien against property of the estate." 11 U.S.C. § 362(a)(3)-(4) (emphasis added). "The purpose of the automatic stay, in addition to protecting the relative position of creditors, is to shield the debtor from

financial pressure during the pendency of the bankruptcy proceeding." *Winters by & Through McMahon v. George Mason Bank*, 94 F.3d 130, 133 (4th Cir. 1996).

There is an exemption from the stay "of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition." 11 U.S.C. § 362(b)(18)(emphasis added).

However, the exemption from stay under 11 U.S.C. § 362(b)(18) did not permit the Tax Collector to enforce the statutory tax lien and sell the property without first obtaining relief from stay under 11 U.S.C. § 362(d). Just like any other creditor, the Tax Collector was required to file a proof of claim and seek relief from the automatic stay before attempting to enforce the tax lien through the tax sale.

Because the Tax Collector sold the subject property in violation of the automatic stay, the tax sale is void. See *Weatherford v. TIMMARK Carey Holdings, Inc.* (In re Weatherford), 413 B.R. 273, 283 (Bankr. D.S.C. 2009)("[I]n this District, courts have consistently held that actions taken in violation of the automatic stay are void *ab initio* and thus not legally effective."); *In re Brown*, 2009 Bankr. LEXIS 1489, 5-6 (Bankr. D.S.C. May 14, 2009)(internal quotations omitted)("[C]ourts in this district have consistently held that actions taken in violation of the automatic stay are void *ab initio* and thus not legally effective."); *In re McWhorter*, 37 B.R. 742, 745 (Bankr. D.S.C. 1984)("Actions taken in violation of the automatic stay are void and without effect."); cf. *Dep't of Health & Envtl. Control v. Columbia Organic Chem. Co. (Ex Parte Reichlyn)*, 310 S.C. 495, 499, 427 S.E.2d 661, 664 (1993)(holding that the automatic stay deprives South Carolina state court judges "of subject matter jurisdiction to take any action inconsistent with the stay.").

2. The Rutherford's Counterclaim for Negligence

The Rutherfords assert a counterclaim against Plaintiff for negligence based on the allegations that "Plaintiff owed a duty of care to the Defendants in paying taxes due on their home" and that Plaintiff breached that duty "in failing to pay taxes due on their home after notice." (Ans. and Counterclaim ¶ 13.)

If Plaintiff owed a duty to the Rutherfords to pay property taxes on the subject property, such duty would have arisen under ¶ 2 of the Mortgage given by the Rutherfords to Plaintiff's predecessor (See copy of recorded Mortgage attached as Exhibit C.) Because such a duty would have arisen contractually, rather than by law, "so far as that feature of the counterclaim is concerned, it is upon contract plain and simple." *Farmer's Market Union Co. v. Anderson*, 108 S.C. 66, 70, 93 S.E. 422, 424 (1917). "A breach of a duty which arises under the provisions of a contract between the parties must be redressed under contract, and a tort action will not lie." *Koontz v. Thomas*, 333 S.C. 702, 711, 511 S.E.2d

407, 412 (Ct. App. 1999)(citing *Tommy L. Griffin Plumbing & Heating Co. v. Jordon, Jones & Goulding, Inc.*, 320 S.C. 49, 54-55, 463 S.E.2d 85, 88 (1995)). "A bare allegation of negligence cannot convert a breach of contract action into an action in tort." *Seebaldt v. First Federal Sav. & Loan Asso.*, 269 S.C. 691, 693, 239 S.E.2d 726, 727 (1977).

The Rutherfords' counterclaim for negligence is therefore improper, and Plaintiff is entitled to judgment as a matter of law on that basis alone.

Aside from the Rutherfords improperly basing their counterclaim in tort, Plaintiff's alleged duty under the loan agreement to pay the property taxes was excused once the Rutherfords materially breached the terms of the Note and Mortgage.

A material breach by one party to a contract excuses the other party from performance. *See* Restatement (Second) of Contracts § 237 ("[I]t is a condition of each party's remaining duties to render performances to be exchanged under an exchange of promises that there be no uncured material failure by the other party to render any such performance due at an earlier time."); *see also Equinox Software Sys. v. Airgas, Inc.*, 158 F. Supp. 2d 485, 487 (E.D. Pa. 2001)("A material breach of contract by one party excuses the other party from performance as [sic] matter of law."); *Magnet Resources, Inc. v. Summit MRI, Inc.*, 318 N.J. Super. 275 (N.J. Super Ct. App. Div. 1998)("It is black letter contract law that a material breach by either party to a bilateral contract excuses the other party from rendering any further contractual performance."); *Brown v. Grimes*, 192 Cal. App. 4th 265, 277 (Cal. Ct. App. 2011)("When a party's failure to perform a contractual obligation constitutes a material breach of the contract, the other party may be discharged from its duty to perform under the contract."); *Henry v. Masson*, 333 S.W.3d 825, 835 (Tex. App. 2010)("A material breach by one party to a contract can excuse the other party from any obligation to perform."); *Sumner v. Bankhead*, 119 S.C. 78, 87, 111 S.E. 891, 894 (1922)(Cothran, J., dissenting)("Whenever there is...a material breach of contract by the other party, equity will not enforce the contract against him.").

On February 28, 2007, the Court entered a Judgment of Foreclosure and Sale against the Rutherfords. This judgment confirmed the Rutherfords' material breach of the terms of the Note and Mortgage. The 2007 taxes owed to Spartanburg County on the subject property (for which the property was sold at the 2008 tax sale) did not come due until January 15, 2008—almost a year after the Court had entered the Judgment of Foreclosure and Sale against the Rutherfords. S.C. Code Ann. § 12-45-130(A). The tax sale did not occur until November 3, 2008. Therefore, by the time that the property taxes became delinquent and the property was sold at the tax sale, the Rutherfords had long since materially breached the loan agreement and Plaintiff's duty to perform under the loan agreement was excused.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV 4 PM 4:35
M. HOPKINS
RECEIVED

For these reasons, Plaintiff is entitled to judgment as a matter of law on the Rutherford's counterclaim.

This motion is based on the pleadings, the Affidavit of Roger Kistler filed herewith, the Exhibits attached hereto, the laws of the State of South Carolina, and Rule 56, SCRPC.

Respectfully submitted,


Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803) 771-7900 Tel
sean.foerster@rtt-law.com

Attorneys for Plaintiff Wells Fargo Bank, N.A.,
as Trustee for Option One Mortgage Loan Trust
2000-D, Asset Backed Certificates, Series 2000-
D
Rogers Townsend & Thomas, PC, and its staff are debt
collectors.

November 3, 2011

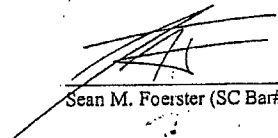
CERTIFICATE OF SERVICE
C/A # 2010-CP-42-5798

I, Sean M. Foerster, an attorney with the law offices of Rogers Townsend and Thomas, PC, attorneys for Plaintiff, do hereby certify that I have served a copy of the following documents by mailing a copy of the same by United States mail, postage prepaid, on November 3, 2011, to each of the following:

Documents: Notice of Motion and Motion for Summary Judgment
Affidavit of Roger Kistler

Parties served:
Max T. Hyde, Jr., Esquire
Hyde Law Firm, P.A.
517 E. St. John Street
Spartanburg, SC 29302

David C. Ingalls, Esquire
P.O. Box 2196
Spartanburg, SC 29304


Sean M. Foerster (SC Bar# 77466)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
NOV -4 PM 4:15
HOPE BLACKLEY



Official Form 1 (10/06)

United States Bankruptcy Court
District of South Carolina

Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle): Rutherford, Randy Steven		Name of Joint Debtor (Spouse) (Last, First, Middle): Rutherford, Tara Patrice	
All Other Names used by the Debtor in the last 8 years (Include married, maiden, and trade names):		All Other Names used by the Joint Debtor in the last 8 years (Include married, maiden, and trade names):	
Last four digits of Soc. Sec./Complete EIN or other Tax ID No. (if more than one, state all): xxx-xx-3216		Last four digits of Soc. Sec./Complete EIN or other Tax ID No. (if more than one, state all): xxx-xx-3948	
Street Address of Debtor (No. and Street, City, and State): 327 Palmetto Circle Greer, SC ZIP Code: 29651		Street Address of Joint Debtor (No. and Street, City, and State): 327 Palmetto Circle Greer, SC ZIP Code: 29651	
County of Residence or of the Principal Place of Business: Spartanburg		County of Residence or of the Principal Place of Business: Spartanburg	
Mailing Address of Debtor (if different from street address): ZIP Code:		Mailing Address of Joint Debtor (if different from street address): ZIP Code:	
Location of Principal Assets of Business Debtor (if different from street address above):			
Type of Debtor (Form of Organization) (Check one box) ☒ Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> ☐ Corporation (includes LLC and LLP) ☐ Partnership ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below.)		Nature of Business (Check one box) ☐ Health Care Business ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) ☐ Railroad ☐ Stockbroker ☐ Commodity Broker ☐ Clearing Bank ☐ Other Tax-Exempt Entity (Check box, if applicable) ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	
		Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) ☐ Chapter 7 ☐ Chapter 9 ☐ Chapter 11 ☐ Chapter 12 ☒ Chapter 13 ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box) ☒ Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." ☐ Debts are primarily business debts.	
Filing Fee (Check one box) ☒ Full Filing Fee attached ☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.		Chapter 11 Debtors ☐ Debtor is a small business debtor as defined in 11 U.S.C. § 101(51B) (SMB). ☐ Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51B). Check if: ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2 million. Check all applicable boxes: ☐ A plan is being filed with this petition. ☐ Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).	
Statistical/Administrative Information ☒ Debtor estimates that funds will be available for distribution to unsecured creditors. ☐ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors. Estimated Number of Creditors 1-49 ☐ 50-99 ☐ 100-199 ☐ 200-999 ☐ 1000-5000 ☐ 5001-10,000 ☐ 10,001-25,000 ☐ 25,001-50,000 ☐ 100,001-100,000 ☐ OVER 100,000 ☐ Estimated Assets ☐ \$0 to \$10,000 ☐ \$10,001 to \$100,000 ☒ \$100,001 to \$1 million ☐ \$1,000,001 to \$100 million ☐ More than \$100 million Estimated Liabilities ☐ \$0 to \$50,000 ☐ \$50,001 to \$100,000 ☒ \$100,001 to \$1 million ☐ \$1,000,001 to \$100 million ☐ More than \$100 million		THIS SPACE IS FOR COURT USE ONLY	

FILED
CLERK OF COURT
SPARTANBURG COUNTY

Official Form 1 (10/06)

FORM B1, Page 2

Voluntary Petition (This page must be completed and filed in every case)		Name of Debtor(s): Rutherford, Randy Steven Rutherford, Tara Patrice	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)			
Location Where Filed: - None -	Case Number:	Date Filed:	
Location Where Filed:	Case Number:	Date Filed:	
Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor: - None -	Case Number:	Date Filed:	
District:	Relationship:	Judge:	
Exhibit A (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.) ☐ Exhibit A is attached and made a part of this petition.		Exhibit B (To be completed if debtor is an individual whose debts are primarily consumer debts.) I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b). <u>X</u> <u>/s/ Christopher M Edwards</u> <u>March 29, 2007</u> Signature of Attorney for Debtor(s) (Date) Christopher M Edwards 9193	
Exhibit C Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? ☐ Yes, and Exhibit C is attached and made a part of this petition. ☒ No.			
Exhibit D (To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.) ☒ Exhibit D completed and signed by the debtor is attached and made a part of this petition. If this is a joint petition: ☒ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.			
Information Regarding the Debtor - Venue (Check any applicable box) ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. ☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. ☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
Statement by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes) ☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.) _____ (Name of landlord that obtained judgment) _____ (Address of landlord) ☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and ☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.			

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
HOP BLANKLEY

Official Form 1 (10/06)

FORM B1, Page 3

Voluntary Petition	
(This page must be completed and filed in every case)	
Signatures	
Signature(s) of Debtor(s) (Individual/Joint)	Signature of a Foreign Representative
I declare under penalty of perjury that the information provided in this petition is true and correct. [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b). I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.	I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition. (Check only one box.) ☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached. ☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.
X <u>/s/ Randy Steven Rutherford</u> Signature of Debtor Randy Steven Rutherford	X _____ Signature of Foreign Representative
X <u>/s/ Tara Patrice Rutherford</u> Signature of Joint Debtor Tara Patrice Rutherford	_____ Printed Name of Foreign Representative
_____ Telephone Number (If not represented by attorney)	_____ Date
<u>March 29, 2007</u> Date	
Signature of Attorney	Signature of Non-Attorney Bankruptcy Petition Preparer
X <u>/s/ Christopher M. Edwards</u> Signature of Attorney for Debtor(s) <u>Christopher M. Edwards 9193</u> Printed Name of Attorney for Debtor(s) <u>Moss & Associates, Attorneys, P.A.</u> Firm Name 11 Caledon Court, Suite D Greenville, SC 29615 _____ Address Email: chris@mossattorneys.com (864)272-3413 Fax: (864)272-3418 _____ Telephone Number <u>March 29, 2007</u> Date	I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19B is attached. _____ Printed Name and title, if any, of Bankruptcy Petition Preparer _____ Social Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.) _____ Address X _____ Date Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above. Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual: If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person. A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.
Signature of Debtor (Corporation/Partnership)	
I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.	
X _____ Signature of Authorized Individual	
_____ Printed Name of Authorized Individual	
_____ Title of Authorized Individual	
_____ Date	

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPPE-BLACK

Official Form 1, Exhibit D (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.] [Summarize exigent circumstances here.]*

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

Software Copyright (c) 1998-2006 Best Case Solutions, Inc. - Evanston, IL - (800) 462-8037

Best Case Bankruptcy

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
H. H. BLAIR

Official Form 1, Exh. D (10/06) - Cont.

☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Randy Steven Rutherford
Randy Steven Rutherford

Date: March 29, 2007

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Official Form 1, Exhibit D (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

EXHIBIT D - INDIVIDUAL DEBTOR'S STATEMENT OF COMPLIANCE WITH
CREDIT COUNSELING REQUIREMENT

Warning: You must be able to check truthfully one of the five statements regarding credit counseling listed below. If you cannot do so, you are not eligible to file a bankruptcy case, and the court can dismiss any case you do file. If that happens, you will lose whatever filing fee you paid, and your creditors will be able to resume collection activities against you. If your case is dismissed and you file another bankruptcy case later, you may be required to pay a second filing fee and you may have to take extra steps to stop creditors' collection activities.

Every individual debtor must file this Exhibit D. If a joint petition is filed, each spouse must complete and file a separate Exhibit D. Check one of the five statements below and attach any documents as directed.

☒ 1. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, and I have a certificate from the agency describing the services provided to me. *Attach a copy of the certificate and a copy of any debt repayment plan developed through the agency.*

☐ 2. Within the 180 days before the filing of my bankruptcy case, I received a briefing from a credit counseling agency approved by the United States trustee or bankruptcy administrator that outlined the opportunities for available credit counseling and assisted me in performing a related budget analysis, but I do not have a certificate from the agency describing the services provided to me. *You must file a copy of a certificate from the agency describing the services provided to you and a copy of any debt repayment plan developed through the agency no later than 15 days after your bankruptcy case is filed.*

☐ 3. I certify that I requested credit counseling services from an approved agency but was unable to obtain the services during the five days from the time I made my request, and the following exigent circumstances merit a temporary waiver of the credit counseling requirement so I can file my bankruptcy case now. *[Must be accompanied by a motion for determination by the court.] [Summarize exigent circumstances here.]* _____

If the court is satisfied with the reasons stated in your motion, it will send you an order approving your request. You must still obtain the credit counseling briefing within the first 30 days after you file your bankruptcy case and promptly file a certificate from the agency that provided the briefing, together with a copy of any debt management plan developed through the agency. Any extension of the 30-day deadline can be granted only for cause and is limited to a maximum of 15 days. A motion for extension must be filed within the 30-day period. Failure to fulfill these requirements may result in dismissal of your case. If the court is not satisfied with your reasons for filing your bankruptcy case without first receiving a credit counseling briefing, your case may be dismissed.

Software Copyright (c) 1999-2006 Best Case Solutions, Inc. - Evanston, IL - (800) 482-8037

Best Case Bankruptcy

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 NOV -
MAY 15 2007

Official Form 1, Exh. D (10/06) - Cont.

☐ 4. I am not required to receive a credit counseling briefing because of: *[Check the applicable statement.] [Must be accompanied by a motion for determination by the court.]*

☐ Incapacity. (Defined in 11 U.S.C. § 109(h)(4) as impaired by reason of mental illness or mental deficiency so as to be incapable of realizing and making rational decisions with respect to financial responsibilities.);

☐ Disability. (Defined in 11 U.S.C. § 109(h)(4) as physically impaired to the extent of being unable, after reasonable effort, to participate in a credit counseling briefing in person, by telephone, or through the Internet.);

☐ Active military duty in a military combat zone.

☐ 5. The United States trustee or bankruptcy administrator has determined that the credit counseling requirement of 11 U.S.C. § 109(h) does not apply in this district.

I certify under penalty of perjury that the information provided above is true and correct.

Signature of Debtor: /s/ Tara Patrice Rutherford
Tara Patrice Rutherford

Date: March 29, 2007

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Form 6-Summary (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Debtors

Case No. _____

Chapter 13

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	139,500.00		
B - Personal Property	Yes	4	21,181.44		
C - Property Claimed as Exempt	Yes	1			
D - Creditors Holding Secured Claims	Yes	1		145,581.18	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	Yes	1		0.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	8		116,442.62	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	4			6,822.64
J - Current Expenditures of Individual Debtor(s)	Yes	2			6,184.26
Total Number of Sheets of ALL Schedules		24			
Total Assets			160,681.44		
Total Liabilities				262,003.80	

FILED
CLERK OF COURT
CHARLESTON COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Official Form 6 - Statistical Summary (10/06)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Debtors

Case No. _____

Chapter 13

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

☐ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	0.00
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E) (whether disputed or undisputed)	0.00
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E)	0.00
Student Loan Obligations (from Schedule F)	0.00
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	0.00
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	0.00
TOTAL	0.00

State the following:

Average Income (from Schedule I, Line 16)	6,822.64
Average Expenses (from Schedule I, Line 18)	6,184.26
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	4,110.65

State the following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column	4,151.08
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column	0.00
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column	0.00
4. Total from Schedule F	116,442.62
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)	120,593.70

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. FINE BL

Form 56A
(10/05)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE A. REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, Spartanburg County, (3) bed, (2) bath, vinyl siding home, TMS # (6143-26-3990.18), Tax Appraisal Value (\$120,000), Debtor purchased home June 1998 for (\$119,000), Fair market value (\$135,000)		J	135,000.00	131,240.10
CAMPING LOT: Lot 21 Hatteras Foxwood Hills Subdivision Oconee County, SC, Land was transferred after debtor's father passed away in August 1996, TMS # (306-01-06-015), Tax Appraisal Value (\$4,000), Fair market value (\$4,500)		J	4,500.00	0.00

Sub-Total > 139,500.00 (Total for this page)

Total > 139,500.00

(Report also on Summary of Schedules)

0 continuation sheets attached to the Schedule of Real Property

Form 863
(10/05)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "X" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." In providing the information requested in this schedule, do not include the name or address of a minor child. Simply state "a minor child."

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		BANK OF AMERICA: Checking account # (000048252258)	J	537.75
		BANK OF AMERICA: Savings account # (000784592708)	J	38.69
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		HOUSEHOLD FURNISHINGS: (2) bunk beds, bed, (3) dressers, sofa, love seat, dining room table with chairs, microwave, stove, dishwasher, refrigerator, washing machine, dryer, computer, desk, stereo, (3) televisions, DVD player, entertainment center, (2) end tables, gas grill, push mower, misc. other furnishings	J	2,200.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		WEARING APPAREL: Assorted used clothes	J	362.00
7. Furs and jewelry.		JEWELRY: Wedding ring, gold necklace	J	89.00
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		NATIONWIDE: 115 B West Wade Hampton Blvd. Greer, SC 29650, Policy # (L050996220), Face value of policy (\$325,000), cash surrender value (\$0)	J	0.00
10. Annuities. Itemize and name each issuer.	X			

Sub-Total > 3,526.44
(Total of this page)

3 continuation sheets attached to the Schedule of Personal Property

Form 968
(10/03)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c); Rule 1007(b)).	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owing debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Sub-Total > 0.00
(Total of this page)

Sheet 1 of 3 continuation sheets attached
to the Schedule of Personal Property

Copyright (c) 1998-2006 - Best Case Solutions - Evanston, IL - (800) 492-6037

Best Case Bankruptcy

Form 96B
(10/03)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		1999 TOYOTA SIENNA: VIN (4T3ZF13C2XU139084), (4) Door, (8) Cylinder, mileage (115,000), KBB Value (\$4,770)	J	4,770.00
		2002 TOYOTA SEQUOIA: VIN (5TDBT48A625067828), (4) Door, (8) cylinder, mileage (188,000), KBB Value (\$10,170)	J	10,170.00
		1993 FORD F-350: VIN (1FDJF37H8PNAQ5013), (2) Door, (8) cylinder, mileage (211,000), KBB Value (\$1,365)	J	1,365.00
		1993 CHEVORLET GEO TRACKER: VIN (2CNBE18U1P6904348), (2) Door, (4) cylinder, mileage (165,000), KBB Value (\$)	J	0.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment, and supplies used in business.		INVENTORY: Wavetek meter, trilithic meter, coring tools, docket strippers, center cleaners, torch, wrenches, screwdrivers, pliers, wirecutters, drill, climbing equipment, cones, signs	J	1,450.00
30. Inventory.	X			
31. Animals.	X			

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Sub-Total > 17,655.00
(Total of this page)

Sheet 2 of 3 continuation sheets attached
to the Schedule of Personal Property

Copyright (c) 1999-2006 - Best Case Solutions - Evanston, IL - (800) 492-8037

Best Case Bankruptcy

Form 868
(10/05)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	NONE	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Sub-Total > 0.00
(Total of this page)
Total > 21,181.44

(Report also on Summary of Schedules)

Best Case Bankruptcy

Sheet 3 of 3 continuation sheets attached
to the Schedule of Personal Property

Copyright (c) 1998-2008 - Best Case Solutions - Evanston, IL - (800) 482-8037

Form B6C
(10/03)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:
(Check one box)

- ☐ 11 U.S.C. §522(b)(2)
☒ 11 U.S.C. §522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds
\$125,000.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, Spartanburg County, (3) bed, (2) bath, vinyl siding home, TMS # (6143-26-3990.18), Tax Appraisal Value (\$120,000), Debtor purchased home June 1998 for (\$119,000), Fair market value (\$135,000)	S.C. Code Ann. § 15-41-30(1)	50,000.00	135,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit BANK OF AMERICA: Checking account # (000048252258)	S.C. Code Ann. § 15-41-30(5)	1,000.00	537.75
Household Goods and Furnishings HOUSEHOLD FURNISHINGS: (2) bunk beds, bed, (3) dressers, sofa, love seat, dining room table with chairs, microwave, stove, dishwasher, refrigerator, washing machine, dryer, computer, desk, stereo, (3) televisions, DVD player, entertainment center, (2) end tables, gas grill, push mower, misc. other furnishings	S.C. Code Ann. § 15-41-30(3)	2,200.00	2,200.00
Wearing Apparel WEARING APPAREL: Assorted used clothes	S.C. Code Ann. § 15-41-30(3)	350.00	350.00
Furs and Jewelry JEWELRY: Wedding ring, gold necklace	S.C. Code Ann. § 15-41-30(4)	400.00	400.00
Interests in Insurance Policies NATIONWIDE: 115 B West Wade Hampton Blvd. Greer, SC 29650, Policy # (L050896220), Face value of policy (\$325,000), cash surrender value (\$0)	S.C. Code Ann. § 38-63-40(C)	0.00	0.00
Automobiles, Trucks, Trailers, and Other Vehicles 1993 FORD F-350: VIN (1FDJF37H6PNAQ5013), (2) Door, (8) cylinder, mileage (211,000), KBB Value (\$1,365)	S.C. Code Ann. § 15-41-30(2)	1,200.00	1,365.00
Machinery, Fixtures, Equipment and Supplies Used in Business INVENTORY: Wavetek meter, trilithic meter, coring tools, docket strippers, center cleaners, torch, wrenches, screwdrivers, pliers, wirecutters, drill, climbing equipment, cones, signs	S.C. Code Ann. § 15-41-30(6)	1,500.00	1,500.00
Total:		56,650.00	141,202.75

0 continuation sheets attached to Schedule of Property Claimed as Exempt

Copyright (c) 1998-2006 - Best Case Solutions - Evanston, IL - (800) 492-8037

Best Case Bankruptcy

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:15
M. HOPE BLACKLEY

Official Form 5D (10/06)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor", include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H", "W", "J", or "C" in the column labeled "Husband, Wife, Joint, or Community".

If the claim is contingent, place an "X" in the column labeled "Contingent". If the claim is unliquidated, place an "X" in the column labeled "Unliquidated". If the claim is disputed, place an "X" in the column labeled "Disputed". (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E B T O R H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
Account No. 7352			3/04					
GREENVILLE HOSPITAL SYSTEM 255 ENTERPRISE BLVD STE 210 Greenville, SC 29615-3556			Judgment Lien					
			PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, AVOID LIEN.					
			Value \$ 135,000.00				8,728.00	0.00
Account No. 0377			11/00					
OPTION ONE PO BOX 57054 Irvine, CA 92619			Mortgage					
			PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, ARREARS TO BE PAID IN PLAN (\$12,960), DEBTOR TO RESUME REGULAR MORTGAGE PAYMENTS MAY 2007.					
			Value \$ 135,000.00				119,700.88	0.00
Account No. 1849			9/03					
SHERMAN ACQUISITION 726 EXCHANGE STREET SUITE 700 Buffalo, NY 14210			Judgment Lien					
			PRIMARY RESIDENCE: 327 Palmetto Circle Greer, SC 29651, AVOID LIEN.					
			Value \$ 135,000.00				2,811.22	0.00
Account No. 3048			12/01					
SOUTHEAST TOYOTA FINANCE PO BOX 70832 Charlotte, NC 28272			Auto loan					
			2002 TOYOTA SEQUOIA: TO BE PAID IN PLAN.					
			Value \$ 10,170.00				14,321.08	4,151.08
Subtotal (Total of this page)							145,561.18	4,151.08
Total (Report on Summary of Schedules)							145,561.18	4,151.08

0 Continuation sheets attached

Official Form 68 (10/06)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 or 13 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts who file a case under chapter 7 report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic support obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$10,000* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$4,925* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,225* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided, 11 U.S.C. § 507(a)(7).

☐ **Taxes and certain other debts owed to governmental units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to maintain the capital of an insured depository institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

☐ **Claims for death or personal injury while debtor was intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on April 1, 2007, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

0 continuation sheets attached

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOE BLACKKEY

Official Form 6P (10/06)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112. If "a minor child" is stated, also include the name, address, and legal relationship to the minor child of a person described in Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Code debtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Code debtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts filing a case under chapter 7, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H U S B A N D , W I F E , J O I N T , O R C O M M U N I T Y	D A T E C L A I M W A S I N C U R R E D A N D C O N S I D E R A T I O N F O R C L A I M. I F C L A I M I S S U B J E C T T O S E T O F F , S O S T A T E.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	A M O U N T O F C L A I M
Account No. APPLIED CARD BANK 4700 EXCHANGE CT Boca Raton, FL 33431		J	10/99 Collections				2,897.00
Account No. 8877 BUSINESS REVENUE SYSTEMS PO BOX 8986 Fort Wayne, IN 46898		J	10/05 Collections				289.00
Account No. 8939 CAPITAL ONE PO BOX 30281 Salt Lake City, UT 84130		J	9/99 Credit card purchases				3,489.00
Account No. 7963 CAPITAL ONE PO BOX 85149 Richmond, VA 23295		J	4/99 Credit card purchases				1,320.00
Subtotal (Total of this page)							7,983.00

7 continuation sheets attached

Official Form 6P (10/05) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E H W J C	Husband, Wife, Joint, or Community DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	D I S P U T E D	A M O U N T O F C L A I M
Account No. 9426 CAROLINA CREDIT EXCHANGE PO BOX 1764 Spartanburg, SC 29304	J	9/04 Collections			192.00
Account No. 3724 CAROLINA EXCHANGES PO BOX 1764 Spartanburg, SC 29304	J	8/04 Medical bills			122.00
Account No. 0432 CBE GROUP PO BOX 900 Waterloo, IA 50704	J	5/01 Collections			149.00
Account No. 5122 CHILDRENS MEDICAL CENTER 131 COMMONWEALTH DRIVE Greenville, SC 29615	J	12/06 Medical bills			899.00
Account No. 8513 CREDIT BUREAU PO BOX 1051 Spartanburg, SC 29304	J	8/02 Collections			2,305.00
Subtotal (Total of this page)					3,665.00

Sheet no. 1 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV 4 PM 4:16
M. HOPE BLACKLEY

Official Form 67 (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 4139 CREDIT BUREAU ASSOCIATIONS PO BOX 1051 Spartanburg, SC 29304	J		10/04 Medical bills				3,128.00
Account No. 6895 DISCOVER CARD PO BOX 15316 Wilmington, DE 19850	J		11/95 Credit card purchases				1,258.00
Account No. 2492 FOXWOOD HILLS PROPERTY 800 HICKORY TRAIL Westminster, SC 29693	J		4/03 Collections				1,748.00
Account No. 0454 GASTROENTEROLOGY ASSOC. P.O. BOX 8676 Greenville, SC 29604-8676	J		12/06 Medical bills				548.00
Account No. GHS 305 E MAIN ST. Greenville, SC 29601	J		2/01 Medical bills				8,728.00
Subtotal (Total of this page)							15,410.00

Sheet no. 2 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Best Case Bankruptcy

Copyright (c) 1996-2006 - Best Case Solutions - Evanston, IL - (800) 492-8037

Official Form 6P (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER. (See instructions above.)	C O D E D E B T O R	H U S B A N D , W I F E , J O I N T , O R C O M M U N I T Y	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	D I S C O U N T E D	AMOUNT OF CLAIM
Account No. 3193 GHS HOSPITAL PO BOX 19051 Greenville, SC 29602	J		11/06 Medical bills			696.16
Account No. 6935 GHS UNIVERSITY MEDICAL GROUP PO BOX 60087 Charlotte, NC 28280-0087	J		12/06 Medical bills			2,111.30
Account No. 4488 GREENVILLE HOSPITAL SYSTEM 255 ENTERPRISE BLVD STE 210 Greenville, SC 29615-3558	J		11/06 Medical bills			48,913.20
Account No. 3193 GREENVILLE HOSPITAL SYSTEM 255 ENTERPRISE BLVD STE 210 Greenville, SC 29615-3558	J		11/05 Medical bills			584.00
Account No. 1870 GREENVILLE RADIOLOGY 1210 W FARIS ROAD Greenville, SC 29605	J		11/06 Medical bills			58.00
Subtotal (Total of this page)						74,363.62

Sheet no. 3 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 67 (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E D E B T O R	H W J C Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 3086 HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J	12/06 Medical bills				597.00
Account No. 3216 HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J	12/06 Medical bills				1,027.00
Account No. 6474 HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J	12/06 Medical bills				2,811.00
Account No. 6589 HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J	5/05 Medical bills				233.00
Account No. 3070 HEALTHCARE RESOURCES 13730 S POINT BLVD Charlotte, NC 28273		J	2/04 Collections				938.00
Subtotal (Total of this page)							5,606.00

Sheet no. 4 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 57 (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O D E S T O R	H U S B A N D, W I F E, J O I N T, O R C O M M U N I T Y	D A T E C L A I M W A S I N C U R R E D A N D C O N S I D E R A T I O N F O R C L A I M. I F C L A I M I S S U B J E C T T O S E T O F F, S O S T A T E.	C O N T I N G E N T	U N D I S C U T E D	D I S P U T E D	A M O U N T O F C L A I M
Account No. IRS DEPT OF REVENUE Memphis, TN 37501		J	NOTICE				0.00
Account No. 6577 LVNV FUNDING, LLC PO BOX 10497 Greenville, SC 29603		J	6/03 Collections				3,206.00
Account No. 0753 MIDLAND CREDIT MANAGEMENT 8875 AERO DR STE 2 San Diego, CA 92123		J	12/06 Collections				1,700.00
Account No. 5472 PATHOLOGY ASSOC. OF GREENVILLE PO BOX 9279 Greenville, SC 29604		J	12/06 Collections				766.00
Account No. 4538 PRINCE-PARKER ASSOCIATES PO BOX 17208 Charlotte, NC 28227		J	9/04 Collections				82.00
Subtotal (Total of this page)							5,754.00

Sheet no. 5 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

Official Form 67 (10/06) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. SC DEPARTMENT OF REVENUE PO BOX 125 Columbia, SC 29214		J		NOTICE				0.00
Account No. 0340 SCA COLLECTIONS 300 EAST ARLINGTON BLVD. STE 6A Greenville, NC 27868		J		10/06 Collections				206.00
Account No. 8838 SCA COLLECTIONS 300 E. ARLINGTON BOULEVARD Greenville, NC 27858-5016		J		4/01 Medical bills				48.00
Account No. 3180 SPARTAN FINANCIAL SERVICE 13730 SOUTH POINT BLVD Charlotte, NC 28273		J		4/01 Collections				446.00
Account No. SPARTANBURG COUNTY PO BOX 5807 Spartanburg, SC 29304		J		NOTICE				0.00
Subtotal (Total of this page)								2,700.00

Sheet no. 6 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV 4 PM 4:16
M. HOPE BLACKLEY

Official Form 6P (10/05) - Cont.

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors
SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	C O N T R I B U T O R H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T S		D I S B U T E D	A M O U N T O F C L A I M
				U N S E C U R E D	D I S B U T E D		
Account No. 8877 TOTAL RECOVERY 2419 SPY RUN AVE. # 8 Fort Wayne, IN 46805	J		5/06 Collections				286.00
Account No. 1837 TOTAL RECOVERY 2419 SPY RUN AVE. # 8 Fort Wayne, IN 46805	J		10/06 Collections				675.00
Account No.							
Account No.							
Account No.							
Account No.							
Subtotal (Total of this page)							961.00
Total (Report on Summary of Schedules)							116,442.62

Sheet no. 7 of 7 sheets attached to Schedule of
Creditors Holding Unsecured Nonpriority Claims

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

Form 860
(10/03)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112; Fed.R. Bankr. P. 1007(m).

☐ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.
State whether lease is for nonresidential real property.
State contract number of any government contract.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

Form B6H
(10/05)

In re Randy Steven Rutherford,
Tara Patrice Rutherford

Case No. _____

Debtors

SCHEDULE H. CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the eight year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state, commonwealth, or territory. Include all names used by the nondebtor spouse during the eight years immediately preceding the commencement of this case. If a minor child is a codebtor or a creditor, indicate that by stating "a minor child" and do not disclose the child's name. See 11 U.S.C. § 112; Fed. Bankr. P. 1007(m).

☐ Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR

NAME AND ADDRESS OF CREDITOR

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

0 continuation sheets attached to Schedule of Codebtors

Copyright (c) 1998-2006 - Best Case Solutions - Evanston, IL - (800) 492-8037

Best Case Bankruptcy

Case No.

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.

The Court has reviewed the information provided and has determined that the information is true and correct. filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child.		
DEPENDENTS OF DEBTOR AND SPOUSE		
Debtor's Marital Status:	RELATIONSHIP(S):	AGE(S):
Married	Son	13
	Son	16
	Daughter	9
DEBTOR		SPOUSE
Employment:		
Occupation	SUB-CONTRACTOR	
Name of Employer	SELF EMPLOYED	HOMEMAKER
How long employed	9.5 YEARS	11 YEARS
Address of Employer		

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)

1. Monthly gross wages, salary
2. Estimate monthly overtime

3. SUBTOTAL

4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
b. Insurance
c. Union dues
d. Other (Specify): _____

5. SUBTOTAL OF PAYROLL DEDUCTIONS

6. TOTAL NET MONTHLY TAKE HOME PAY

7. Regular income from operation of business or profession or farm (Attach detailed statement)

8. Income from real property

9. Interest and dividends

10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

11. Social security or government assistance

(Specify):

12. Pension or retirement income

13. Other monthly income

13. Other monetary income
(Specify): income tax refund

14. SUBTOTAL OF LINES 7 THROUGH 13

15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15; if there is only one debtor repeat total reported on line 15)

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17: Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:
Debtor does not expect any drastic changes in income in the next year.

ROA 000244

PROFIT & LOSS STATEMENT

Month February Year 2007

(Do Not Include Personal Household Expenses. Include Only Business Expenses.)

INCOME			\$ <u>4868.95</u>
1	Gross Receipts or Sales		
2	Cost of Goods Sold:	\$	<u>0</u>
2(a)	Purchases	\$	<u>0</u>
2(b)	Cost of Labor (do not include employee salaries)	\$	<u>0</u>
2(c)	Materials and Supplies	\$	<u>4868.95</u>
3	Gross Profit (subtract line 2 from line 1)	\$	<u>4868.95</u>
4	Other Income	\$	<u>0</u>
5	Gross Income (add lines 3 and 4)	\$	<u>4868.95</u>
EXPENSES (do not list chapter 13 plan payment)			
6	Business Property Rent/Lease	\$	<u>0</u>
7	Salaries and Wages of Employees	\$	<u>0</u>
8	Employee Benefits	\$	<u>0</u>
9	Equipment Lease Payments	\$	<u>0</u>
10	Secured Debt Payments	\$	<u>0</u>
11	Supplies (not included in 2(c))	\$	<u>0</u>
12	Utilities	\$	<u>95.63</u>
13	Telephone	\$	<u>34.27</u>
14	Repairs & Maintenance	\$	<u>0</u>
15	Miscellaneous Office Expense	\$	<u>0</u>
16	Advertising	\$	<u>1221.45</u>
17	Travel & Entertainment	\$	<u>0</u>
18	Professional Fees	\$	<u>0</u>
Name _____ Purpose _____			
19	Insurance:	\$	<u>0</u>
19(a)	Liability	\$	<u>0</u>
19(b)	Property	\$	<u>0</u>
19(c)	Vehicle	\$	<u>0</u>
19(d)	Worker's Compensation	\$	<u>0</u>
19(e)	Other	\$	<u>0</u>
20	Taxes:	\$	<u>0</u>
20(a)	Payroll	\$	<u>0</u>
20(b)	Sales	\$	<u>0</u>
20(c)	Other	\$	<u>0</u>
21	Total Expenses (add lines 6 through line 20)	\$	<u>1351.35</u>
TOTAL PROFIT (LOSS) FOR MONTH (subtract line 21 from line 5)		\$	<u>3517.60</u>

I/WE declare under penalty of perjury that the information provided is true and correct to the best of my/our knowledge, information and belief.

Dated: 3/20/07

Debtors: [Signature]

FILED
CLERK OF COURT
SPARTANBURG COURT
11 NOV 14 PM
J. HOPE
CLERK

PROFIT & LOSS STATEMENT

Month March Year 2007

(Do Not Include Personal Household Expenses. Include Only Business Expenses.)

INCOME

1 Gross Receipts or Sales \$ 8566.15
2 Cost of Goods Sold:
2(a) Purchases
2(b) Cost of Labor
(do not include employee salaries)
2(c) Materials and Supplies
3 Gross Profit (subtract line 2 from line 1)
4 Other Income
5 Gross Income (add lines 3 and 4)
EXPENSES (do not list chapter 13 plan payment)

6 Business Property Rent/Lease
7 Salaries and Wages of Employees
8 Employee Benefits
9 Equipment Lease Payments
10 Secured Debt Payments
11 Supplies (not included in 2(c))
12 Utilities
13 Telephone
14 Repairs & Maintenance
15 Miscellaneous Office Expense
16 Advertising
17 Travel & Entertainment
18 Professional Fees
Name _____ Purpose _____
19 Insurance:
19(a) Liability
19(b) Property
19(c) Vehicle
19(d) Worker's Compensation
19(e) Other

20 Taxes:
20(a) Payroll
20(b) Sales
20(c) Other
21 Total Expenses (add lines 6 through line 20)
TOTAL PROFIT (LOSS) FOR MONTH (subtract line 21 from line 5) \$ 6287.45

I/WE declare under penalty of perjury that the information provided is true and correct to the best of my/our knowledge, information and belief.

Dated: 3/20/07

Debtors: [Signature]

FILED
CLERK OF COURT
SPARTANBURG COUNTY
NOV - 4 PM 4:10
HOPE BLANK

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

)
)
)
)
AFFIDAVIT OF INCOME FOR
Tara Patrice Rutherford

I hereby state under the penalty of perjury that I have no source of income.

March 6, 2007
Date

Tara P. Rutherford
Debtor

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

Official Form 62 (10/06)

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)		\$ 1,139.00
a. Are real estate taxes included?	Yes ☐ No ☒	
b. Is property insurance included?	Yes ☐ No ☒	
2. Utilities:		\$ 150.00
a. Electricity and heating fuel		\$ 0.00
b. Water and sewer		\$ 50.00
c. Telephone		\$ 115.00
d. Other See Detailed Expense Attachment		\$ 150.00
3. Home maintenance (repairs and upkeep)		\$ 1,000.00
4. Food		\$ 100.00
5. Clothing		\$ 35.00
6. Laundry and dry cleaning		\$ 100.00
7. Medical and dental expenses		\$ 300.00
8. Transportation (not including car payments)		\$ 100.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.		\$ 0.00
10. Charitable contributions		
11. Insurance (not deducted from wages or included in home mortgage payments)		\$ 63.00
a. Homeowner's or renter's		\$ 39.00
b. Life		\$ 0.00
c. Health		\$ 150.45
d. Auto		\$ 0.00
e. Other		
12. Taxes (not deducted from wages or included in home mortgage payments)		\$ 0.00
(Specify)		
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)		\$ 0.00
a. Auto		\$ 78.00
b. Other Auto Property Tax		\$ 120.57
c. Other Real Estate Tax		\$ 0.00
d. Other		\$ 0.00
14. Alimony, maintenance, and support paid to others		\$ 0.00
15. Payments for support of additional dependents not living at your home		\$ 2,414.24
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)		\$ 80.00
17. Other Children's School Expenses		\$ 0.00
Other		\$ 6184.26
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)		\$ 6,822.64
19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document: Debtor does not expect any drastic changes in expenses in the next year.		
20. STATEMENT OF MONTHLY NET INCOME		
a. Average monthly income from Line 15 of Schedule I		\$ 6,184.26
b. Average monthly expenses from Line 18 above		\$ 638.38
c. Monthly net income (a. minus b.)		

FILED
CLERK OF COURT
M. HOPE BLACKLEY
PM 4:16
NOV 1 2006
FULTON COUNTY

Official Form 6J (10/06)

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No. _____

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)
Detailed Expense Attachment

Other Utility Expenditures:

Cable	\$	90.00
Internet	\$	25.00
Total Other Utility Expenditures	\$	115.00

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 26 sheets [total shown on summary page plus 2], and that they are true and correct to the best of my knowledge, information, and belief.

Date March 29, 2007

Signature /s/ Randy Steven Rutherford
Randy Steven Rutherford
Debtor

Date March 29, 2007

Signature /s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Joint Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

Official Form 7
(10/05)

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.
Chapter

13

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. Do not include the name or address of a minor child in this statement. Indicate payments, transfers and the like to minor children by stating "a minor child." See 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. If the answer to an applicable question is "None," mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None ☐ State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$19,256.15	YEAR TO DATE: Subcontracting for Bigham
\$97,077.10	2006: Subcontracting for Bigham
\$22,337.00	2005: Subcontracting for Bigham

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

2. Income other than from employment or operation of business

None ■ State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the two years immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT SOURCE

3. Payments to creditors

None ■ Complete a, b., or c., as appropriate, and d.

a. Individual or joint debtor(s) with primarily consumer debts. List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within 90 days immediately preceding the commencement of this case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$500. Indicate with an (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING

None ■ b. Debtor whose debts are not primarily consumer debts: List each payment or other transfer to any creditor made within 90 days immediately preceding the commencement of the case if the aggregate value of all property that constitutes or is affected by such transfer is not less than \$5,000. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING

None ■ c. All debtors: List all payments made within one year immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING

4. Suits and administrative proceedings, executions, garnishments and attachments

None ■ a. List all suits and administrative proceedings to which the debtor is or was a party within one year immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION

None ■ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007-4 PM 4:16
JANICE BLACKLEY

5. Repossessions, foreclosures and returns

None ☒ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY

6. Assignments and receiverships

None ☒ a. Describe any assignment of property for the benefit of creditors made within 120 days immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT

None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY

7. Gifts

None ☒ List all gifts or charitable contributions made within one year immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT

8. Losses

None ☒ List all losses from fire, theft, other casualty or gambling within one year immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS

9. Payments related to debt counseling or bankruptcy

None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within one year immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Moss & Associates, Attorneys, P.A. 11 Caledon Court, Suite D Greenville, SC 29615	2/07	Attorney's fees: (\$4,026) Court filing fee: (\$274)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV - 16 PM 1:15
HOPKINS

NAME AND ADDRESS OF PAYEE Consumer Credit Counseling Services 100 Edgewood Ave. Suite 1800 Atlanta, GA 30303	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR 2/07	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY Credit counseling fee: (\$50)

10. Other transfers

None ☒ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFERREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED

None ☒ b. List all property transferred by the debtor within ten years immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY

11. Closed financial accounts

None ☒ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING

12. Safe deposit boxes

None ☒ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY

13. Setoffs

None ☒ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 NOV -4 PM 4:16
JANE BLACKLEY

5

14. Property held for another person

None ☐ List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY

15. Prior address of debtor

None ☐ If the debtor has moved within three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY

16. Spouses and Former Spouses

None ☐ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within eight years immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None ☐ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

None ☐ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

None ☐ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding and docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 NOV -4 PM 4:16
M. DE BACKLEY

18. Nature, location and name of business

None ☐ a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOC. SEC. NO./ COMPLETE EIN OR OTHER TAXPAYER ID. NO.	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES

None ☐ b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed in a trade, profession, or other activity, either full- or part-time.

(An individual or joint debtor should complete this portion of the statement only if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, records and financial statements

None ☐ a. List all bookkeepers and accountants who within two years immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS	DATES SERVICES RENDERED

None ☐ b. List all firms or individuals who within the two years immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME	ADDRESS	DATES SERVICES RENDERED

None ☐ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME	ADDRESS

None ☐ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within two years immediately preceding the commencement of this case.

NAME AND ADDRESS	DATE ISSUED

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 NOV -4 PM 4:15
M HOPE BLACKLEY
Best Case Bankruptcy

20. Inventories

- None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)

- None ☐ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY	NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS

21. Current Partners, Officers, Directors and Shareholders:

- None ☐ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST

- None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP

22. Former partners, officers, directors and shareholders

- None ☐ a. If the debtor is a partnership, list each member who withdrew from the partnership within one year immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL

- None ☐ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within one year immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION

23. Withdrawals from a partnership or distributions by a corporation

- None ☐ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during one year immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY

24. Tax Consolidation Group.

- None ☐ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within six years immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds.

- None ☐ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within six years immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date March 29, 2007

Signature /s/ Randy Steven Rutherford
Randy Steven Rutherford
Debtor

Date March 29, 2007

Signature /s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Joint Debtor

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both, 18 U.S.C. §§ 152 and 3571

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:16
M. HOPE BLACKLEY

In re Randy Steven Rutherford
Tara Patrice Rutherford

Debtor(s)

Case No.

Chapter 13

DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR(S)

1. Pursuant to 11 U.S.C. § 329(a) and Bankruptcy Rule 2016(b), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor(s) in contemplation of or in connection with the bankruptcy case is as follows:

For legal services, I have agreed to accept.....	\$	3,000.00
Prior to the filing of this statement I have received.....	\$	1,028.00
Balance Due.....	\$	1,974.00

2. \$ 274.00 of the filing fee has been paid.

3. The source of the compensation paid to me was:

☒ Debtor ☐ Other (specify):

4. The source of compensation to be paid to me is:

☒ Debtor ☐ Other (specify):

5. ☒ I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

☐ I have agreed to share the above-disclosed compensation with a person or persons who are not members or associates of my law firm. A copy of the agreement, together with a list of the names of the people sharing in the compensation is attached.

6. In return for the above-disclosed fee, I have agreed to render legal service for all aspects of the bankruptcy case, including:

- a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;
- b. Preparation and filing of any petition, schedules, statement of affairs and plan which may be required;
- c. Representation of the debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
- d. Representation of the debtor in adversary proceedings and other contested bankruptcy matters;
- e. [Other provisions as needed]
Negotiations with secured creditors to reduce to market value; exemption planning; preparation and filing of reaffirmation agreements and applications as needed; preparation and filing of motions pursuant to 11 USC 522(f)(2)(A) for avoidance of liens on household goods.

7. By agreement with the debtor(s), the above-disclosed fee does not include the following service:
Representation of the debtors in any dischargeability actions, judicial lien avoidances, relief from stay actions or any other adversary proceeding.

CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor(s) in this bankruptcy proceeding.

Dated: March 29, 2007

/s/ Christopher M Edwards
Christopher M Edwards 9193
Moss & Associates, Attorneys, P.A.
11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413 Fax: (864)272-3416
chris@mossattorneys.com

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 NOV -4 PM 4:16
M. HOPE BLACKLEY

B 101 (04/09/06)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

NOTICE TO INDIVIDUAL CONSUMER DEBTOR UNDER § 342(b)
OF THE BANKRUPTCY CODE

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case. You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

1. Services Available from Credit Counseling Agencies

With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis. The briefing must be given within 180 days before the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies.

In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge. The clerk also has a list of approved financial management instructional courses.

2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors

Chapter 7: Liquidation (\$245 filing fee, \$39 administrative fee, \$15 trustee surcharge: Total Fee \$299)

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

2. Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

4. Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures, and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income (\$235 filing fee, \$39 administrative fee: Total fee \$274)

1. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in installments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

2. Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

3. After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

B 201 (04/09/06)

Chapter 11: Reorganization (\$1000 filing fee, \$39 administrative fee: Total fee \$1039)

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$39 administrative fee: Total fee \$239)

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

WARNING: Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

Certificate of Attorney

I hereby certify that I delivered to the debtor this notice required by § 342(b) of the Bankruptcy Code.

Christopher M Edwards 9193

Printed Name of Attorney

Address:

11 Calédon Court, Suite D

Greenville, SC 29615

(864)272-3413

X /s/ Christopher M Edwards

Signature of Attorney

March 29, 2007

Date.

Certificate of Debtor

I (We), the debtor(s), affirm that I (we) have received and read this notice.

Randy Steven Rutherford

Tara Patrice Rutherford

Printed Name of Debtor

Case No. (if known) _____

X /s/ Randy Steven Rutherford

Signature of Debtor

March 29, 2007

Date

X /s/ Tara Patrice Rutherford

Signature of Joint Debtor (if any)

March 29, 2007

Date

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

LOCAL OFFICIAL FORM 1007-1(b) TO SC LBR 1007-1

United States Bankruptcy Court
District of South Carolina

In re Randy Steven Rutherford Case No. _____
Tara Patrice Rutherford Debtor(s) Chapter 13

CERTIFICATION VERIFYING CREDITOR MATRIX

The above named debtor, or attorney for the debtor if applicable, hereby certifies pursuant to South Carolina Local Bankruptcy Rule 1007-1 that the master mailing list of creditors submitted either on computer diskette, electronically filed via CM/ECF, or conventionally filed in a typed hard copy scannable format which has been compared to, and contains identical information to, the debtor's schedules, statements and lists which are being filed at this time or as they currently exist in draft form.

Master mailing list of creditors submitted via:

- (a) _____ computer diskette
(b) _____ scannable hard copy
(number of sheets submitted _____)
(c) X electronic version filed via CM/ECF

Date: March 29, 2007 /s/ Randy Steven Rutherford
Randy Steven Rutherford
Signature of Debtor

Date: March 29, 2007 /s/ Tara Patrice Rutherford
Tara Patrice Rutherford
Signature of Debtor

Date: March 29, 2007 /s/ Christopher M Edwards
Signature of Attorney
Christopher M Edwards 9193
Moss & Associates, Attorneys, P.A.
11 Caledon Court, Suite D
Greenville, SC 29615
(864)272-3413 Fax: (864)272-3416
Typed/Printed Name/Address/Telephone

9193
District Court LD. Number

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

APPLIED CARD BANK
4700 EXCHANGE CT
BOCA RATON FL 33431

DISCOVER CARD
PO BOX 15316
WILMINGTON DE 19850

LVNV FUNDING, LLC
PO BOX 10497
GREENVILLE SC 29603

BUSINESS REVENUE SYSTEMS
PO BOX 8986
FORT WAYNE IN 46898

FOXWOOD HILLS PROPERTY
800 HICKORY TRAIL
WESTMINSTER SC 29693

MIDLAND CREDIT MANAGEMENT
8875 AERO DR
STE 2
SAN DIEGO CA 92123

CAPITAL ONE
PO BOX 30281
SALT LAKE CITY UT 84130

GASTROENTEROLOGY ASSOC.
P.O. BOX 8676
GREENVILLE SC 29604-8676

OPTION ONE
PO BOX 57054
IRVINE CA 92619

CAPITAL ONE
PO BOX 85149
RICHMOND VA 23295

GHS
305 E MAIN ST.
GREENVILLE SC 29601

PATHOLOGY ASSOC. OF GREENV
PO BOX 9279
GREENVILLE SC 29604

CAROLINA CREDIT EXCHANGE
PO BOX 1764
SPARTANBURG SC 29304

GHS HOSPITAL
PO BOX 19051
GREENVILLE SC 29602

PRINCE-PARKER ASSOCIATES
PO BOX 17208
CHARLOTTE NC 28227

CAROLINA EXCHANGES
PO BOX 1764
SPARTANBURG SC 29304

GHS UNIVERSITY MEDICAL GROUP
PO BOX 60087
CHARLOTTE NC 28260-0087

SC DEPARTMENT OF REVENUE
PO BOX 125
COLUMBIA SC 29214.

CBE GROUP
PO BOX 900
WATERLOO IA 50704

GREENVILLE HOSPITAL SYSTEM
255 ENTERPRISE BLVD STE 210
GREENVILLE SC 29615-3556

SCA COLLECTIONS
300 EAST ARLINGTON BLVD
STE 6A
GREENVILLE NC 27858

CHILDRENS MEDICAL CENTER
131 COMMONWEALTH DRIVE
GREENVILLE SC 29615

GREENVILLE RADIOLOGY
1210 W FARIS ROAD
GREENVILLE SC 29605

SCA COLLECTIONS
300 E. ARLINGTON BOULEVARD
GREENVILLE NC 27858-5016

CREDIT BUREAU
PO BOX 1051
SPARTANBURG SC 29304

HEALTHCARE RESOURCES
13730 S POINT BLVD
CHARLOTTE NC 28273

SHERMAN ACQUISITION
726 EXCHANGE STREET
SUITE 700
BUFFALO NY 14210

CREDIT BUREAU ASSOCIATIONS
PO BOX 1051
SPARTANBURG SC 29304

IRS
DEPT OF REVENUE
MEMPHIS TN 37501

SOUTHEAST TOYOTA FINANCE
PO BOX 70832
CHARLOTTE NC 28272

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2016 NOV -4 PM 17
TOP BLANK

SPARTAN FINANCIAL SERVICE
13730 SOUTH POINT BLVD
CHARLOTTE NC 28273

SPARTANBURG COUNTY
PO BOX 5807
SPARTANBURG SC 29304

TOTAL RECOVERY
2419 SPY RUN AVE.
8
FORT WAYNE IN 46805

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
H. HOPE BLACKLEY

In re Randy Steven Rutherford
Tara Patrice Rutherford
Debtor(s)
Case Number: _____
(if known)

According to the calculations required by this statement:
☒ The applicable commitment period is 3 years.
☐ The applicable commitment period is 5 years.
☐ Disposable income is determined under § 1325(b)(3).
☒ Disposable income is not determined under § 1325(b)(3).
(Check the boxes as directed in Lines 17 and 23 of this statement.)

CHAPTER 13 STATEMENT OF CURRENT MONTHLY INCOME AND CALCULATION OF COMMITMENT PERIOD AND DISPOSABLE INCOME

In addition to Schedules I and J, this statement must be completed by every individual Chapter 13 debtor, whether or not filing jointly. Joint debtors may complete one statement only.

Part I. REPORT OF INCOME																
1	Marital/filing status. Check the box that applies and complete the balance of this part of this statement as directed. a. ☐ Unmarried. Complete only Column A ("Debtor's Income") for Lines 2-10. b. ☒ Married. Complete both Column A ("Debtor's Income") and Column B ("Spouse's Income") for Lines 2-10. All figures must reflect average monthly income received from all sources, derived during the six calendar months prior to filing the bankruptcy case, ending on the last day of the month before the filing. If the amount of monthly income varied during the six months, you must divide the six-month total by six, and enter the result on the appropriate line.		Column A Debtor's Income	Column B Spouse's Income												
2	Gross wages, salary, tips, bonuses, overtime, commissions.		\$ 0.00	\$ 0.00												
3	Income from the operation of a business, profession, or farm. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 3. Do not enter a number less than zero. Do not include any part of the operating expenses entered on Line b as a deduction in Part IV. <table border="1"><thead><tr><th></th><th>Debtor</th><th>Spouse</th></tr></thead><tbody><tr><td>a. Gross receipts</td><td>\$ 6,935.13</td><td>\$ 0.00</td></tr><tr><td>b. Ordinary and necessary business expenses</td><td>\$ 2,824.49</td><td>\$ 0.00</td></tr><tr><td>c. Business income</td><td>Subtract Line b from Line a</td><td></td></tr></tbody></table>			Debtor	Spouse	a. Gross receipts	\$ 6,935.13	\$ 0.00	b. Ordinary and necessary business expenses	\$ 2,824.49	\$ 0.00	c. Business income	Subtract Line b from Line a		\$ 4,110.65	\$ 0.00
	Debtor	Spouse														
a. Gross receipts	\$ 6,935.13	\$ 0.00														
b. Ordinary and necessary business expenses	\$ 2,824.49	\$ 0.00														
c. Business income	Subtract Line b from Line a															
4	Rents and other real property income. Subtract Line b from Line a and enter the difference in the appropriate column(s) of Line 4. Do not enter a number less than zero. Do not include any part of the business expenses entered on Line b as a deduction in Part IV. <table border="1"><thead><tr><th></th><th>Debtor</th><th>Spouse</th></tr></thead><tbody><tr><td>a. Gross receipts</td><td>\$ 0.00</td><td>\$ 0.00</td></tr><tr><td>b. Ordinary and necessary operating expenses</td><td>\$ 0.00</td><td>\$ 0.00</td></tr><tr><td>c. Rent and other real property income</td><td>Subtract Line b from Line a</td><td></td></tr></tbody></table>			Debtor	Spouse	a. Gross receipts	\$ 0.00	\$ 0.00	b. Ordinary and necessary operating expenses	\$ 0.00	\$ 0.00	c. Rent and other real property income	Subtract Line b from Line a		\$ 0.00	\$ 0.00
	Debtor	Spouse														
a. Gross receipts	\$ 0.00	\$ 0.00														
b. Ordinary and necessary operating expenses	\$ 0.00	\$ 0.00														
c. Rent and other real property income	Subtract Line b from Line a															
5	Interest, dividends, and royalties.		\$ 0.00	\$ 0.00												
6	Pension and retirement income.		\$ 0.00	\$ 0.00												
7	Any amounts paid by another person or entity, on a regular basis, for the household expenses of the debtor or the debtor's dependents, including child or spousal support. Do not include amounts paid by the debtor's spouse.		\$ 0.00	\$ 0.00												
8	Unemployment compensation. Enter the amount in the appropriate column(s) of Line 8. However, if you contend that unemployment compensation received by you or your spouse was a benefit under the Social Security Act, do not list the amount of such compensation in Column A or B, but instead state the amount in the space below: <table border="1"><thead><tr><th></th><th>Debtor</th><th>Spouse</th></tr></thead><tbody><tr><td>Unemployment compensation claimed to be a benefit under the Social Security Act</td><td>\$ 0.00</td><td>\$ 0.00</td></tr></tbody></table>			Debtor	Spouse	Unemployment compensation claimed to be a benefit under the Social Security Act	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00						
	Debtor	Spouse														
Unemployment compensation claimed to be a benefit under the Social Security Act	\$ 0.00	\$ 0.00														
9	Income from all other sources. Specify source and amount. If necessary, list additional sources on a separate page. Total and enter on Line 9. Do not include any benefits received under the Social Security Act or payments received as a victim of a war crime, crime against humanity, or as a victim of international or domestic terrorism. <table border="1"><thead><tr><th></th><th>Debtor</th><th>Spouse</th></tr></thead><tbody><tr><td>a.</td><td></td><td></td></tr><tr><td>b.</td><td></td><td></td></tr></tbody></table>			Debtor	Spouse	a.			b.			\$ 0.00	\$ 0.00			
	Debtor	Spouse														
a.																
b.																
10	Subtotal. Add Lines 2 thru 9 in Column A, and, if Column B is completed, add Lines 2 through 9 in Column B. Enter the total(s).		\$ 4,110.65	\$ 0.00												
11	Total. If Column B has been completed, add Line 10, Column A to Line 10, Column B, and enter the total. If Column B has not been completed, enter the amount from Line 10, Column A.		\$ 4,110.65	\$ 0.00												

Part II. CALCULATION OF § 1325(b)(4) COMMITMENT PERIOD		
12	Enter the amount from Line 11	\$ 4,110.65
13	Marital Adjustment. If you are married, but are not filing jointly with your spouse, AND if you contend that calculation of the commitment period under § 1325(b)(4) does not require inclusion of the income of your spouse, enter the amount of the income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of you or your dependents. Otherwise, enter zero.	\$ 0.00
14	Subtract Line 13 from Line 12 and enter the result.	\$ 4,110.65
15	Annualized current monthly income for § 1325(b)(4). Multiply the amount from Line 14 by the number 12 and enter the result.	\$ 49,327.80
16	Applicable median family income. Enter the median family income for applicable state and household size. (This information is available by family size at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) a. Enter debtor's state of residence: SC b. Enter debtor's household size: 5	\$ 66,103.00
17	Application of § 1325(b)(4). Check the applicable box and proceed as directed. ☒ The amount on Line 15 is less than the amount on Line 16. Check the box for "The applicable commitment period is 3 years" at the top of page 1 of this statement and continue with this statement. ☐ The amount on Line 15 is not less than the amount on Line 16. Check the box for "The applicable commitment period is 5 years" at the top of page 1 of this statement and continue with this statement.	
Part III. APPLICATION OF § 1325(b)(3) FOR DETERMINING DISPOSABLE INCOME		
18	Enter the amount from Line 11.	\$ 4,110.65
19	Marital Adjustment. If you are married, but are not filing jointly with your spouse, enter the amount of the income listed in Line 10, Column B that was NOT paid on a regular basis for the household expenses of you or your dependents. If you are unmarried or married and filing jointly with your spouse, enter zero.	\$ 0.00
20	Current monthly income for § 1325(b)(3). Subtract Line 19 from Line 18 and enter the result.	\$ 4,110.65
21	Annualized current monthly income for § 1325(b)(3). Multiply the amount from Line 20 by the number 12 and enter the result.	\$ 49,327.80
22	Applicable median family income. Enter the amount from Line 16.	\$ 66,103.00
23	Application of § 1325(b)(3). Check the applicable box and proceed as directed. ☐ The amount on Line 21 is more than the amount on Line 22. Check the box for "Disposable income is determined under § 1325(b)(3)" at the top of page 1 of this statement and complete the remaining parts of this statement. ☒ The amount on Line 21 is not more than the amount on Line 22. Check the box for "Disposable income is not determined under § 1325(b)(3)" at the top of page 1 of this statement and complete Part VII of this statement. Do not complete Parts IV, V, or VI.	
Part IV. CALCULATION OF DEDUCTIONS ALLOWED UNDER § 707(b)(2)		
Subpart A: Deductions under Standards of the Internal Revenue Service (IRS)		
24	National Standards: food, clothing, household supplies, personal care, and miscellaneous. Enter the "Total" amount from IRS National Standards for Allowable Living Expenses for the applicable family size and income level. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$
25A	Local Standards: housing and utilities; non-mortgage expenses. Enter amount of the IRS Housing and Utilities Standards; non-mortgage expenses for the applicable county and family size. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2011 NOV - 4 PM 4:17
 M. HOPE B. ACKLEY

Official Form 22C (Chapter 13) (10/06) - Cont.

3

25B	Local Standards: housing and utilities; mortgage/rent expense. Enter, in Line a below, the amount of the IRS Housing and Utilities Standards; mortgage/rent expense for your county and family size (this information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter on Line b the total of the Average Monthly Payments for any debts secured by your home, as stated in Line 47; subtract Line b from Line a and enter the result in Line 25B. Do not enter an amount less than zero. <table border="1"><tr><td>a.</td><td>IRS Housing and Utilities Standards; mortgage/rent Expense</td><td>\$</td></tr><tr><td>b.</td><td>Average Monthly Payment for any debts secured by your home, If any, as stated in Line 47</td><td>\$</td></tr><tr><td>c.</td><td>Net mortgage/rental expense</td><td>Subtract Line b from Line a.</td></tr></table>	a.	IRS Housing and Utilities Standards; mortgage/rent Expense	\$	b.	Average Monthly Payment for any debts secured by your home, If any, as stated in Line 47	\$	c.	Net mortgage/rental expense	Subtract Line b from Line a.	\$
a.	IRS Housing and Utilities Standards; mortgage/rent Expense	\$									
b.	Average Monthly Payment for any debts secured by your home, If any, as stated in Line 47	\$									
c.	Net mortgage/rental expense	Subtract Line b from Line a.									
26	Local Standards: housing and utilities; adjustment. If you contend that the process set out in Lines 25A and 25B does not accurately compute the allowance to which you are entitled under the IRS Housing and Utilities Standards, enter any additional amount to which you contend you are entitled, and state the basis for your contention in the space below: 	\$									
27	Local Standards: transportation; vehicle operation/public transportation expense. You are entitled to an expense allowance in this category regardless of whether you pay the expenses of operating a vehicle and regardless of whether you use public transportation. Check the number of vehicles for which you pay the operating expenses or for which the operating expenses are included as a contribution to your household expenses in Line 7. ☐ 0 ☐ 1 ☐ 2 or more. Enter the amount from IRS Transportation Standards, Operating Costs & Public Transportation Costs for the applicable number of vehicles in the applicable Metropolitan Statistical Area or Census Region. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	\$									
28	Local Standards: transportation ownership/lease expense; Vehicle 1. Check the number of vehicles for which you claim an ownership/lease expense. (You may not claim an ownership/lease expense for more than two vehicles.) ☐ 1 ☐ 2 or more. Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, First Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 1, as stated in Line 47; subtract Line b from Line a and enter the result in Line 28. Do not enter an amount less than zero. <table border="1"><tr><td>a.</td><td>IRS Transportation Standards, Ownership Costs, First Car</td><td>\$</td></tr><tr><td>b.</td><td>Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47</td><td>\$</td></tr><tr><td>c.</td><td>Net ownership/lease expense for Vehicle 1</td><td>Subtract Line b from Line a.</td></tr></table>	a.	IRS Transportation Standards, Ownership Costs, First Car	\$	b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$	c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs, First Car	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 1, as stated in Line 47	\$									
c.	Net ownership/lease expense for Vehicle 1	Subtract Line b from Line a.									
29	Local Standards: transportation ownership/lease expense; Vehicle 2. Complete this Line only if you checked the "2 or more" box in Line 28. Enter, in Line a below, the amount of the IRS Transportation Standards, Ownership Costs, Second Car (available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court); enter in Line b the total of the Average Monthly Payments for any debts secured by Vehicle 2, as stated in Line 47; subtract Line b from Line a and enter the result in Line 29. Do not enter an amount less than zero. <table border="1"><tr><td>a.</td><td>IRS Transportation Standards, Ownership Costs, Second Car</td><td>\$</td></tr><tr><td>b.</td><td>Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47</td><td>\$</td></tr><tr><td>c.</td><td>Net ownership/lease expense for Vehicle 2</td><td>Subtract Line b from Line a.</td></tr></table>	a.	IRS Transportation Standards, Ownership Costs, Second Car	\$	b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$	c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.	\$
a.	IRS Transportation Standards, Ownership Costs, Second Car	\$									
b.	Average Monthly Payment for any debts secured by Vehicle 2, as stated in Line 47	\$									
c.	Net ownership/lease expense for Vehicle 2	Subtract Line b from Line a.									
30	Other Necessary Expenses: taxes. Enter the total average monthly expense that you actually incur for all federal, state, and local taxes, other than real estate and sales taxes, such as income taxes, self employment taxes, social security taxes, and Medicare taxes. Do not include real estate or sales taxes.	\$									
31	Other Necessary Expenses: mandatory payroll deductions. Enter the total average monthly payroll deductions that are required for your employment, such as mandatory retirement contributions, union dues, and uniform costs. Do not include discretionary amounts, such as non-mandatory 401(k) contributions.	\$									

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

32	Other Necessary Expenses: life insurance. Enter average monthly premiums that you actually pay for term life insurance for yourself. Do not include premiums for insurance on your dependents, for whole life or for any other form of insurance.		\$												
33	Other Necessary Expenses: court-ordered payments. Enter the total monthly amount that you are required to pay pursuant to court order, such as spousal or child support payments. Do not include payments on past due support obligations included in line 49.		\$												
34	Other Necessary Expenses: education for employment or for a physically or mentally challenged child. Enter the total monthly amount that you actually expend for education that is a condition of employment and for education that is required for a physically or mentally challenged dependent child for whom no public education providing similar services is available.		\$												
35	Other Necessary Expenses: childcare. Enter the average monthly amount that you actually expend on childcare - such as baby-sitting, day care, nursery and preschool. Do not include other educational payments.		\$												
36	Other Necessary Expenses: health care. Enter the average monthly amount that you actually expend on health care expenses that are not reimbursed by insurance or paid by a health savings account. Do not include payments for health insurance listed in Line 39.		\$												
37	Other Necessary Expenses: telecommunication services. Enter the average monthly amount that you actually pay for telecommunication services other than your basic home telephone service - such as cell phones, pagers, call waiting, caller id, special long distance, or Internet service-to the extent necessary for your health and welfare or that of your dependents. Do not include any amount previously deducted.		\$												
38	Total Expenses Allowed under IRS Standards. Enter the total of Lines 24 through 37.		\$												
Subpart B: Additional Expense Deductions under § 707(b)															
Note: Do not include any expenses that you have listed in Lines 24-37															
39	Health Insurance, Disability Insurance, and Health Savings Account Expenses. List and total the average monthly amounts that you actually pay for yourself, your spouse, or your dependents in the following categories. <table border="1" style="width: 100%;"> <tr> <td>a.</td> <td>Health Insurance</td> <td>\$</td> </tr> <tr> <td>b.</td> <td>Disability Insurance</td> <td>\$</td> </tr> <tr> <td>c.</td> <td>Health Savings Account</td> <td>\$</td> </tr> <tr> <td colspan="2">Total: Add Lines a, b, and c</td> <td>\$</td> </tr> </table>		a.	Health Insurance	\$	b.	Disability Insurance	\$	c.	Health Savings Account	\$	Total: Add Lines a, b, and c		\$	\$
a.	Health Insurance	\$													
b.	Disability Insurance	\$													
c.	Health Savings Account	\$													
Total: Add Lines a, b, and c		\$													
40	Continued contributions to the care of household or family members. Enter the actual monthly expenses that you will continue to pay for the reasonable and necessary care and support of an elderly, chronically ill, or disabled member of your household or member of your immediate family who is unable to pay for such expenses. Do not include payments listed in Line 34.		\$												
41	Protection against family violence. Enter any average monthly expenses that you actually incurred to maintain the safety of your family under the Family Violence Prevention and Services Act or other applicable federal law. The nature of these expenses is required to be kept confidential by the court.		\$												
42	Home energy costs. Enter the average monthly amount, in excess of the allowance specified by IRS Local Standards for Housing and Utilities, that you actually expend for home energy costs. You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.		\$												
43	Education expenses for dependent children less than 18. Enter the average monthly expenses that you actually incur, not to exceed \$125 per child, in providing elementary and secondary education for your dependent children less than 18 years of age. You must provide your case trustee with documentation demonstrating that the amount claimed is reasonable and necessary and not already accounted for in the IRS Standards.		\$												
44	Additional food and clothing expense. Enter the average monthly amount by which your food and clothing expenses exceed the combined allowances for food and apparel in the IRS National Standards, not to exceed five percent of those combined allowances. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.) You must provide your case trustee with documentation demonstrating that the additional amount claimed is reasonable and necessary.		\$												
45	Continued charitable contributions. Enter the amount that you will continue to contribute in the form of cash or financial instruments to a charitable organization as defined in 26 U.S.C. § 170(c)(1)-(2).		\$												
46	Total Additional Expense Deductions under § 707(b). Enter the total of Lines 39 through 45.		\$												

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2011 NOV -4 PM 4:16
 J. MOFF BLAICKLEY

Subpart C: Deductions for Debt Payment			
47	Future payments on secured claims. For each of your debts that is secured by an interest in property that you own, list the name of creditor, identify the property securing the debt, and state the Average Monthly Payment. The Average Monthly Payment is the total of all amounts contractually due to each Secured Creditor in the 60 months following the filing of the bankruptcy case, divided by 60. Mortgage debts should include payments of taxes and insurance required by the mortgage. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	60-month Average Payment
	a.		\$
			Total: Add Lines
48	Other payments on secured claims. If any of debts listed in Line 47 are secured by your primary residence, a motor vehicle, or other property necessary for your support or the support of your dependents, you may include in your deduction 1/60th of any amount (the "cure amount") that you must pay the creditor in addition to the payments listed in Line 47, in order to maintain possession of the property. The cure amount would include any sums in default that must be paid in order to avoid repossession or foreclosure. List and total any such amounts in the following chart. If necessary, list additional entries on a separate page.		
	Name of Creditor	Property Securing the Debt	1/60th of the Cure Amount
	a.		\$
			Total: Add Lines
49	Payments on priority claims. Enter the total amount of all priority claims (including priority child support and alimony claims), divided by 60.		\$
50	Chapter 13 administrative expenses. Multiply the amount in Line a by the amount in Line b, and enter the resulting administrative expense.		
	a.	Projected average monthly Chapter 13 plan payment.	\$
	b.	Current multiplier for your district as determined under schedules issued by the Executive Office for United States Trustees. (This information is available at www.usdoj.gov/ust/ or from the clerk of the bankruptcy court.)	x
	c.	Average monthly administrative expense of Chapter 13 case	Total: Multiply Lines a and b
51	Total Deductions for Debt Payment. Enter the total of Lines 47 through 50.		\$
Subpart D: Total Deductions Allowed under § 707(b)(2)			
52	Total of all deductions allowed under § 707(b)(2). Enter the total of Lines 38, 46, and 51.		\$

Part V. DETERMINATION OF DISPOSABLE INCOME UNDER § 1325(b)(2)			
53	Total current monthly income. Enter the amount from Line 20.		\$
54	Support income. Enter the monthly average of any child support payments, foster care payments, or disability payments for a dependent child, included in Line 7, that you received in accordance with applicable nonbankruptcy law, to the extent reasonably necessary to be expended for such child.		\$
55	Qualified retirement deductions. Enter the monthly average of (a) all contributions or wage deductions made to qualified retirement plans, as specified in § 541(b)(7) and (b) all repayments of loans from retirement plans, as specified in § 362(b)(19).		\$
56	Total of all deductions allowed under § 707(b)(2). Enter the amount from Line 52.		\$
57	Total adjustments to determine disposable income. Add the amounts on Lines 54, 55, and 56 and enter the result.		\$
58	Monthly Disposable Income Under § 1325(b)(2). Subtract Line 57 from Line 53 and enter the result.		\$

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2011 NOV -4 PM 4:17
 M. HOLLE BLACKLEY

Part VI. ADDITIONAL EXPENSE CLAIMS

Other Expenses. List and describe any monthly expenses, not otherwise stated in this form, that are required for the health and welfare of you and your family and that you contend should be an additional deduction from your current monthly income under § 707(b)(2)(A)(ii)(I). If necessary, list additional sources on a separate page. All figures should reflect your average monthly expense for each item. Total the expenses.

59	Expense Description	Monthly Amount	
	a.	\$	
	b.	\$	
	c.	\$	
	d.	\$	
	Total: Add Lines a, b, c and d		\$

Part VII. VERIFICATION

I declare under penalty of perjury that the information provided in this statement is true and correct. (If this is a joint case, both debtors must sign.)

Date: March 29, 2007

Signature: /s/ Randy Steven Rutherford
Randy Steven Rutherford
 (Debtor)

Date: March 29, 2007

Signature: /s/ Tara Patrice Rutherford
Tara Patrice Rutherford
 (Joint Debtor, if any)

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2011 NOV -4 PM 4:17
 M. HOPE BLACKLEY

Current Monthly Income Details for the Debtor

Debtor Income Details:
Income for the Period 09/01/2006 to 02/28/2007.

Line 3 - Income from operation of a business, profession, or farm
Source of Income: CABLE
Income/Expense/Net by Month:

	Date	Income	Expense	Net
6 Months Ago:	09/2006	\$7,200.00	\$1,628.00	\$5,572.00
5 Months Ago:	10/2006	\$7,823.70	\$3,521.18	\$4,302.52
4 Months Ago:	11/2006	\$8,073.40	\$5,006.80	\$3,066.60
3 Months Ago:	12/2006	\$7,823.70	\$1,826.90	\$5,996.80
2 Months Ago:	01/2007	\$5,821.05	\$3,612.68	\$2,208.37
Last Month:	02/2007	\$4,868.95	\$1,351.35	\$3,517.60
Average per month:		\$6,935.13	\$2,824.49	\$4,110.65

Average Monthly NET Income:

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

U.S. BANKRUPTCY COURT
District of South Carolina

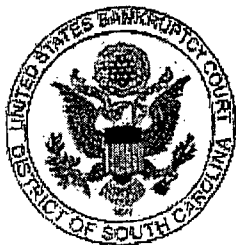


Case Number: 07-01612-hb

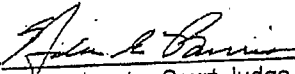
ORDER

The relief set forth on the following pages for a total of two (2) pages,
including this page, is hereby ORDERED.

FILED BY THE COURT
01/15/2010



Entered: 01/19/2010


US Bankruptcy Court Judge
District of South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

United States Bankruptcy Court
District of South Carolina

IN RE:

RANDY STEVEN RUTHERFORD
TARA PATRICE RUTHERFORD
327 PALMETTO CIRCLE
GREER, SC 29651

DEBTOR(S)

CASE NO.: 07-01612-hb
CHAPTER 13

ORDER DISMISSING CASE

This matter came before the Court pursuant to the Trustee's Motion to Dismiss this case which states that the Debtor(s) has/have failed to comply with the Court's Order of May 06, 2009, as the Debtor(s) failed to make timely payments. Pursuant to that Motion and the Court's prior Order, this case is hereby DISMISSED.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

Case 07-01612-hb Doc 49-1 Filed 01/15/10 Entered 01/19/10 11:22:32 Desc PDF
Document as Notice: Notice Recipients Page 1 of 1
Notice Recipients

District/Off: 0420-7
Case: 07-01612-hb

User: phipps
Form ID: pdf01

Date Created: 1/19/2010
Total: 55

Recipients of Notice of Electronic Filing:

tr	Gretchen D. Holland	gdh@upstate13.com
aty	National Capital Management, LLC	cwall@ncmllc.com
aty	Riezman Berger, PC	rb_bank@riezmanberger.com
aty	Cheryl H. Fisher	Bankruptcy@rti-law.com
aty	Christopher M. Edwards	Chris@mossattorneys.com
aty	Christopher M. Edwards	Chris@mossattorneys.com
aty	Michael Stewart Margolf	bankruptcy@mossodilis.com
aty	William S. Koehler	wkoehler@rti-law.com

TOTAL: 8

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Randy Steven Rutherford	327 Palmetto Circle	Greer, SC 29651
jdb	Tara Patrice Rutherford	327 Palmetto Circle	Greer, SC 29651
cr	Option One Mortgage	1270 Northland Drive, Suite 200	Mendota Heights, MN 55120
cr	Foxwood Hills Property Owners Association	800 Hickory Trail	Westminster, SC 29693
cr	National Capital Management, LLC	8245 Tournament Drive	Suite 230 Memphis, TN 38125
ust	US Trustee	Strom Thurmond Federal Bldg	1835 Assembly Street Suite 953 Columbia, SC 29201
540508672	APPLIED CARD BANK	4700 EXCHANGE CT	Boca Raton FL 33431
540841824	American Home Mortgage Servicing Inc	PO Box 6317307	Irving TX 75063-1730
540508673	BUSINESS REVENUE SYSTEMS	PO BOX 8986	Fort Wayne IN 46898
540508674	CAPITAL ONE	PO BOX 30281	Salt Lake City UT 84130
540508675	CAPITAL ONE	PO BOX 85149	Richmond VA 23295
540508678	CBE GROUP	PO BOX 900	Waterloo IA 50704
540508679	CHILDRENS MEDICAL CENTER	131 COMMONWEALTH DRIVE	Greenville SC 29615
540508680	CREDIT BUREAU	PO BOX 1051	Spartanburg SC 29304
540508681	CREDIT BUREAU ASSOCIATIONS	PO BOX 1051	Spartanburg SC 29304
540518785	Capital One Bank	c/o Tsys Debt Mgmt.	PO Box 5155 Norcross, GA. 30091
540508682	DISCOVER CARD	PO BOX 15316	Wilmington DE 19850
540516068	Discover Bank/Discover Financial Services	PO Box 3025	New Albany OH 43054
540508683	FOXWOOD HILLS PROPERTY	800 HICKORY TRAIL	Westminster SC 29693
540508684	GASTROENTEROLOGY ASSOC.	P.O. BOX 8676	Greenville SC 29604-8676
540508685	GHS	305 E MAIN ST.	Greenville SC 29601
540508686	GHS HOSPITAL	PO BOX 19051	Greenville SC 29602
540508687	GHS UNIVERSITY MEDICAL GROUP	PO BOX 60087	Charlotte NC 28260-0087
540508688	GREENVILLE HOSPITAL SYSTEM	255 ENTERPRISE BLVD STE 210	Greenville SC 29615-3546
540508689	GREENVILLE RADIOLOGY	1210 W FARIS ROAD	Greenville SC 29605
540508690	HEALTHCARE RESOURCES	13730 S POINT BLVD	Charlotte NC 28273
540508691	IRS DEPT OF REVENUE	Memphis TN 37501	
540559309	Jefferson Capital Systems, LLC	P.O. Box 23051	Columbus, GA 31902-3051
540508692	LVNV FUNDING, LLC	PO BOX 10497	Greenville SC 29603
540508693	MIDLAND CREDIT MANAGEMENT	8875 AERO DR	STE 2 San Diego CA 92123
540510235	Moss & Associates, Attorneys P.A.	11 Caledon Court, Suite D	Greenville, SC 29615
540999999	National Capital Management, LLC	8245 Tournament Drive	Suite 230 Memphis, TN 38125
540508694	OPTION ONE	PO BOX 57054	Irvine CA 92619
540523193	Option One Mortgage	Cashiering, P.O. Box 44042	Jacksonville, FL 32231
540508695	PATHOLOGY ASSOC. OF GREENVILLE	PO BOX 9279	Greenville SC 29604
540508696	PRINCE-PARKER ASSOCIATES	PO BOX 17208	Charlotte NC 28227
540582853	Roundup Funding, LLC	MS 550	PO Box 91121 Seattle, WA 98111-9221
540555862	Roundup Funding, LLC	MS 550	PO Box 91121 Seattle, WA, 981119221
540508697	SC DEPARTMENT OF REVENUE	PO BOX 125	Columbia SC 29214
540508698	SCA COLLECTIONS	300 E. ARLINGTON BOULEVARD	Greenville NC 27858-5016
540508699	SCA COLLECTIONS	300 EAST ARLINGTON BLVD.	STE 6A Greenville NC 27858
540508700	SHERMAN ACQUISITION	726 EXCHANGE STREET	SUITE 700 Buffalo NY 14210
540508701	SOUTHEAST TOYOTA FINANCE	PO BOX 70832	Charlotte NC 28272
540508702	SPARTAN FINANCIAL SERVICE	13730 SOUTH POINT BLVD	Charlotte NC 28273
540508703	SPARTANBURG COUNTY	PO BOX 5807	Spartanburg SC 29304
540508704	TOTAL RECOVERY	2419 SPY-RUN AVE.	# 8 Fort Wayne IN 46805
540526852	World Omni Financial Corporation	World Omni Payment Center	P.O. Box 991817 Mobile, AL 36691-8817

TOTAL: 47

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

WHEN RECORDED MAIL TO:
OPTION ONE MORTGAGE CORPORATION
P.O. BOX 57076
IRVINE, CA 92619-7076
ATTN: QUALITY CONTROL

Loan Number: 341000560
Servicing Number: 385037-7

REN 2404 PAGE 553

RECORDED

00 NOV 15 PM 12:25

RMC
SPARTANBURG, S.C.



[Space Above This Line For Recording Data]

807-212

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on November 08, 2000. The mortgagor is
RANDY S RUTHERFORD AND
TARA P RUTHERFORD HUSBAND AND WIFE

ORIGINAL

("Borrower"). This Security Instrument is given to
Option One Mortgage Corporation, a California Corporation
which is organized and existing under the laws of CALIFORNIA, and whose address is
3 Ada, Irvine, CA 92618
("Lender"). Borrower owes Lender the principal sum of ONE HUNDRED TEN THOUSAND SEVEN HUNDRED

AND NO/100THS Dollars (U.S.\$110,700.00).
This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which
provides for monthly payments, with the full debt, if not paid earlier, due and payable on
November 01, 2015. This Security Instrument secures to Lender: (a) the repayment of the debt
evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment
of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument;
and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note.
For this purpose, Borrower does hereby mortgage, grant and convey to Lender and Lender's successors and
assigns the following described property located in Spartanburg County, South Carolina:
513839

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART THEREOF.

Derivation Clause: Being the same property conveyed to
by Deed of dated and recorded Page
in the RNC Office for County in Book

which has the address of 327 PALMETTO CIRCLE,
[Street]

GREER, South Carolina 29651 ("Property Address");
[City] [Zip Code]

TO HAVE AND TO HOLD this property unto Lender and Lender's successors and assigns, forever,
together with all the improvements now or hereafter erected on the property, and all easements, appurtenances,
and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this
Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

SOUTH CAROLINA - Single Family
Page 1 of 7.

SCD10011 (04-07-00)

111RMC 212111500H142 \$15.00 +

Tuesday, January 09, 2007.max

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKEY

Loan Number: 141000560

Servicing Number: 395037-7

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

COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Funds for Taxes and Insurance.** Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Lender may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Borrower's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. § 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Lender may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Lender may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is such an institution) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items. Lender may not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. However, Lender may require Borrower to pay a one-time charge for an independent real estate tax reporting service used by Lender in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender may agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Lender at any time is not sufficient to pay the Escrow Items when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve monthly payments, at Lender's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender. If, under paragraph 21, Lender shall acquire or sell the Property, Lender, prior to the acquisition or sale of the Property, shall apply any Funds held by Lender at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Note; second, to amounts payable under paragraph 2; third, to interest due; fourth, to principal due; and last, to any late charges due under the Note.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Borrower shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Borrower shall pay them on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Hazard or Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

Tuesday, January 09, 2007.max

Loan Number: 341000560

Servicing Number: J85037-7

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, or applicable Law otherwise requires, insurance proceeds shall be applied first to reimburse Lender for costs and expenses incurred in connection with obtaining any such insurance proceeds, and then, at Lender's option, in such order and proportion as Lender may determine in its sole and absolute discretion, and regardless of any impairment of security or lack thereof: (i) to the sums secured by this Security Instrument, whether or not then due, and to such components thereof as Lender may determine in its sole and absolute discretion; and/or (ii) to Borrower to pay the costs and expenses of necessary repairs or restoration of the Property to a condition satisfactory to Lender. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, Lender may collect the insurance proceeds. Lender may, in its sole and absolute discretion, and regardless of any impairment of security or lack thereof, use the proceeds to repair or restore the Property or to pay the sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

If Borrower obtains earthquake insurance, any other hazard insurance, or any other insurance on the Property and such insurance is not specifically required by Lender, then such insurance shall (i) name Lender as loss payee thereunder, and (ii) be subject to the provisions of this paragraph 5.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower acknowledges that the Lender does not desire to make a loan to Borrower secured by this property on the terms contained in the Note unless the property is to be occupied by Borrower as Borrower's primary/secondary residence. Lender makes non-owner residence loans of different terms. Borrower promises and assures Lender that Borrower intends to occupy this property as Borrower's primary/secondary residence and that Borrower will so occupy this property as its sole primary/secondary residence within sixty (60) days after the date of the Security Instrument. If Borrower breaches this promise to occupy the property as Borrower's primary/secondary residence, then Lender may invoke any of the following remedies, in addition to the remedies provided in the Security Instrument: (1) Declare all sums secured by the Security Instrument due and payable and foreclose the Security Instrument; (2) Decrease the term of the loan and adjust the monthly payments under the Note accordingly; increase the interest rate and adjust the monthly payments under the Note accordingly; or (3) require that the principal balance be reduced to a percentage of either the original purchase price or the appraised value then being offered on non-owner occupied loans.

Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

Borrower shall, at Borrower's own expense, appear in and defend any action or proceeding purporting to affect the Property or any portion thereof or Borrower's title thereto, the validity or priority of the lien created by this Security Instrument, or the rights or powers of Lender with respect to this Security Instrument or the Property. All causes of action of Borrower, whether accrued before or after the date of this Security Instrument, for damage or injury to the Property or any part thereof, or in connection with any transaction financed in whole or in part by the proceeds of the Note or any other note secured by this Security Instrument, by Lender, or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid directly to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by this Security Instrument or to any deficiency under this Security Instrument or may release any monies so received by it or any part thereof, as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and any other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien

SCD10013 (04-07-00)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

REN 2404 PAGE 556
Date: 11/08/00

Loan Number: 341000560

Servicing Number: 385037-7

which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate in effect from time to time and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. **Mortgage Insurance.** If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Lender, if mortgage insurance coverage (in the amount and for the period that Lender requires) provided by an insurer approved by Lender again becomes available and is obtained. Borrower shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Borrower and Lender or applicable law.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Lender may apply, use or release the condemnation proceeds in the same manner as provided in paragraph 5 hereof with respect to insurance proceeds.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

13. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

14. **Notice.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

15. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

SCD10014 (04-07-00)

Page 4 of 7

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

Tuesday, January 09, 2007.max

ROA_000278

Date: 11/08/00

Loan Number: 341000560

Servicing Number: 385037-7

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

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

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

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law. The holder of the Note and this Security Instrument shall be deemed to be the Lender hereunder.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

Borrower shall be solely responsible for, shall indemnify, defend and hold harmless Lender, its directors, officers, employees, attorneys, agents, and their respective successors and assigns, from and against any and all claims, demands, causes of action, loss, damage, cost (including actual attorneys' fees and court costs and costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, abatement, containment, remedial or other required plan), expenses and liability directly or indirectly arising out of or attributable to (a) the use, generation, storage, release, threatened release, discharge, disposal, abatement or presence of Hazardous Substances on, under or about the Property, (b) the transport to or from the Property of any Hazardous Substances, (c) the violation of any Hazardous Substances law, and (d) any Hazardous Substances claims.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

ADDITIONAL COVENANTS. Borrower and Lender further covenant and agree as follows:
21. Acceleration; Remedies. If any installment under the Note or notes secured hereby is not paid when due, or if Borrower should be in default under any provision of this Security Instrument, or if Borrower is in default under any other mortgage or other instrument secured by the Property, all sums secured by this Security Instrument and accrued interest thereon shall at once become due and payable at the option of Lender without prior notice, except as otherwise required by applicable law, and regardless of any prior forbearance. In such event, Lender, at its option, and subject to applicable law, may then or thereafter invoke the power of sale and/or any other remedies or take any other actions permitted by applicable law. Lender will collect all expenses incurred in pursuing the remedies described in this Paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

22. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

Tuesday, January 09, 2007.max

Loan Number: 341000560

Servicing Number: 335037-7

recording costs. Lender may charge such person or persons a fee for releasing the Property for services rendered if the charging of the fee is permitted under applicable law.

23. Waiver. Borrower waives all rights of homestead exemption in the Property. Borrower waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Borrower in the event of foreclosure under this Security Instrument.

24. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to one hundred fifty percent (150%) of the original principal amount of the Note plus interest therein, attorneys' fees and court costs.

25. Misrepresentation and Nondisclosure. Borrower has made certain written representations and disclosures in order to induce Lender to make the loan evidenced by the Note or notes which this Security Instrument secures, and in the event that Borrower has made any material misrepresentation or failed to disclose any material fact, Lender, at its option and without prior notice or demand, shall have the right to declare the indebtedness secured by this Security Instrument, irrespective of the maturity date specified in the Note or notes secured by this Security Instrument, immediately due and payable. To the extent permitted by applicable law, Lender, upon presentation to it of an affidavit signed by Lender setting forth facts showing a default by Borrower under this paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

26. Time is of the Essence. Time is of the essence in the performance of each provision of this Security Instrument.

27. Waiver of Statute of Limitations. The pleading of the statute of limitations as a defense to enforcement of this Security Instrument, or any and all obligations referred to herein or secured hereby, is hereby waived to the fullest extent permitted by applicable law.

28. Modification. This Security Instrument may be modified or amended only by an agreement in writing signed by Borrower and Lender.

29. Reimbursement. To the extent permitted by applicable law, Borrower shall reimburse Trustee and Lender for any and all costs, fees and expenses which either may incur, expend or sustain in the execution of the trust created hereunder or in the performance of any act required or permitted hereunder or by law or in equity or otherwise arising out of or in connection with this Security Instrument, the Note, any other note secured by this Security Instrument or any other instrument executed by Borrower in connection with the Note or Security Instrument. To the extent permitted by applicable law, Borrower shall pay to Trustee and Lender their fees in connection with Trustee and Lender including, but not limited to assumption application fees; fees for payoff demands and, statements of loan balance; fees for making, transmitting and transporting copies of loan documents, verifications, full or partial lien releases and other documents requested by borrower or necessary for performance of Lender's rights or duties under this Security Instrument; fees arising from a returned or dishonored check; fees to determine whether the Property is occupied, protected, maintained or insured or related purposes; appraisal fees, inspection fees, legal fees, broker fees, insurance mid-term substitutions, repair expenses, foreclosure fees and costs arising from foreclosure of the Property and protection of the security for this Security Instrument; and all other fees and costs of a similar nature not otherwise prohibited by law.

30. Clerical Error. In the event Lender at any time discovers that the Note, any other note secured by this Security Instrument, the Security Instrument, or any other document or instrument executed in connection with the Security Instrument, Note or notes contains an error that was caused by a clerical mistake, calculation error, computer malfunction, printing error or similar error, Borrower agrees, upon notice from Lender, to reexecute any documents that are necessary to correct any such error(s). Borrower further agrees that Lender will not be liable to Borrower for any damages incurred by Borrower that are directly or indirectly caused by any such error.

31. Lost, Stolen, Destroyed or Mutilated Security Instrument and Other Documents. In the event of the loss, theft or destruction of the Note, any other note secured by this Security Instrument, the Security Instrument or any other documents or instruments executed in connection with the Security Instrument, Note or notes (collectively, the "Loan Documents"), upon Borrower's receipt of an indemnification executed in favor of Borrower by Lender, or, in the event of the mutilation of any of the Loan Documents, upon Lender's surrender to Borrower of the mutilated Loan Document, Borrower shall execute and deliver to Lender a Loan Document in form and content identical to, and to serve as a replacement of, the lost, stolen, destroyed, or mutilated Loan Document, and such replacement shall have the same force and effect as the lost, stolen, destroyed, or mutilated Loan Document, and may be treated for all purposes as the original copy of such Loan Document.

32. Assignment of Rents. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property. Borrower shall have the right to collect and retain the rents of the Property as they become due and payable provided Lender has not exercised its rights to require immediate payment in full of the sums secured by this Security Instrument and Borrower has not abandoned the Property.

33. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

(Check applicable box(es))

- ☐ Adjustable Rate Rider
☐ Manufactured Home Rider
☒ Other(s) (specify) Balloon Rider

- ☐ Condominium Rider
☐ Planned Unit Development Rider

- ☐ 1-4 Family Rider
☐ Occupancy Rider

Page 6 of 7

SCD10016 (04-07-00)

Tuesday, January 09, 2007.max

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

REN 2404 PAGE 559

Loan Number: 341000560

Servicing Number: 385037-7

Date: 11/08/2000

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

Signed, sealed and delivered in the presence of:

Witness

Witness

Randy B. Rutherford (Seal)
RANDY B. RUTHERFORD -Borrower

Nancy W. Doppelheuer (Seal)
-Borrower

Tara P. Rutherford (Seal)
TARA P. RUTHERFORD -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Space Below This Line For Acknowledgment]

STATE OF SOUTH CAROLINA,

Greenville

County

as:

Before me personally appeared

Nancy W. Doppelheuer

and made oath that

she

saw the within named Borrower sign, seal, and as

their act and deed,

deliver the within written Mortgage; and that

she

with Ronald G. Bruce

witnessed the execution thereof.

Sworn before me this

8th

day of

Nov

2000

Witness

Notary Public for South Carolina

My Commission Expires:

8.31.01

(Seal)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

Tuesday, January 09, 2007.max

REM 2404 PAGE 560

Loan Number: 341000560

Servicing Number: 385037-7

Date: 11/08/00

BALLOON RIDER TO SECURITY INSTRUMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned agree that certain Promissory Note and Security Instrument (Deed of Trust/Mortgage/Security Deed) of even date to which this Rider is attached shall be subject to the following provisions, notwithstanding any provisions to the contrary contained in said Promissory Note or Security Instrument securing same:

BALLOON PAYMENT

This loan is payable at the end of FIFTEEN (15) years. You must repay the entire principal balance of the loan and the unpaid interest then due. The lender is under no obligation to refinance the loan at that time. You will, therefore, be required to make payment out of other assets you may own, or you will have to find a lender willing to lend you the money at prevailing market rates, which may be considerably higher or lower than the interest rate on this loan. If you refinance this loan at maturity, you may have to pay some or all closing costs normally associated with a new loan, even if you obtain refinancing from the same lender.

[Signature] 11-8-00
TARA P RUTHERFORD Date

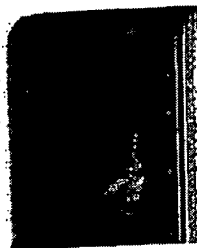
[Signature] 11-8-00
TARA P RUTHERFORD Date

Date

Date

Date

Date



Tuesday, January 09, 2007.max

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

REN 2404 PAS561

EXHIBIT A

ALL that certain piece, parcel or lot of land with all improvements located thereon, situate, lying and being in the County of Spartanburg, State of South Carolina, and being shown and designated as Lot 25 on original plat of Palmetto Estates, prepared by Farley-Collins & Associates, dated August 7, 1968, and recorded in Plat Book 57, Page 518.

This is the same property conveyed to Randy S. Rutherford and Tara P. Rutherford, by deed of Durham Construction Company, Inc. recorded in the RMC Office for Spartanburg County on June 18, 1998, in Deed Book 68-A at Page 961 and subject to all restrictions, easements, rights-of-way and roadways of record, on the recorded plats or on the premises.

This Conveyance is made subject to all easements, conditions, covenants, rights-of-ways, if any, appearing of record on the premises or on the recorded plat which may affect the property hereinabove described.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

Tuesday, January 09, 2007.max

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford;

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2010-CP-42-5798

AFFIDAVIT

(505052-01661 SMF)

BEFORE ME, an officer authorized to take oaths, this day personally appeared Roger Kistler, Vice President of American Home Mortgage Servicing, Inc. ("AHMSI"), who, being first duly sworn, deposes and says:

1. I am authorized to sign this affidavit on behalf of Plaintiff, as Vice President of AHMSI, which services the subject mortgage loan described below ("subject loan") on behalf of Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff") as attorney in fact.

2. AHMSI maintains records for the Loan in its capacity as Plaintiff's servicer. As part of my job responsibilities for AHMSI, I am familiar with the type of records maintained by AHMSI in connection with the subject loan.

3. The information in this affidavit is taken from AHMSI's business records. I have personal knowledge of AHMSI's procedures for maintaining these records. They are: (a) made at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (b) kept in the course of AHMSI's regularly conducted business activities; and (c) it is the regular practice of AHMSI to make such records.

4. During the time that my company serviced this loan on Plaintiff's behalf, a Judgment of Foreclosure and Sale was obtained in the name of Plaintiff in civil action # 2007-CP-42-0039 on February 28, 2007 (see copy of filed Judgment of Foreclosure and Sale attached as Exhibit 1), against Defendants Randy S. Rutherford and Tara P. Rutherford ("Rutherfords") in the amount of \$119,700.88, as well as a Supplemental Order Post Judgment in the same foreclosure action entered on April 7, 2010, against the

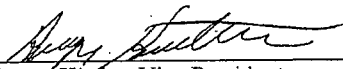
FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 MAY 4 PM 4:17
M. HOPBLACALY

14

Rutherfords in the amount of \$122,766.94 (see copy of filed Supplemental Order Post Judgment attached as Exhibit 2).

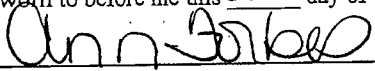
5. These judgments pertained to the same property that is the subject of this action.
6. According to my company's records, the Rutherfords have yet to satisfy or attempt to satisfy any part of these judgments against them, and their loan account remains delinquent.
7. In the event that the tax sale of the subject property is voided, my company wishes to enforce these judgments by having the subject property sold at the next available foreclosure sale.

FURTHER AFFIANT SAYETH NOT.



Roger Kistler, Vice President
American Home Mortgage Servicing, Inc. as attorney
In fact for Wells Fargo Bank, N.A., as Trustee for
Option One Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D

Sworn to before me this 28 day of October, 2011.



(L.S.)
Notary Public for Texas
My Commission Expires: 5-15-13



FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY



STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option
One Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Randy S. Rutherford; Tara P. Rutherford; Sherman
Acquisition Limited Partnership;

Defendant(s).

(005052-01661 RPC)
Loan Number: 0003850377
Second Loan Number:

Reginald P. Corley, Esquire
Attorney for the Plaintiff

Adam S. Tesh, Esquire
Attorney for Sherman Acquisition Limited Partnership

IN THE COURT OF COMMON PLEAS

DOCKET NO. 07-CP-42-0039

JUDGMENT OF FORECLOSURE AND SALE
Deficiency Judgment Waived

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 FEB 28 AM 11:56
MARC KITCHENS

A hearing was held February 28, 2007 at 09:30 AM. The testimony was taken, which is
reported herewith, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on January 4, 2007.
2. The Summons and Complaint were filed on January 4, 2007.
3. Service was made upon the Defendant(s) named in this report as shown by the
proof(s) of service filed herein.
4. The Defendant(s) Randy S. Rutherford and Tara P. Rutherford are in default as
shown by affidavit or order filed herein.
5. Sherman Acquisition Limited Partnership filed an answer through their
attorney/guardian, Adam S. Tesh.
6. The Defendant(s) and/or all attorneys of record were notified of the time, date,
and place of the hearing in this matter.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

7. According to the affidavit filed herein, the Defendant(s) Randy S. Rutherford and Tara P. Rutherford are in default and that the Defendant(s) Randy S. Rutherford and Tara P. Rutherford are not in the Military Service of the United States of America, as contemplated under The Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. Seq.

8. For value received, Randy S. Rutherford and Tara P. Rutherford made, executed and delivered a Note dated November 8, 2000 promising thereby to pay the sum of \$110,700.00 with interest at 12% per annum. Other terms and conditions are stated in the Note, which is of record herein.

9. To better secure the payment of the Note described above Randy S. Rutherford and Tara P. Rutherford made, executed, and delivered to Option One Mortgage Corporation a certain real estate first Mortgage in writing, dated November 8, 2000 covering real property in Spartanburg County, which is the same as that described in the Complaint. The first Mortgage was filed on November 15, 2000, and is of record in the Office of RMC/ROD in Book 2404 at Page 553. This mortgage was subsequently assigned to the Plaintiff herein.

10. This first Mortgage constitutes a first mortgage lien on the subject property, subject only to ad valorem or other liens/taxes given priority by statute.

11. The Plaintiff in this action is the owner and holder or nominee for the owner and holder of the Note and first Mortgage it is seeking to foreclose.

12. Any notice required by the terms of the first mortgage or by state or federal statutes has been given to the applicable defendant(s) prior to the commencement of this action.

13. Payment due on the Note has not been made as provided for therein, and the Plaintiff, as the holder or nominee for the holder thereof, has elected to require immediate payment of the entire amount due thereon and has placed the Note and first Mortgage in the hands of the attorney herein for collection by foreclosure.

14. The sum of \$4,500.00 is a reasonable fee to allow as attorney fees for 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 first Mortgage. These sums are likewise reasonable based on the time necessarily devoted to representation of the Plaintiff during the several month course of these proceedings. The services of counsel performed for the Plaintiff, including the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the amount awarded. The fees are also reasonable given the professional standing of the Plaintiff's counsel and their experience in handling foreclosure matters. The fees awarded herein are also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

beyond the normal time.

15. After all payments received by the Plaintiff have been credited to the subject loan, the amount due and owing on the Note, with interest at the rate provided in the Note, and other costs and expenses of the within action, including an attorney's fee, secured by the Note and first Mortgage, is as follows:

- (a) Principal due October 1, 2006.....\$106,812.62
- (b) Interest from September 1, 2006 through
March 1, 2007 at 12% per annum\$6,408.78
- (c) Advances (Esrow advances, corporate charges
and other charges)\$-68.32
- (d) Costs of collection prior to
hearing (service, filing, etc.).....\$1,086.00
- (e) Late Charges.....\$961.80
- (f) Attorney's fee.....\$4,500.00 *Ma*

TOTAL debt secured by Note and first Mortgage,
including interest to date shown.....\$119,700.88 *Ma*

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 12% per annum (pursuant to the terms of the Note and first Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the first Mortgage through the date to which such interest is computed.

16. Plaintiff is seeking the usual foreclosure of the first mortgage and has in the Complaint (or subsequently thereto in writing) expressly waived the right to a personal or deficiency judgment.

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

a. Sherman Acquisition Limited Partnership, by virtue of a judgment against Randy S. Ruthersford in the amount of \$2,811.22, dated September 22, 2003 and recorded on September 22, 2003 in Judgment Roll No. 271849.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

#3
[Signature]

IT IS THEREFORE ORDERED THAT:

18. There is due on the Note and first Mortgage set forth in the Complaint the sum of \$119,700.88, as set out in the Findings of Fact *supra*, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

19. The amount due in the preceding paragraph (the "Final Total Debt" as set out in the Findings of Fact *supra*) shall accrue interest at the rate of the respective note rate(s) per annum and together with such interest shall constitute the total judgment debt due the Plaintiff.

20. The amount of the judgment shall be subject to increase to permit the Plaintiff to recover additional costs, commissions and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. §14-11-310 (1976). It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs and/or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

21. The Defendant(s) liable for the aforesaid judgment debt of the Note and first Mortgage including interest at the rate of 12% per annum shall on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

22. On default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity at public auction, at the Spartanburg County Courthouse, in the City of Spartanburg, County and State aforesaid on April 2, 2007, at 11:00 AM, or on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the next business day succeeding such holiday), on the following terms, that is to say:

a. For cash: The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent) same to be applied to purchase price if compliance is made, but in the event compliance is not made, the deposit may be forfeited without further hearing and applied first to costs of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to either make the required deposit at time of bid or comply with the other terms of the bid within 20 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent Sales Day, but at the risk of the defaulting bidder(s).

b. Interest on the balance of the bid shall be paid through the day of compliance at the rate of 12%.

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

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 4:17
M. HOPE BLACKLEY

d. Purchaser to pay for any statutory commission on sale from the proceeds of the final bid amount.

e. Purchaser to pay for deed preparation, costs of recording the deed, and transfer taxes on the deed.

23. A personal or deficiency judgment having been waived, the bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

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

25. The Master in Equity will, by advertisement according to law, give notice of the time and place of such sale and the terms thereof and will execute to the purchaser, or purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity may advertise the said 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.

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

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

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

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

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

28. In the event the successful bidder is other than the Defendant(s) in possession herein, the Sheriff of Spartanburg County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or 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.

29. In the event the successful bidder is other than the Defendants in possession herein and the occupants have voluntarily vacated the premises or have been ejected from the premises leaving furnishings, fixtures and items not subject to the Plaintiff's Mortgage in said premises, the Plaintiff is authorized to remove therefrom all furnishings, fixtures and items not subject to the lien of the

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 NOV - 4 PM 4:17
M. HOPE BLACKLEY

Plaintiff's Mortgage, which personal property, being deemed abandoned, shall be removed by the Plaintiff or its agents from the subject property by placing said personal property on the public street or highway or by any other means.

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

31. In accordance with Rule 77(d), SCRCP, the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure upon all parties not in default for failure to appear herein.

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

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

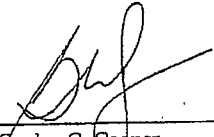
34. The following is a description of the premises herein ordered to be sold:

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

This being the same property conveyed to Randy S. Rutherford and Tara P. Rutherford by deed of Durham Construction Company, Inc. dated June 16, 1998 and recorded on June 18, 1998 in Book 68-A at Page 961 in the Office of the RMC for Spartanburg County, South Carolina.

Property Address: 327 Palmetto Circle
Greer, SC 29651

TMS# 5-13-08-039.00


Gordon G. Cooper
Master in Equity

2-28, 2007
Spartanburg, South Carolina

MARC KITCHENS

VOID CLOKED IN ERROR
FILED
CLERK OF COURT
SPARTANBURG COUNTY
2007 FEB 28 AM 11:56
H. HOPE BLA CXL 536
FILED
CLERK OF COURT
SPARTANBURG COUNTY

NOTICE OF SALE

BY VIRTUE of a decree heretofore granted in the case of: Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D vs. Randy S. Rutherford; Tara P. Rutherford; Sherman Acquisition Limited Partnership, C/A No. 07-CP-42-0039, The following property will be sold on April 2, 2007, at 11:00 AM at the Spartanburg County Courthouse to the highest bidder:

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

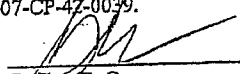
Derivation: Book 68-A at Page 961
327 Palmetto Circle, Greer, SC 29651

5-13-08-039.00

SUBJECT TO ASSESSMENTS, SPARTANBURG AD VALOREM TAXES, EASEMENTS AND/OR, RESTRICTIONS OF RECORD, AND OTHER SENIOR ENCUMBRANCES.

TERMS OF SALE: A 5% cash deposit is required. The deposit will be applied towards the purchase price unless the bidder defaults, in which case the deposit will be forfeited. If the successful bidder fails, or refuses, to make the required deposit, or comply with his bid within 20 days, then the property will be resold at his risk. No personal or deficiency judgment being demanded, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of 12% per annum. For complete terms of sale, see Judgment of Foreclosure and Sale filed with the Spartanburg County Clerk of Court at C/A #07-CP-42-0039.

Reginald P. Corley, Esq.
Attorney for Plaintiff
P.O. Box 100200
Columbia, SC 29202-3200
(803) 744-4444
005052-01661


Gordon G. Cooper
Master in Equity for
Spartanburg County

Website: www.rtt-law.com (see link to Resources/Foreclosure Sales)

NOTICE TO PRINTER: Please insert:

____ Once during week commencing _____
____ Once during week commencing _____
____ Once during week commencing _____

FILED
VOID OF COURT
SPARTANBURG COUNTY
2011 NOV -4 PM 1:18
CLERK OF COURT
M. HOPE SPARTANBURG COUNTY
2007 FEB 28 AM 11:56
MARC KITCHENS



1 STATE OF SOUTH CAROLINA
2
3 COUNTY OF SPARTANBURG
4
5 Wells Fargo Bank, N.A., as Trustee for Option
6 One Mortgage Loan Trust 2000-D, Asset Backed
7 Certificates, Series 2000-D,
8

Plaintiff,

9

10 v.

11
12 Randy S. Rutherford; Tara P. Rutherford; Sherman
13 Acquisition Limited Partnership;
14
15 Defendant(s).
16

17 (005052-01661)
18

19 Robert P. Davis
20 Attorney for the Plaintiff
21

22 Adam S. Tesh
23 Attorney for Sherman Acquisition Limited Partnership
24
25

26 Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, the above-entitled matter was
27 referred to me with finality to enter a final judgment in the case. On February 28, 2007, a Judgment of
28 Foreclosure and Sale was issued. Prior to the scheduled sales date, the Defendant(s), Randy S. Rutherford
29 and Tara P. Rutherford filed for relief under Chapter 13, U. S. Bankruptcy Code on March 29, 2007.
30 Subsequent to such filing, the bankruptcy was dismissed on January 15, 2010. In order to supplement this
31 Court's previous Judgment of Foreclosure and Sale and to reflect the effect of the Defendants' Chapter 13
32 filing, a supplemental order was presented to the Court.

33 THEREFORE, upon motion of the Plaintiff's counsel and for good cause indicated;

34 IT IS HEREBY ORDERED that the previous judgment debt be amended as follows:

35 i. The amount due and owing on the note from the previous judgment was as follows:

36 (a) Principal due \$106,812.62

37 (b) Interest from September 1, 2006 through
38 March 1, 2007 at 12% per annum \$6,408.78

39 (c) Advances (Escrow Advances, Corporate Charges,
40 and Other Charges) \$-68.32
41

42 (d) Late Charges \$961.80
43

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -7 PM 4:48

A handwritten signature in black ink, appearing to be "J. S. Tesh".

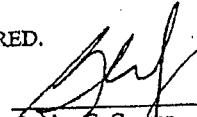
1
2 (e) Costs of collection prior to
3 hearing (service, filing, etc.) \$1,086.00
4
5 (f) Attorney's Fees \$4,500.00
6
7 PREVIOUS TOTAL DEBT \$119,700.88
8
9 2. Amended judgment debt is as follows:
10 (a) Principal now due \$104,263.69
11 (b) Interest from April 1, 2009 through
12 April 7, 2010 at 12% per annum \$12,751.63
13 (c) Advances (Escrow Advances, Corporate Charges including attorney
14 fees, costs, and other charges previously paid) \$1,836.66
15 (d) Late Charges \$204.96
16 (e) Additional Costs of collection since previous
17 hearing \$25.00
18 (f) Attorney's Fees \$3,685.00
19
20 NEW TOTAL DEBT now secured by Note and Mortgage
21 including interest to date shown \$122,766.94
22
23
24
25
26

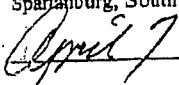
27 The new total debt shall accrue interest hereafter at the rate of 12% per annum.

28 3. Pursuant to an Administrative Order of the South Carolina Supreme Court dated May 22,
29 2009, the Plaintiff has set forth its belief in its Complaint or by Affidavit, which is already of record in
30 this case, that the mortgage loan which is the subject of this foreclosure action is not eligible for
31 modification pursuant to the terms of the Home Affordable Modification Program (HMP), and therefore
32 Plaintiff has fully complied with said Order, and the foreclosure may proceed. Also Plaintiff called
33 attention that pursuant to Administrative Order of the South Carolina Supreme Court dated May 22, 2009,
34 Plaintiff's attorney has not received a counter affidavit from the Defendant(s).

35 4. The mortgaged property shall be sold under the terms of the original Judgment of
36 Foreclosure and Sale.

37 AND IT IS SO ORDERED.

38
39 
40 Gordon G. Cooper
41 Master in Equity for Spartanburg County

42 Spartanburg, South Carolina
43  April 7, 2010
44

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -7 PM 4:18


NOTICE OF SALE

BY VIRTUE of a decree heretofore granted in the case of: Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D vs. Randy S. Rutherford; Tara P. Rutherford; Sherman Acquisition Limited Partnership; , C/A No. 07-CP-42-0039, The following property will be sold on May 3, 2010, at 11:00 AM at the Spartanburg County Courthouse to the highest bidder

All those certain pieces, parcels or tracts of land, situate, lying and being in the State of South Carolina, County of Spartanburg and being shown and designated as Lot No. 25 on original Plat of Palmetto Estates, prepared by Farley-Collins & Associates recorded in Plat Book 57 at Page 518 in the Office of the RMC for Spartanburg County to which is craved for the metes and bounds description thereof.

Book 68-A; Page 961

327 Palmetto Circle, Greer, SC 29651

5-13-08-039.00

SUBJECT TO ASSESSMENTS, SPARTANBURG AD VALOREM TAXES, EASEMENTS AND/OR, RESTRICTIONS OF RECORD, AND OTHER SENIOR ENCUMBRANCES.

TERMS OF SALE: A 5% cash deposit is required. The deposit will be applied towards the purchase price unless the bidder defaults, in which case the deposit will be forfeited. If the successful bidder fails, or refuses, to make the required deposit, or comply with his bid within 20 days, then the property will be resold at his risk. No personal or deficiency judgment being demanded, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately. The successful bidder will be required to pay interest on the amount of the bid from date of sale to date of compliance with the bid at the rate of 12% per annum. For complete terms of sale, see Judgment of Foreclosure and Sale filed with the Spartanburg County Clerk of Court at C/A #07-CP-42-0039.

NOTICE: The foreclosure deed is not a warranty deed. Interested bidders should satisfy themselves as to the quality of title to be conveyed by obtaining an independent title search prior to the foreclosure sale date.

Samuel C. Waters, Esq.
Attorney for Plaintiff
P.O. Box 100200
Columbia, SC 29202-3200
(803) 744-4444
005052-01661

Gordon G. Cooper
Master in Equity for
Spartanburg County

NOTICE TO PRINTER: Please insert:

Once during week commencing _____
Once during week commencing _____
Once during week commencing _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 APR -1 PM 4:59

FORM 4
JUDGMENT IN A CIVIL CASE

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

CASE NO. 07-CP-42-0039

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed Certificates,
Series 2000-D,
PLAINTIFF(S)

vs

Randy S. Rutherford; Tara P. Rutherford; Sherman Acquisition
Limited Partnership;
DEFENDANT(S)

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); ☐ 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. (Formal order to follow)
☐ Statement of Judgment by the Court:

THE PROPERTY WHICH IS THE SUBJECT OF THIS ACTION SHALL BE SOLD AT PUBLIC SALE PURSUANT TO THE JUDGMENT OF FORECLOSURE AND SALE.

Dated at Spartanburg, South Carolina, this 10th day of April, 2010

PRESIDING JUDGE/MASTER/SPECIAL REFEREE

This judgment was entered on the 8th day of April, 2010, and a copy mailed first class this 8th day of April, 2010 to attorneys of record or parties (when appearing pro se) as follows:

Samuel C. Waters (SC Bar #5958)
Rogers Townsend & Thomas, PC
P. O. Box 100200
Columbia, SC 29202-3400
ATTORNEY FOR THE PLAINTIFF(S)

Randy S. Rutherford
327 Palmetto Circle
Greer, SC 29651

Tara P. Rutherford
327 Palmetto Circle
Greer, SC 29651

M. Hope Blackley
Clerk or Officer of the Court

Sharon Winstead, D.C.
Adam S. Tesh
PO Drawer 7788
Columbia, SC 29202
Attorney for Sherman Acquisition Limited Partnership

Occupant
327 Palmetto Circle
Greer, SC 29651

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

v.

Mooring Secured Liquidity; Randy S. Rutherford;
and Tara P. Rutherford; Spartanburg County Tax
Collector; and Sherman Acquisitions Limited
Partnership,

Defendants.

(505052.1661 SMF)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2010-CP-42-5798

PLAINTIFF'S MEMORANDUM OF LAW IN
SUPPORT OF SETTING ASIDE TAX SALE

Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Plaintiff") submits this Memorandum of Law to aid the Court at the final hearing in this matter set for February 12, 2013. Because the Tax Collector sold the subject property in violation of the automatic stay created by the bankruptcy filing of the taxpayers, Plaintiff is entitled to an Order of the Court setting aside the tax sale of the subject property and voiding the Tax Deed into Defendant Mooring Secured Liquidity.

FACTS

This is an action to set aside a Spartanburg County tax sale of real property at 327 Palmetto Circle, Greer, SC 29651 ("subject property").

Plaintiff is the real party in interest¹ to challenge this tax sale by virtue of a Judgment of Foreclosure and Sale entered in civil action # 2007-CP-42-0039 on February 28, 2007, in favor of Plaintiff and against Defendants Randy S. Rutherford and Tara P. Rutherford ("Rutherfords") in the amount of \$119,700.88, as well as by virtue of a Supplemental Order Post Judgment in the same foreclosure action entered on April 7, 2010, against the Rutherfords in the amount of \$122,766.94.

¹ *Mid-State Trust, II v. Wright*, 323 S.C. 303, 306, 474 S.E.2d 421, 423 (1996) ("We believe the Special Referee erred in holding [the mortgagee] lacks standing to challenge the tax sale..."); *In re Howard*, 391 B.R. 511, 515 (mortgagee had standing to invoke the benefit of the automatic stay and to seek determination of whether a tax sale in violation of the stay is void).

In the Judgment of Foreclosure and Sale entered in civil action # 2007-CP-42-0039 on February 28, 2007, the Master in Equity ordered that the subject property be sold at a foreclosure sale to take place on April 2, 2007.

However, on March 29, 2007, days before the foreclosure sale was to occur, the Rutherfords filed for Chapter 13 bankruptcy. *In re Randy Steven Rutherford and Tara Patrice Rutherford*, Case # 07-01612-hb, United States Bankruptcy Court, District of South Carolina.

On November 3, 2008, while the Rutherfords' bankruptcy action was still pending, the Spartanburg County Tax Collector ("Tax Collector") sold the subject property at a tax sale for unpaid 2007 real estate taxes to Mooring Secured Liquidity for \$30,000.

There is no record in the bankruptcy action of the Tax Collector ever applying for or the bankruptcy court ever granting the Tax Collector relief from the automatic stay imposed by 11 U.S.C. § 362(a).

The Tax Collector issued a Tax Deed to Mooring Secured Liquidity dated January 15, 2010, and recorded on March 23, 2010, in Deed Book 2010 at Page 10970 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

Randy S. Rutherford and Tara P. Rutherford's bankruptcy case was not dismissed until January 15, 2010.

To date, the Rutherfords have failed to satisfy the Judgment of Foreclosure and Sale against them and Plaintiff has been unable exercise its right under the foreclosure judgment to sell the *subject property* due to the tax sale.

LAW

The tax sale of the subject property on November 3, 2008, is void because it occurred in violation of the automatic stay imposed by 11 U.S.C. § 362(a).

1. Creation and operation of the automatic stay.

The subject property became part of the bankruptcy estate on March 29, 2007, when the Rutherfords filed their Voluntary Petition for Chapter 13 bankruptcy. "All of a debtor's property becomes part of the bankruptcy estate upon the filing of a bankruptcy petition," including "all legal or equitable interests of the debtor as of the petition date, wherever located and by whomever held." *United States Gold (In re Avis)*, 173 F.3d 718, 720 (4th Cir. 1999)(citing 11 U.S.C. § 541(a)(1)).

The Rutherfords' filing of the bankruptcy petition on March 29, 2007, "operate[d] as stay, applicable to all entities², of ...

² The definition of "entity" under the Bankruptcy Code includes "governmental units," 11 U.S.C.A. § 101(15). The term "governmental unit" includes a "department, agency, or instrumentality of . . . a

- “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate,”
- “any act to create, perfect, or enforce any lien against property of the estate,”
- “any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case,” and
- “any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title.”

11 U.S.C. § 362(a)(3)-(6)(emphasis added). “The purpose of the automatic stay, in addition to protecting the relative position of creditors, is to shield the debtor from financial pressure during the pendency of the bankruptcy proceeding.” *Winters by & Through McMahon v. George Mason Bank*, 94 F.3d 130, 133 (4th Cir. 1996).

There is no dispute that the tax sale occurred during the time that the automatic stay from the Rutherfords’ bankruptcy was in effect.

2. The exemption under 11 U.S.C. § 362(b)(18) is inapplicable to tax sales.

There is an exemption from the stay “of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition.” 11 U.S.C. § 362(b)(18)(emphasis added).

However, the exemption from stay under 11 U.S.C. § 362(b)(18) did not permit the Tax Collector to enforce the statutory tax lien and sell the property without first obtaining relief from stay under 11 U.S.C. § 362(d).

Cases dealing specifically with the effect of the automatic stay on tax sales confirm that post-petition tax sales are not exempt from the stay and are void. *See, e.g., In re Howard*, 391 B.R. 511 (Bankr. N.D. Ga. 2008)(holding tax sale void where taxing authority had no notice of debtors’ bankruptcy filing to entity that purchased the property for value and without notice; also holding that mortgage company had standing to challenge tax sale based on automatic stay violation); *In re Pierce*, 91 F. App’x 927 (5th Cir. 2004)(unpublished)(holding that the tax sale was null and void even though the taxpayer filed for bankruptcy thirty minutes before the tax sale took place and the county tax authority had no notice of the bankruptcy filing until two days after the tax sale occurred); *40235 Washington St. Corp. v. Lusardi*, 329 F.3d 1076, 1080 (9th Cir. 2003)(holding a county tax sale void where the sale occurred after the debtor

State[.]” 11 U.S.C.A. § 101(27). In South Carolina, a county is an instrumentality of the State. S.C. Code Ann. § 4-1-10. Therefore, as an officer of the county, a county tax collector falls under the definition of “entities” to whom the automatic stay applies.

FILED
CLERK OF COURT
SPRINGFIELD, MA
2013 FEB 15 AM 9:45
J. J. CAVALLEY

filed for bankruptcy, even though the bankruptcy was later dismissed because it was filed in bad faith; also holding that bankruptcy code preempted state tax sale laws); *In re Lambert*, 273 B.R. 663 (Bankr. N.D. Fla. 2002)(holding that issuance of a tax deed to a purchaser at a tax sale is a violation of the automatic stay where the debtor filed for bankruptcy prior to the tax deed being issued); *In re Crosby*, 109 B.R. 195, 197 (Bankr. S.D. Miss. 1989) (holding that tax sale was a direct violation of the automatic stay and was null and void); *In re Stewart*, 190 B.R. 846, 854 (Bankr. C.D. Ill. 1996) (holding that actions to obtain a tax deed constituted acts to collect a claim against the debtors that arose pre-petition, in violation of automatic stay); *In re Donovan*, 266 B.R. 862, 870-871 (Bankr. S.D. Iowa 2001) (holding that tax deed issued while automatic stay was in place was void).

The Bankruptcy Code treats the Tax Collector just like any other creditor and requires him to file a proof of claim and seek relief from the automatic stay before attempting to enforce the tax lien through the tax sale.

3. Effect of the Tax Collector's violation of the automatic stay.

The effect of the Tax Collector selling the subject property in violation of the automatic stay is that the tax sale is void. See *Weatherford v. TIMMARK Carey Holdings, Inc.* (In re Weatherford), 413 B.R. 273, 283 (Bankr. D.S.C. 2009)("[I]n this District, courts have consistently held that actions taken in violation of the automatic stay are void *ab initio* and thus not legally effective."); *In re Brown*, 2009 Bankr. LEXIS 1489, 5-6 (Bankr. D.S.C. May 14, 2009)(internal quotations omitted)("[C]ourts in this district have consistently held that actions taken in violation of the automatic stay are void *ab initio* and thus not legally effective."); *In re McWhorter*, 37 B.R. 742, 745 (Bankr. D.S.C. 1984)("Actions taken in violation of the automatic stay are void and without effect."); cf. *Dep't of Health & Envtl. Control v. Columbia Organic Chem. Co. (Ex Parte Reichlyn)*, 310 S.C. 495, 499, 427 S.E.2d 661, 664 (1993)(holding that the automatic stay deprives South Carolina state court judges "of subject matter jurisdiction to take any action inconsistent with the stay.").

4. Lack of actual notice of bankruptcy is not a defense to violation of the automatic stay.

The Tax Collector's only defense to this issue is that it "never received notice of the bankruptcy filed by Defendants." (Tax Collector's Answer ¶ 44.)

This defense fails as a matter of law because "[o]nce the stay is in place, it protects all property of the estate regardless of whether or not notice has been given of the pendency of the case." *In re Weatherford*, 413 B.R. 273, 283 (Bankr. D.S.C. 2009)(emphasis added)(internal quotations omitted). It is nevertheless true that the automatic stay goes into effect when the petition for relief is filed, not when the creditor learns that the petition has been filed." *Id.* (internal quotations omitted).

FILED
CLERK OF COURT
2015 FEB 15 AM 9:45
J. J. BLACKLEY

"The automatic stay is a self-executing provision of the Bankruptcy Code and begins to operate nationwide, without notice, once the debtor files its petition for relief." *In re A.H. Robins Co., Inc.*, 63 B.R. 986, 988 (Bankr. E.D. Va. 1986) (emphasis added) *aff'd sub nom. Grady v. A.H. Robins Co., Inc.*, 839 F.2d 198 (4th Cir. 1988); *see also In re Peralta*, 317 B.R. 381, 389 (B.A.P. 9th Cir. 2004) ("automatic stay is effective against the world, regardless of notice").

Any action taken in violation of the automatic stay is void, "regardless of whether the creditor had notice of the debtor's bankruptcy filing." *In re Means*, 454 B.R. 636, 638 (Bankr. D.S.C. 2011). Furthermore, the stay requires a creditor to remedy any inadvertent violations of the stay. *In re Risner*, 317 B.R. 830, 834 (Bankr. D. Idaho 2004).

Regardless of whether the Tax Collector had actual notice of the bankruptcy filing, he was bound by the automatic stay. The Tax Collector's "no notice" defense further fails because, under South Carolina law, persons have constructive notice of documents filed in the public record. *Cf. Franklin Sav. & Loan Co. v. Riddle*, 216 S.C. 367, 375, 57 S.E.2d 910, 913 (1950).

If the Tax Collector is not notified of a bankruptcy and is not listed in a debtor's petition, schedules, or Chapter 13 plan, the only consequence is that the Tax Collector's debt is not discharged by the bankruptcy. *In re Weatherford*, 413 B.R. 273, 282 (Bankr. D.S.C. 2009) ("[T]he claims of creditors who were not scheduled and did not receive proper notice of the bankruptcy proceedings in time to file a claim or to participate in the confirmation process are not considered to have been provided for by the plan, and therefore would not be discharged."). However, it does not relieve the Tax Collector of the consequences of violating the automatic stay. *Id.*

5. That the bankruptcy petition was not recorded with the Register of Deeds is irrelevant and no defense to the Tax Collector's violation of the automatic stay.

The Tax Collector cannot rely on S.C. Code Ann. § 30-5-190 as a defense to its violation of the automatic stay. "A certified copy of a petition . . . commencing a proceeding under the Bankruptcy Act of the United States . . . may be filed, indexed and recorded in the office of the register of deeds . . . in the same manner as deeds." S.C. Code Ann. § 30-5-190 (emphasis added). First, the use of the word "may" instead of "must" makes this statute permissive. The statute merely gives the Register of Deeds permission to record bankruptcy petitions if they are submitted. More importantly, this statute does not supersede the wealth of case law stating that the automatic stay is effective against the world regardless of notice.

Conclusion

Because the Tax Collector sold the subject property in violation of the automatic stay imposed by 11 U.S.C. § 362(a), the Court must set aside the tax sale of the subject property and void the Tax Deed into Defendant Mooring Secured Liquidity.

Respectfully submitted,


Sean M. Foerster (SC Bar # 77466)
ROGERS TOWNSEND & THOMAS, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803) 771-7900 Tel
sean.foerster@rtt-law.com

Attorneys for Plaintiff Wells Fargo Bank, N.A.,
as Trustee for Option One Mortgage Loan Trust
2000-D, Asset Backed Certificates, Series 2000-
D
Rogers Townsend & Thomas, PC, and its staff are debt
collectors.

February 11, 2013

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 FEB 15 AM 9:45
M. JIM L. BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Wells Fargo Bank, N.A., as Trustee for Option One
Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D,

Plaintiff,

vs.

Mooring Secured Liquidity; Randy S. Rutherford;
Tara P. Rutherford; Spartanburg County Tax
Collector; and Sherman Acquisitions Limited
Partnership,

Defendant.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2010-CP-42-5798

PLAINTIFF'S MOTION TO ALTER OR
AMEND JUDGMENT PURSUANT TO RULE
59(e), SCRCP

(505052.1661 SMF)

YOU WILL PLEASE TAKE NOTICE that at such time and place as it set by this Honorable Court, Plaintiff Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ("Wells Fargo") will move this Court to reconsider its Order entered on March 6, 2013, dismissing Wells Fargo's claims and quieting title to the subject property in Defendant Mooring Secured Liquidity ("Mooring"), on the following grounds:

1. Wells Fargo received written notice of the entry of the Order on March 12, 2013.
2. The Order holds that Wells Fargo's complaint is barred by the doctrine of laches because Wells Fargo did not redeem the subject property after it received a redemption notice on October 9, 2009, and waited to file this lawsuit until after the Tax Collector allegedly released the overage to Defendants Randy and Tara Rutherford ("Rutherfords"). Wells Fargo respectfully asks the Court to reconsider this ruling for several reasons:

- a. The heightened burden of proof on a party asserting the defense of laches in a lawsuit filed within the applicable limitations period is as follows: "In order to constitute laches, there must be shown, not merely neglect for a time to enforce a legal or equitable right, where such neglect is for a period short of that which is a bar under the statute of limitations, but it must further be made to appear that such delay was accompanied either by a failure to perform some legal duty, whereby prejudice has resulted to the person pleading such neglect, or that such delay was accompanied by some act on the part of the person so negligent, which operated to mislead the person pleading such neglect, to his prejudice to such an extent that it would be unjust and inequitable thereafter to permit

such negligent party to enforce such right.” *Edwards v. Johnson*, 90 S.C. 90, 72 S.E. 638, 644 (1911).

- b. There is no evidence of prejudice to the Tax Collector in this case because there is nothing in the record showing that the overage was actually claimed by and disbursed to the Rutherfords or showing that the overage is with anyone other than the Tax Collector. If the overage was released, there is no evidence in the record showing that the Rutherfords are unable to refund the overage. Counsel for the various defendants made statements and arguments concerning the overage issue at the hearing, but never offered any documentation or testimony to support those assertions. The record contains only two letters from the Tax Collector to the Rutherfords dated April 2, 2010, and April 14, 2010, informing the Rutherfords of their potential right to make a claim to the overage. Mooring put forth no evidence at all as to any expenses it may have incurred due to the delay or any other way in which it was prejudiced. Therefore, the defendants failed to carry their burden of proof as to the defense of laches.
- c. It would be inequitable to hold Wells Fargo responsible for not responding to a redemption notice issued in conjunction with an illegal tax sale held in violation of federal bankruptcy law and that never should have occurred in the first place. “It is well known that equity follows the law.” *Regions Bank v. Wingard Properties, Inc.*, 394 S.C. 241, 254, 715 S.E.2d 348, 355 (Ct. App. 2011). “When providing an equitable remedy, the court may not ignore statutes, rules, and other precedent.” *Id.* “[T]he court’s equitable powers must yield in the face of an unambiguously worded statute.” *Id.* at 254-55, 715 S.E.2d at 355. The automatic stay provision in 11 U.S.C. § 362(a) clearly prohibited the tax sale. The Tax Collector did not refute that it violated 11 U.S.C. § 362(a) by conducting the tax sale. Therefore, equity should not shield the Tax Collector from his failure to strictly comply with the law.
- d. In a similar tax sale case, the Court of Appeals rejected a tax collector’s argument that it was prejudiced by the delay in challenging the tax sale due to its inability to refund the purchase price to the tax sale purchaser after the unclaimed overage from the tax sale had escheated to the County’s general fund pursuant to S.C. Code Ann. § 12-51-130. *King v. James*, 388 S.C. 16, 29, 694 S.E.2d 35, 42 (Ct. App. 2010). The Court of Appeals held that it would be “inequitable to allow the County to claim the automatic operation of the statute as its source of prejudice in a case where it was the County’s admitted failure to strictly comply with statutory requirements that led to an invalid tax sale.” *Id.* In this case, the Tax Collector did not refute the evidence in the record that it received notice of

the Rutherfords' bankruptcy prior to the tax sale or that it violated bankruptcy law. Like in *King*, the Tax Collector should not be permitted to hide behind the operation of the overage statute to excuse its conduct.

- e. Laches is rarely available as a defense to an action brought within the statute of limitations. Further, less than one year elapsed between the time that the bankruptcy court granted Wells Fargo's servicer relief from the automatic stay on December 3, 2009, to pursue its rights against the property and the time that it filed this action on November 1, 2010. This is not an unreasonable amount of time in which to file a lawsuit, especially given that the General Assembly saw fit to provide a two year statute limitations. S.C. Code Ann. § 12-51-160. The statute of limitations makes no mention that the limitations period depends on whether the overage had been disbursed or not.
- f. The application of laches in this fashion effectively rewrites and shortens the statute of limitations in S.C. Code Ann. § 12-51-160 for any person who has received the redemption notice. Under this ruling, the time to challenge the tax sale runs at the time that the Tax Collector releases the overage to the former landowner. This is problematic because the Tax Collector may release the overage any time after 90 days after the execution of the Tax Deed, S.C. Code Ann. § 12-51-130, and there is no set time for when the Tax Collector has to execute the Tax Deed other than "within thirty days [after the end of the redemption period] or as soon after that as possible," *Id.* In this case, the Tax Collector did not execute the Tax Deed until 72 days after the expiration of the redemption period. Under this ruling, there is no way for a tax sale challenger to accurately determine the deadline for challenging the tax sale before the doctrine of laches will bar such an action.
- g. The Tax Collector was well aware of the two year statute of limitations for challenging a tax sale, and, by releasing the overage to former landowners whom the Tax Collector knew had been in bankruptcy and knew had an unsatisfied mortgage on their property at the time of the tax sale, it assumed the risk that the tax sale would be challenged and the overage would have to be refunded to the tax sale purchaser.
- h. Mooring assumed the risk in this case as well because it was aware of the statutes governing the time for releasing overage to former landowners and the time for challenging the tax sale, yet still chose to purchase this property at the tax sale.
- i. Mooring did not plead laches as a defense to this action. "The failure to plead an affirmative defense is deemed a waiver of the right to assert it." *Branche Builders, Inc. v. Coggins*, 386 S.C. 43, 48, 686 S.E.2d 200, 202 n. 4 (Ct. App. 2009).

3. The Order does not rule on the issue of the effect of the Tax Collector's violation of the automatic bankruptcy stay on the validity of the tax sale. The tax sale of the subject property on November 3, 2008, is void because it occurred in violation of the automatic stay imposed by 11 U.S.C. § 362(a). The Tax Collector was not exempt from the stay and failed to apply for or obtain relief from the stay from the bankruptcy court.

4. The Order does not rule on the issue of the effect of the artificial deadlines in the delinquent tax notices on the validity of the tax sale. The Tax Collector violated S.C. Code Ann. § 12-51-40(b) and the holding in *Hawkins v. Bruno Yacht Sales*, 353 S.C. 31, 577 S.E.2d 202 (2003), by including artificial deadlines for the payment of delinquent taxes in the delinquent tax notices. In doing so, the Tax Collector failed to strictly comply with the tax sale statutes, rendering the tax sale void.

5. The Order holds that Wells Fargo's claim is barred by the doctrine of "unclean hands," but this conclusion of law is unsupported by the record and the findings of fact. "The doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant ... [i]t is a self-imposed ordinance that closes the door of the court of equity to one tainted with inequity or bad faith relative to the matter in which he seeks relief." *Straight v. Goss*, 383 S.C. 180, 206-07, 678 S.E.2d 443, 457-58 (Ct. App. 2009). While the record contains evidence that Wells Fargo signed the certified mail receipt for the redemption notice and did not redeem the property, there is no evidence in the record as to *why* Wells Fargo did not redeem the property, much less any evidence that its failure to redeem was intentional or done in bad faith. Wells Fargo respectfully disagrees that its failure to exercise an optional, post-tax sale right (not an affirmative legal obligation) gives it "unclean hands." Further, a ruling that every person who neglects to act on a redemption notice is barred from challenging the tax sale due to unclean hands would conflict with the law holding that "[e]ven actual notice is insufficient to uphold a tax sale absent strict compliance with statutory requirements." *In re Ryan Inv. Co., Inc.*, 335 S.C. 392, 395, 517 S.E.2d 692, 693 (1999).

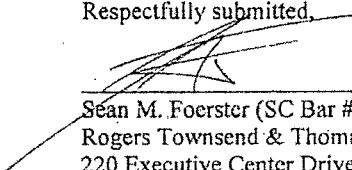
6. Neither the Tax Collector nor Mooring pleaded unclean hands as a defense in this action. "The failure to plead an affirmative defense is deemed a waiver of the right to assert it." *Branche Builders, Inc. v. Coggins*, 386 S.C. 43, 48, 686 S.E.2d 200, 202 n. 4 (Ct. App. 2009).

7. The Order relies exclusively on the equities of the situation, yet does not take into account the inequitable conduct of the Tax Collector in violating federal bankruptcy law or the inequitable conduct of the Rutherfords in neglecting to pay their taxes as they were required by law and contract to do. "He who seeks equity must do equity." *Provident Life and Acc. Ins. Co. v. Driver*, 317 S.C. 471, 479, 451 S.E.2d 924, 929 (Ct. App. 1994). The Tax Collector did not refute the evidence in the record that it received notice of the Rutherfords' bankruptcy prior to the tax sale or that it violated bankruptcy law. The Tax Collector cannot avail itself of an equitable defense if it violated the law and has

unclean hands itself. No party refuted that the Rutherfords were solely at fault for the failure to pay the taxes.

Based on the foregoing, Wells Fargo respectfully requests that the Court reconsider its Order entered on March 6, 2013, and alter or amend the Order to set aside the tax sale and void the Tax Deed into Mooring. The undersigned certifies that consultation would serve no useful purpose. This motion is based the pleadings, the Order entered on March 6, 2013, the case law of South Carolina, the South Carolina Code, the South Carolina Rules of Civil Procedure, and the evidence admitted at the final hearing on February 12, 2013.

Respectfully submitted,



Sean M. Foerster (SC Bar # 77466)
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
P.O. Box 100200
Columbia, SC 29202-3200
(803) 771-7900
sean.foerster@rtt-law.com

Attorneys for Plaintiff Wells Fargo Bank, N.A., as Trustee for
Option One Mortgage Loan Trust 2000-D, Asset Backed
Certificates, Series 2000-D
Rogers Townsend & Thomas, PC and its staff are debt collectors.

March 20, 2013

FILED
CLERK OF COURT
2013 MAR 22 AM 9:18
COURT HOUSE
COLUMBIA, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

MOTION INFORMATION
FORM
AND COVER SHEET

COUNTY OF SPARTANBURG

CASE NO. 2010-CP-42-5798

Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificates, Series 2000-D ☒ Plaintiff

v.

Mooring Secured Liquidity; Randy S. Rutherford; and Tara P. Rutherford; ☐ Defendant

Check box above indicating submitting party

name, S.C. Bar no., and address of plaintiff's attorney

Sean M. Foerster (SC Bar #77466)

Rogers Townsend & Thomas, PC

220 Executive Center Drive

Columbia, SC 29210

telephone: 803-771-7900

fax: 803-343-7013

name, S.C. Bar no., and address of Defendant's attorney

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (Complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Alter or Amend Judgment Pursuant to Rule 59(c), SCRCP

Estimated Time Needed: This case is referred to the Master in Equity

Court Reporter Needed: YES/NO

SECTION II: Motion Fee

☒ PAID —AMOUNT: \$ 25.00

☐ EXEMPT:

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent status

☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act

☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication

☐ Motion for Execution (Rule 69, SCRCP)

☐ 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: _____

☐ Other: _____

SECTION III: Motion Type

☒ Written motion attached

☐ Form Motion —

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff/Defendant

March 20, 2013

Date submitted

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other

JUDGE
CODE:

Date:

CLERK'S VERIFICATION

Date Filed:

Collected by: _____

(print name)

☐ MOTION FEE COLLECTED:

☐ CONTESTED—AMOUNT DUE: _____

SCCA/233 (11/2003) 503231-01196

CERTIFICATE OF SERVICE BY MAIL
Civil Action # 2010-CP-42-5798

I, the undersigned attorney, for the law firm of Rogers Townsend & Thomas, PC, do hereby certify that I have served a copy of the foregoing document upon the defendants by U.S. Mail, postage prepaid, on March 20, 2013, at the following addresses:

Document Served: Plaintiff's Motion to Alter or Amend Judgment Pursuant to Rule 59(e), SCRCF

Persons Served:

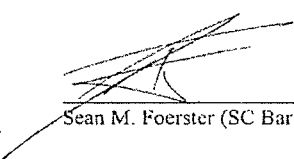
The Honorable Gordon G. Cooper
Spartanburg County Master in Equity
Post Office Box 5666
Spartanburg, SC 29304

Max T. Hyde, Jr., Esquire
Hyde Law Firm, P.A.
517 E. St. John Street
Spartanburg, South Carolina 29302

David C. Ingalls, Esquire
P.O. Box 2196
Spartanburg, South Carolina 29304

John H. Harris, Esquire
Senior Deputy County Attorney
Spartanburg County
P. O. Box 5666
Spartanburg, South Carolina 29301

Sherman Acquisitions Limited Partnership
c/o Steve Beckwith
15 South Main Street, Suite 500
Greenville, South Carolina 29601


Sean M. Foerster (SC Bar # 77466)

FILED
2013 MAR 22 AM 9:18
CLERK OF COURT
Spartanburg County, SC

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-In-Equity

Case No. 2010-CP-42-05798

Wells Fargo Bank, N.A. as Trustee
for Option One Mortgage Loan
Trust 2000-D, Asset Backed
Certificate, Series 2000-D,

Appellant,

v.

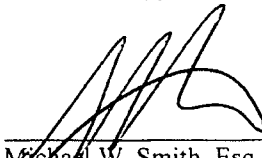
Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions LP,

Respondents.

NOTICE OF APPEAL

Wells Fargo Bank, N.A. as Trustee for Option One Mortgage Loan Trust 2000-D, Asset Backed Certificate Series 2000-D ("Appellant") appeals the Order of the Honorable Gordon G. Cooper dated March 5, 2013. Appellant received written notice of entry of this Order on March 12, 2013. Appellant filed a timely Motion to Alter or Amend the Order on March 22, 2013. Appellant's Motion was denied by Order dated June 10, 2013. Appellant received written notice of entry of this Order on June 14, 2013.

July 12, 2013



Michael W. Smith, Esq.
S.C. Bar No. 71184
Baker, Donelson, Bearman,
Caldwell and Berkowitz, PC
P.O. Box 1549
Orlando, FL 32802
(407) 367-5437
Attorney for Appellant

Other Counsel of Record:

Max T. Hyde, Jr., Esq.
Hyde Law Firm, P.A.
517 E. St. John St.
Spartanburg, SC 29302
(864) 804-6330

David C. Ingalls, Esq.
P.O. Box 2196
Spartanburg, SC 29304
(864) 573-5149

John H. Harris, Esq.
Senior Deputy County Attorney
Spartanburg County
P.O. Box 5666
Spartanburg, SC 29301
(864) 596-2526

Sherman Acquisitions Limited Partnership
c/o Steve Beckwith
15 S. Main St.
Suite 500
Greenville, SC 29601

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-In-Equity

Case No. 2010-CP-42-05798

Wells Fargo Bank, N.A. as Trustee
for Option One Mortgage Loan
Trust 2000-D, Asset Backed
Certificate, Series 2000-D,

Appellant,

v.

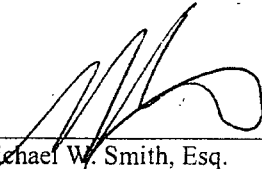
Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions LP,

Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on all attorneys and parties of record by depositing a copy of it in the United States Mail, postage prepaid, on July 12, 2013, to the addresses on the attached service list.

July 12, 2013



Michael W. Smith, Esq.
S.C. Bar No. 71184
Baker, Donelson, Bearman,
Caldwell and Berkowitz, PC
P.O. Box 1549
Orlando, FL 32802
(407) 367-5437
Attorney for Appellant

Service List

Max T. Hyde, Jr., Esq.
Hyde Law Firm, P.A.
517 E St John St
Spartanburg, SC 29302
(864) 804-6330

David C. Ingalls, Esq.
P.O. Box 2196
Spartanburg, SC 29304
(864) 573-5149

John H. Harris, Esq.
Senior Deputy County Attorney
Spartanburg County
P.O. Box 5666
Spartanburg, SC 29301
(864) 596-2526

Sherman Acquisitions Limited Partnership
c/o Steve Beckwith
15 S Main St
Suite 500
Greenville, SC 29601

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-In-Equity

Appellate Case No. 2013-001508

RECEIVED

DEC 23 2013

SC Court of Appeals

Wells Fargo Bank, N.A. as Trustee
for Option One Mortgage Loan
Trust 2000-D, Asset Backed
Certificate, Series 2000-D,

Appellant,

v.

Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions LP,

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

By: 

Sean M. Foerster, S.C. Bar No. 77466
Rogers, Townsend & Thomas, PC
220 Executive Center Dr.
Columbia, SC 29210
(803) 771-7900
Attorneys for Appellant

December 23, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master-In-Equity

Appellate Case No. 2013-001508

Wells Fargo Bank, N.A. as Trustee
for Option One Mortgage Loan
Trust 2000-D, Asset Backed
Certificate, Series 2000-D,

Appellant,

v.

Mooring Secured Liquidity; Randy S.
Rutherford; Tara P. Rutherford;
Spartanburg County Tax Collector;
Sherman Acquisitions LP,

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that I have served the Record on Appeal on December 23, 2013,
by depositing a copy of each in the United States Mail, postage prepaid, addressed to the each of
following parties of record:

Max T. Hyde, Jr., Esquire
Hyde Law Firm, P.A.
753 East Main Street, Suite One
Spartanburg, South Carolina 29302

David C. Ingalls, Esquire
P.O. Box 2196
Spartanburg, South Carolina 29304

RECEIVED
DEC 23 2013
SC Court of Appeals

John H. Harris, Esquire
Senior Deputy County Attorney
Spartanburg County
P. O. Box 5666
Spartanburg, South Carolina 29301



Sean M. Foerster
S.C. Bar No.77466
Rogers Townsend & Thomas, PC
220 Executive Center Dr.
Columbia, SC 29210
(803) 771-7900