

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

21758

Appeal from RICHLAND COUNTY

Joseph M. Strickland, Master in Equity  
Court of Common Pleas

**Appellate Case No. 2014-000140**

Bank of America, N.A., ..... Respondent

v.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners' Association, Defendants,

And Willie Zimmerman, Third Party Participant, ..... Appellant

**RECORD ON APPEAL**

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**RECEIVED**

APR 22 2014

**SC Court of Appeals**

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Bank of America, N.A.,

PLAINTIFF,

vs.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners' Association,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

MASTER'S ORDER AND JUDGMENT OF FORECLOSURE AND SALE

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2011-CP-40-8074

DEFICIENCY WAIVED

2012 SEP 21 PM 12:43  
JANET H. MURPHY  
C.C.P. & G.S.

RICHLAND COUNTY  
FILED

F11-06934

TO:

Korn Law Firm, P.A.  
Attorney for Plaintiff

Milton G. Kimpson, Attorney  
South Carolina Department  
of Revenue

Edward L. Grimsley, Attorney  
SCBT, N.A

Willie F. Bradley, Jr., Attorney  
for Felicia Woods

Michael J. Polk, Attorney  
for Manheim Automotive  
Financial Services, Inc.

Pursuant to Rule 53 SCRCP, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the cause.

Pursuant to the said Order of Reference a hearing was held, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find conclude and order as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on November 23, 2011.
2. The Summons and Complaint were filed on November 23, 2011.
3. Service was made upon the Defendant(s) named in this Report as is shown by the Proof(s) of Service filed herein.
4. That the Defendants Duce Staley, Felicia Woods a/k/a Felicia B. Woods, Palmetto Health and Spring Valley Homeowners' Association are in default as shown by Affidavit on file herein.
5. The Defendants and/or all attorneys of record were notified of the time, date, and place of the hearing in this matter.

6. According to the Affidavit filed herein, no Defendant in default is in the Military Service of the United States of America, as contemplated under the Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto.

7. For value received, Duce Staley made, executed and delivered a Note dated December 10, 2004, promising thereby to pay to the order of Countrywide Bank, a Division of Treasury Bank, N.A., its successors and assigns the sum of Three Hundred Fifty Thousand And 00/100 Dollars (\$350,000.00), with interest at an adjustable rate pursuant to the terms of said Note percent per annum. Other terms and conditions are stated in the Note, which is of record herein.

8. To better secure the payment of the Note described above, the said Duce Staley made, executed and delivered to Mortgage Electronic Registration Systems, Inc., as nominee for Countrywide Bank, a Division of Treasury Bank, N.A., its successors and assigns a Mortgage in writing, dated December 10, 2004, covering real property in Richland County, which is the same as that described in the Complaint. The mortgage was filed on December 16, 2004, and is of record in the Office of the Register of Deeds for Richland County in Mortgage Book 01006 at page 3109.

9. Thereafter, by virtue of an assignment dated October 14, 2011, recorded October 25, 2011, in Mortgage Book 1716 at page 1677, Mortgage Electronic Registration Systems, Inc. assigned said mortgage unto Bank of America, N.A. Bank of America, N.A. is present lien holder and Plaintiff herein.

10. The above referenced instrument constitutes a first lien priority mortgage.

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

12. I find that since the inception of this action, plaintiff's attorney has assumed responsibility for the institution of this action and has searched and updated the title on the subject property from the date the current owner received the property or the date the mortgage was executed to the date of the filing of the Lis Pendens. He has been responsible for the preparation of the following pleadings:

1. Lis Pendens
2. Summons and Complaint
3. Affidavit of Default
4. Order of Reference
5. Notice of Hearing
6. Proposed Final Decree
7. Notice of Sale
8. Transcript of Testimony
9. Other documents as applicable pertaining to service and finalization of this action.

Additionally, he has arranged for service of process on the defendant(s), has scheduled and attended the hearing in this matter, has provided reinstatement figures to the primary defendant, if requested, and has

had telephone conversations with the defendant(s), if requested. Future duties include forwarding copies of the Decree to the defendant(s), advising the defendant(s) of the date that the property will be sold, arranging and coordinating the amount to be bid by plaintiff, representation of plaintiff at sale and preparation of after sale documentation as required. In light of the potential liabilities inherent in a property matter, the attendant responsibilities and the size of the mortgage debt, I find that the attorney fees requested by the plaintiff in the amount of one thousand four hundred seventy and 00/100 (\$ 1,470.00) are reasonable.

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

(a)	Principal due as of 11/1/2010	\$343,224.21
(b)	Interest from 10/1/2010 through 8/20/2012 at 3.375%	\$ 20,278.74
(c)	Escrow adjustments (debits or credits)	\$ 24,378.61
	Insurance \$6,677.80	
	Taxes \$17,700.81	
(d)	Late charges	\$ 86.44
(e)	Property Inspections	\$ 180.00
(f)	Costs of Collections Prior to Hearing	\$ 1,268.20
(g)	Attorney Fees	\$ 1,470.00
	<b>TOTAL DEBT</b> secured by Note and Mortgage, including interest to date shown	\$390,886.20

Interest for the period from the date shown in (b) above, through the date of this Judgment at the 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 an adjustable rate pursuant to the terms of said Note percent per annum (pursuant to the terms of the Note and Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

14. That the Defendant, SCBT, N.A., a/k/a South Carolina Bank and Trust, N.A., is made a party by virtue of a

Mortgage given by Duce Staley to South Carolina Bank and Trust, N.A., dated May 26, 2005 and recorded June 1, 2005, in Mortgage Book R 1059 at Page 698, in the amount of \$300,000.00.

15. That the Defendant, South Carolina Department of Revenue, is made a party by virtue of a State Tax Lien obtained against Felicia Woods, dated September 20, 2010 and recorded October 15, 2010, in Book R 1638 at Page 2939, in the amount of \$13,448.66.

16. That the Defendant, Palmetto Health, f/k/a Palmetto Health Alliance d/b/a Palmetto Richland Mem Hosp., is made a party by virtue of a Judgment obtained by Palmetto Health Alliance d/b/a Palmetto Richland Mem Hosp. against Felicia B. Woods, dated November 21, 2001 and recorded December 14, 2001, in the amount of \$585.00 and identified as Judgment Roll # 239893.

17. That the Defendant, Manheim Automotive Financial Services, Inc., is made a party by virtue of a Default Judgment obtained against Felicia B. Woods, et al, dated September 18, 2001 and recorded August 15, 2003, in the amount of \$70,223.04 and identified as Judgment Roll # 249875 and also identified as Judgment Case # 2001-CP-40-3888B.

18. That the Defendant, Spring Valley Homeowners' Association, is made a party by virtue of any homeowners liens or assessments recorded or unrecorded that are due or that may become due in the future.

19. That the Plaintiff specifically waives its rights to a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due to the Plaintiff, including costs and attorney fees.

20. Since a personal or deficiency judgment is being waived, the bidding will not remain open but compliance with the bid may be made immediately.

21. That the servicer is participating in the Home Affordable Modification Program (HMP). The HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification because borrower's financial status did not meet requirements of HMP and subject property is not the borrower's primary residence.

#### CONCLUSION OF LAW

I, therefore, conclude as follows:

1. The Plaintiff should have judgment of foreclosure of the mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. There is due to the Plaintiff on the obligation and mortgage set forth in the Complaint the sum of Three Hundred Ninety Thousand Eight Hundred Eighty-Six And 20/100 Dollars (\$390,886.20) representing the "Total Debt" due Plaintiff as set forth supra, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the rate of an adjustable rate pursuant to the terms of said Note percent per annum.

3. That the Defendants liable for the aforesaid mortgage debt 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.

4. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, be sold by the Master in Equity at public auction at the Richland County Courthouse in Columbia, South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in the such event, the sales day shall be on Tuesday next succeeding such holiday), on the following terms, that is to say:

A. FOR CASH: The Master in Equity will require a deposit of Five percent (5%) on the amount of the bid (in cash or equivalent) at the time of the sale, same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within Twenty (20) days same to be forfeited and applied to the costs and Plaintiff's debt.

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of an adjustable rate pursuant to the terms of said Note percent.

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

D. The above referenced instrument constitutes a first lien priority mortgage.

E. Purchaser to pay for Deed Stamps and costs of recording the Deed.

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

6. Personal nor 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.

7. Since a personal or deficiency judgment is being waived, the bidding will not remain open but compliance with the bid may be made immediately.

8. That the Master in Equity will, by advertisement according to law, give notice of the time, and place of 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 that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within Twenty (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.

9. That the Master in Equity will apply the proceeds of the sale as follows:

FIRST: To 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, so much thereof as the purchase money will pay on the same.

NEXT: Any surplus will be held pending further order of the court.

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

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

12. And it is further ORDERED, ADJUDGED AND DECREED that any prior lien that has been paid in full is hereby satisfied and cancelled of record.

13. IT IS FURTHER ORDERED that the Deed of conveyance made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder of the mortgaged property at the time of filing of the Notice of Pendency of the within action, and the name of the Grantee, and the Register of Deeds is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.

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

15. Upon issuance of a Master in Equity Report on Sale and Disbursements, the Register of Deeds is directed to release of record the mortgage lien being foreclosed, which mortgage lien is described as follows:

That Mortgage originally given to Mortgage Electronic Registration Systems, Inc., as nominee for Countrywide Bank, a Division of Treasury Bank, N.A., its successors and assigns by Duce Staley, dated 12/10/2004 and recorded 12/16/2004, in Mortgage Book 01006 at page 3109.

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

LEGAL DESCRIPTION AND PROPERTY ADDRESS:

ALL THAT CERTAIN piece, parcel or lot of land, situate, lying and being on the North side of Sunturf Circle, in the subdivision known as Spring Valley, and being shown and designated as Lot 5 and a portion

of Lot 6, Block N on plat prepared for Edward B. Burgess and Stephanie E. Burgess by Baxter Land Surveying Co., Inc., dated September 26, 1991 and recorded October 2, 1991, in the Office of the ROD for Richland County in Plat Book 53 at Page 6742; said property being further shown on plat prepared for William H. Black and Charlotte M. Black by Cox and Dinkins, Inc., dated December 5, 1991 and recorded December 13, 1991, in the Richland County ROD Office in Plat Book 53 at Page 7722, which plat is incorporated herein by reference for a more accurate description of metes and bounds. Said property being further shown on a plat prepared for Duce Staley by Cox and Dinkins, Inc., dated June 4, 2003 and recorded in Plat Book R806 at Page 3345. All measurements a little more or less.

THIS BEING the same property conveyed unto Duce Staley by virtue of a Deed from Cauthen Properties, LLC and Natrone Means, dated June 11, 2003 and recorded June 13, 2003, in Deed Book R 806 at Page 3326, in the Office of the Register of Deeds for Richland County, South Carolina.

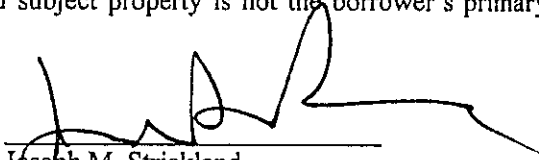
THEREAFTER, said Duce Staley conveyed subject property unto Felicia Woods by virtue of a Deed dated May 3, 2010 and recorded May 10, 2010, in Deed Book R 1604 at Page 3056, in the Office of the Register of Deeds for Richland County, South Carolina.

25 Sunturf Circle, Columbia, SC 29223

TMS 20011-03-05

17. IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-described property, then the sale of the property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales day.

18. IT IS FURTHER ORDERED that the servicer is participating in the Home Affordable Modification Program (HMP). The HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification because borrower's financial status did not meet requirements of HMP and subject property is not the borrower's primary residence.

  
\_\_\_\_\_  
Joseph M. Strickland  
Master in Equity  
For Richland County

Columbia, South Carolina  
Sept. 20, 2012.

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF RICHLAND ) CASE #: 2011-CP-40-8074  
 )  
 Bank of America, )  
 )  
 Plaintiff, )  
 v. ) **STATUS CONFERENCE**  
 )  
 Duce Staley, et al., )  
 )  
 Defendants. )

**Friday, June 21, 2013  
 3:01 p.m. to 3:22 p.m.**

The status conference before the Honorable Joseph M. Strickland, Master in Equity for Richland County, was held in Courtroom 2D of the Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 21st day of June, 2013, before Robin K. Reibold, Court Reporter and Notary Public in and for the State of South Carolina.

**APPEARANCES:**

**John B. Kelchner, Esquire**  
 Korn Law Firm, PA  
 1300 Pickens Street  
 Columbia, South Carolina 29201  
 Attorney for the Plaintiff

**S.R. Anderson, Esquire**  
 Law Office of Steven R. Anderson  
 2008 Marion Street, #J  
 Columbia, South Carolina 29201  
 Attorney for the Third-Party Bidder

**Susan Golston, Bookkeeper**  
 Office of Master in Equity

**Official Court Reporter**  
 Master in Equity, Richland County  
 1701 Main Street - Post Office Box 192 (29202)  
 Columbia, South Carolina 29201

1 THE COURT: This is Civil Action Number 2011-CP-40-8074.  
2 This property was sold at a judicial sale on what  
3 day?  
4 MS. GOLSTON: April 1st.  
5 THE COURT: What? April 1st, okay. This is Bank of  
6 America against Duce Staley and others. All right.  
7 I had to consult with my staff. I thought this was  
8 over, that it was purchased at a judicial sale and  
9 that the bid was complied with; is that accurate,  
10 Ms. Golston?  
11 MS. GOLSTON: No, it's not.  
12 THE COURT: All right, what happened?  
13 MS. GOLSTON: Well, Mr. Zimmerman I believe ran into  
14 difficulties with the loan, and he asked for it to  
15 be reduced by \$10,800; is that correct?  
16 MR. ZIMMERMAN: Yes, ma'am.  
17 MS. GOLSTON: Okay.  
18 THE COURT: Who'd he ask though?  
19 MR. ANDERSON: And the bank agreed to that.  
20 THE COURT: Okay. Post-judgment they agreed to that?  
21 MR. ANDERSON: Post-judgment. It was ...  
22 THE COURT: Post-sale they agreed to that?  
23 MR. KELCHNER: Yes. Your Honor, from my understanding, we  
24 were informed by Mr. Zimmerman that he could not  
25 come up with the complete bid amount of I believe

1           \$352,000. He contacted our office and inquired as  
2           to if Bank of America would be willing to accept a  
3           lesser amount, which I guess was about \$340,100 if  
4           my math is correct. And after going back and forth  
5           with Bank of America, Bank of America indicated that  
6           it would accept that if that's what Your Honor would  
7           order as being the appropriate bid amount,  
8           successful bid, it would accept those funds rather  
9           than the 352. And I understand ... so that's where  
10          we are at this point.

11 **THE COURT:** And the reason I convened this status  
12          conference, we got a lot of calls. And also they  
13          know, the attorneys know, my reflex if I'm asked to  
14          do something or if something is brought to my  
15          attention that I've never seen before or never done  
16          before, I always at the very least get the lawyers  
17          and the parties together and see what's up. Now,  
18          also the ... now, Duce Staley is listed as the  
19          mortgagor, but does anybody live in the property  
20          now?

21 **MR. ANDERSON:** Yes, it's occupied.

22 **THE COURT:** Now, who lives there, Mr. Anderson?

23 **MR. ANDERSON:** It's occupied by a man named Lester Woods.

24 **THE COURT:** Okay. And how did he come to occupy it, is he  
25          a tenant or is he ...

1 **MR. ANDERSON:** He's just a tenant.

2 **THE COURT:** He wasn't a previous ... does he know anything  
3 about this proceeding today?

4 **MR. ANDERSON:** He knows about the proceeding, yes sir.

5 **THE COURT:** And he chose not to come I guess. My  
6 reaction, I talked to Ms. Golston and my staff about  
7 this, is simply setting aside the judicial sale, and  
8 if y'all want to sell it to him in a private sale  
9 that's ... the problem is that Duce Staley is the  
10 owner and not Bank of America.

11 **MR. KELCHNER:** I believe, Your Honor, that Duce Staley had  
12 sold the property post ... after the mortgage was  
13 filed, to I believe Felicia, but I want to double-  
14 check the pleadings here. But I believe he sold it  
15 to, sold the property to Felicia Woods in May of  
16 2010.

17 **THE COURT:** Yeah.

18 **MR. KELCHNER:** And that's why Felicia Woods was named as  
19 the owner. So she in fact, prior to the sale, just  
20 to get all the facts out, she was the owner of the  
21 property. So if the sale were to be vacated, she  
22 would become the owner again and Bank of America  
23 would have to schedule another foreclosure sale.

24 **THE COURT:** Yeah, that's fine. Because I'm wondering, and  
25 again, this is something I've never heard of before,

1           quite frankly.     So what standing does Bank of  
2           America have to accept less money than a bid,  
3           because if they're not the owner ...

4 **MR. KELCHNER:**   Well, I can understand that, Your Honor.  
5           We were just ... there was a question that I believe  
6           was asked to see, if this was something that Your  
7           Honor would agree to, would we agree to it.   And  
8           obviously at this point though we don't have the  
9           standing with respect to ownership as you would in a  
10          normal two-party transaction, we're not in that  
11          position.  It is a bit unusual.  Frankly, I haven't  
12          seen a situation like this either.

13 **THE COURT:**     Yeah.     Bank of America doesn't own the  
14          property at this time.

15 **MR. ANDERSON:**   Well, I think Bank of America ...

16 **THE COURT:**     Your client does, actually.   If he was the  
17          successful bidder he has equitable ownership of the  
18          property, am I correct?

19 **MR. ANDERSON:**   Mr. Zimmerman is my client.

20 **THE COURT:**     Right.

21 **MR. ANDERSON:**   And he bid the property in.

22 **THE COURT:**     That's right.

23 **MR. ANDERSON:**   Until he complies with the bid, the property  
24          isn't his obviously.

25 **THE COURT:**     That's right.

1 **MR. ANDERSON:** And so what we're asking, and I think Bank  
2 of America's got the authority to say, okay, instead  
3 of the ... I'm picking figures, instead of 353 we  
4 will take 340-something.

5 **THE COURT:** They will take it, yeah. But again, they're  
6 not, they're not ... how would ... are they going to  
7 convey title to him? How can they convey title to  
8 Mr. Zimmerman if they're not the owners at this  
9 time?

10 **MR. ANDERSON:** Well, what's going to happen is that if  
11 they agree to take that lesser sum, Mr. Zimmerman  
12 will pay that lesser sum to you; you will then issue  
13 a deed to Bank of America, and Bank of America will  
14 then issue the deed to Mr. Zimmerman.

15 **MR. KELCHNER:** That's wasn't my understanding. My  
16 understanding would be that 343 would be tendered to  
17 Your Honor. Your Honor would issue a Master's Deed  
18 of Foreclosure to ...

19 **MR. ANDERSON:** Mr. Zimmerman.

20 **MR. KELCHNER:** Mr. Zimmerman directly. There would be no  
21 conveyance of title to Bank of America. It would be  
22 just like a normal ... it will be as if the original  
23 bid amount was the 340. That is my understanding is  
24 it seems to be an attempt to change the bid amount  
25 post-bidding.

1 **THE COURT:** Right. We have had something similar happen,  
2 where a large law firm wanted us to ignore the  
3 judicial sale and change their bid after the sale.  
4 In that case the mortgagee was the successful  
5 bidder, and they contacted us and asked us to change  
6 the bid after the sale and then denied it happened,  
7 even at a status conference they denied they ever  
8 asked to do anything.

9 **MR. ANDERSON:** Did the borrower request deficiency, Judge?

10 **MR. KELCHNER:** No, we did not.

11 **MR. ANDERSON:** And see, our ... that's why I don't think  
12 ... it's no harm, no foul, Judge. Because the  
13 present owner of the property isn't going to be  
14 affected by this one way or the other.

15 **THE COURT:** Well, I don't know ... I'd like to hear them  
16 say that. They're not here, and you said you let  
17 the them know that the ... you let the tenant know  
18 that we were having this proceeding.

19 **MR. ANDERSON:** Yes, sir.

20 **THE COURT:** My inclination is just to set aside the sale  
21 and then do it all over again. And, Mr. Zimmerman,  
22 do you have to have this property or are you just  
23 looking for a place to stay?

24 **MR. ANDERSON:** Mr. Zimmerman can comply with the full  
25 amount of the bid, Judge. And I talked with counsel

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...

**THE COURT:** He can?

**MR. ANDERSON:** Yes, he can today. He was able to come up with the money, but the problem is if he complies with the full amount of the bid then it may be difficult for Bank of America to give him back this \$10,800.

**MR. KELCHNER:** And Bank of America has not agreed to any such arrangement whereby it would accept anything more than the ... they have not agreed to any sort of arrangement whereby they would accept 352 and then issue any funds back in the amount of 10,000 back. There's nothing that I have indicating they would ...

**THE COURT:** But if Mr. Zimmerman's ready to comply with his original bid, we can all go home. I mean, comply ... you're talking about the full amount at this stage, right, since the sale was in April?

**MR. ANDERSON:** Right. But he is then risking not getting back from Bank of America this \$10,800.

**THE COURT:** But he's not entitled to get it back. He bid what he bid. And he was the winning bidder.

**MR. ANDERSON:** But Bank of America has agreed to accept and reduce his bid by \$10,800.

**THE COURT:** They had no standing to do that. They didn't

1 tell me anything.

2 **MR. KELCHNER:** Your Honor, I'd like to clarify. They only  
3 accepted that the bid amount be reduced to 342.  
4 They did not agree to any sort of contractual  
5 arrangement that they would accept the original bid  
6 amount and then return anything else.

7 **THE COURT:** How could y'all do that without the Court even  
8 knowing about it? The bank is not the owner and is  
9 not really, I mean, is a party in the judicial sale.  
10 And y'all have cut a deal without me knowing about  
11 it, and now you're saying that's the hold up, and  
12 Mr. Zimmerman can comply with his bid and we can all  
13 go home. And you're saying he can comply with his  
14 bid but he should get \$10,000 back because Bank of  
15 America said he could. And they have no standing,  
16 in my opinion, to do ... to make that kind of  
17 agreement.

18 **MR. KELCHNER:** Your Honor, and I'm sorry that ... to my  
19 knowledge, the ... what Bank of America agreed to  
20 was not in any way to go behind or do an end-run  
21 behind the Court by any means. I think it was an  
22 effort by the, it seems to be an effort by a third-  
23 party bidder realizing that he didn't ... wasn't  
24 able to comply with the initial bid. And in an  
25 effort to do what he could would ask basically would

1           you have a problem, Bank of America, if it wasn't  
2           right ... I mean, obviously, we're before the Court.  
3           I mean, it's ultimately Your Honor's decision, but  
4           it's basically just asking if that's the case. But  
5           we certainly did not enter into any kind of  
6           contractual arrangement whereby we accepted the  
7           higher bid and then returned \$10,000.

8   **THE COURT:** Now, what triggered my asking for this status  
9           conference on short notice, and I appreciate  
10          everyone being here on short notice, was the notion  
11          that, according to Ms. Golston in my office, Mr.  
12          Zimmerman was concerned because the five percent  
13          that he's already tendered, Bank of America wanted  
14          to take that. And then I don't understand how we  
15          can set aside a sale but Bank of America keeps the  
16          five percent. As a sanction, that's normally what  
17          we do. And then not give ... I don't know, maybe  
18          I'm a little confused. But that's what triggered  
19          the status conference, Bank of America apparently  
20          still expects the benefits of the Court order but  
21          they want to cut a deal where Mr. Zimmerman pays  
22          less than he bid.

23   **MR. KELCHNER:** Well, Your Honor, I think as far as the  
24          five percent issue goes, if Your Honor was to vacate  
25          the sale, I don't ... my position is that I don't

1           have the authority from Bank of America to not  
2           request the five percent, but I certainly, if I'm  
3           understanding your position, Your Honor, all the  
4           totality of the circumstances, I would certainly  
5           recommend to them that in this particular instance  
6           waive its right to that five. I can't ... I just  
7           don't have the authority to present that to the  
8           Court.

9   **THE COURT:** Okay. Mr. Anderson?

10 **MR. ANDERSON:** One last thing, Judge. I think that Bank  
11           of America does have standing to agree to reduce the  
12           bid. It is the entity that ultimately is going to  
13           receive the money. They're not requesting a  
14           deficiency judgment, so it has no impact upon the  
15           owner of the property because there is no deficiency  
16           and reducing it is not going to elevate a deficiency  
17           because one is indeed requested.

18 **THE COURT:** What about other potential bidders?

19 **MR. ANDERSON:** There were no other potential bidders other  
20           than Mr. Zimmerman.

21 **THE COURT:** No, no. There are no other actual bidders,  
22           but what about potential bidders?

23 **MR. ANDERSON:** Are you talking about at the first sale?

24 **THE COURT:** At the judicial sale, yes, in April. What ...  
25           I mean, I'm just ... I'm playing devil's advocate,

1 but I'm saying if there are people in there who  
2 knew, and we know there are people that bid these  
3 things every single month, if they knew they could  
4 have bid less money and gotten this property, they  
5 may have very well bid. I know you're saying they  
6 didn't so it's too bad, but. My inclination is  
7 simply to set aside the sale and do it again. The  
8 owner of the property apparently, you know, if you  
9 say doesn't care and is not interested. Of course,  
10 they don't know ... of course, are they still  
11 collecting rents, the title holder of the property?

12 **MR. ANDERSON:** No. The ... Mr. Lester Woods is married to  
13 Felicia Woods.

14 **THE COURT:** Okay.

15 **MR. ANDERSON:** And so he is the owner of the property  
16 along with his wife, although it's just titled in  
17 her name. My client is prepared to comply with the  
18 terms of the bid.

19 **THE COURT:** Okay. Well, then we ... now, is he going to  
20 pay interest since the April sale? This is now  
21 June.

22 **MR. ANDERSON:** Would you waive that?

23 **MR. KELCHNER:** Well, I have a concern, Your Honor, because  
24 it would appear that it's headed down a direction of  
25 my client being sued, potentially, if it does not

1 return the sum of \$10,000 or \$11,000 should he  
2 comply with the bid. And that's not what it agreed  
3 to. Now, I am concerned about ... or agreed to.  
4 That's ... I am concerned about that, a potential  
5 suit being brought because, well, they said, you  
6 agreed to get the 340 this way but not this way. So  
7 if the bid is complied with, that's one thing. But  
8 I'm concerned that there's, you know ...

9 **THE COURT:** Who's going to sue you for what? I think Mr.  
10 Zimmerman already, if he gets the property, that's  
11 his remedy. I mean, he ...

12 **MR. KELCHNER:** Right.

13 **THE COURT:** ... he's satisfied. And, Mr. Anderson, you  
14 think he's entitled to some money from Bank of  
15 America. And I guess you're concerned about a  
16 lawsuit. Most of us lawyers, they can sue anybody  
17 for anything at any time.

18 **MR. KELCHNER:** I understand that.

19 **THE COURT:** And whether it's merited or not, has merit to  
20 it or not. So I'm ... well, obviously you're  
21 representing Bank of America so I'm not, I'm not  
22 concerned. You've I guess got a right to be  
23 concerned.

24 **MR. KELCHNER:** Well, I understand that, I mean, that's  
25 just ... they ... speaking off the top of my head.

1 **THE COURT:** Okay. What, Mr. Anderson, what amount is your  
2 client willing to comply, what's he got to pay at  
3 this time?  
4 **MR. ANDERSON:** He's got the 352 plus 30 days of interest,  
5 Judge.  
6 **THE COURT:** Okay. \$17,600 was the five percent that was  
7 put down?  
8 **MS. GOLSTON:** Yes.  
9 **MR. ANDERSON:** So he's entitled to a credit for that, yes.  
10 Against the 352.  
11 **THE COURT:** Okay. So did you bring a calculator?  
12 **MS. GOLSTON** I didn't bring a calculator.  
13 **THE COURT:** Okay. And you're prepared ... did you bring a  
14 cashier's check today with you?  
15 **MR. ZIMMERMAN:** I don't have it. It's in a Bank of  
16 America account.  
17 **THE COURT:** But you can get it by ...  
18 **MR. ZIMMERMAN:** The issue is the lender has approval, and  
19 so I was ... we were under the impression that this  
20 was going to go through a regular close, with a  
21 closing attorney.  
22 **THE COURT:** I don't understand. You mean you're borrowing  
23 money to comply with the bid?  
24 **MR. ZIMMERMAN:** The 255 ...  
25 **THE COURT:** Are you putting a mortgage on the property ...

1 **MR. ZIMMERMAN:** There's a 255 approval letter, yes.

2 **THE COURT:** Okay. So you're saying you can't pay money  
3 today or Monday; you have to go through a regular  
4 closing because you're putting a mortgage ... you're  
5 planning to borrow funds, is that what you're  
6 saying?

7 **MR. ZIMMERMAN:** Correct.

8 **MR. ANDERSON:** Here's a letter from Bernstein and Bernstein  
9 that indicates that they are prepared to close this,  
10 Judge.

11 **THE COURT:** Okay. They agreed ... it says, Mr. Zimmerman  
12 and Bank of America, as the lender, agree to adjust  
13 the debt amount. This was done, this was something  
14 that Bank of America and Mr. Zimmerman did without  
15 the Court's input, without letting us know. And  
16 I've never, I've never had this happen. Mr.  
17 Anderson, have you seen this? You have a little  
18 more experience than I have; have you seen this  
19 before, something like this?

20 **MR. ANDERSON:** I have the same concerns that you do.

21 **THE COURT:** So Mr. Zimmerman just announced that he can  
22 comply if the closing goes through. All right, Mr.  
23 Zimmerman, how much time do you need, do you know?

24 **MR. ZIMMERMAN:** I need to call my mortgage lender to find  
25 out when he can turn the package over to the closing

1 attorney.

2 **THE COURT:** Okay.

3 **MR. ZIMMERMAN:** Would you like his contact information?

4 **THE COURT:** Well, I mean, that's ... we're just waiting to  
5 hear from you. We're not involved in your  
6 relationship with your lender. It may be nice if  
7 Ms. Bernstein knew because she's seen ... the letter  
8 indicates she doesn't see anything out of the  
9 ordinary about adjusting the bid amount.

10 **MR. ZIMMERMAN:** All emails between Korn and myself have  
11 been copied to her and the lender, so they have this  
12 information.

13 **THE COURT:** Yeah. If she doesn't see anything wrong with  
14 that, thinks it's a normal occurrence, that may be  
15 an indication she's not familiar with the  
16 foreclosure process, quite frankly. Because this  
17 letter indicates that this is a routine type  
18 situation, where it says, Subsequent to the sale  
19 Bank of America, as foreclosing lender, and Mr.  
20 Zimmerman agreed to adjust the bid amount to  
21 \$341,200. I suspect she probably doesn't even know  
22 that there's an owner of the property, or was an  
23 owner, and right now you're not really prepared to  
24 comply; you're prepared to borrow the money to  
25 comply, is that the case?

1 **MR. ZIMMERMAN:** Yes.

2 **THE COURT:** Okay. I think the cleanest way to do this  
3 would be to set aside the sale. I'm willing to give  
4 Mr. Zimmerman his \$17,600 back, have it re-  
5 advertised and just have the sale again. And, Mr.  
6 Zimmerman, if you want the property you can bid  
7 again, if you still want it. And as far as paying  
8 the cost of advertisement, I'm quite frankly  
9 inclined to let Bank of America eat that as well  
10 because ...

11 **MR. ZIMMERMAN:** Thank you, Your Honor.

12 **THE COURT:** Yeah. And ... Mr. Anderson?

13 **MR. ANDERSON:** If he can say close this thing by this time  
14 next week, would you give him that much time?

15 **THE COURT:** Next Friday? For what amount?

16 **MR. ANDERSON:** For the full amount, 352. Less the 17 that  
17 Susan's holding.

18 **THE COURT:** And what about the interest? We don't know if  
19 Bank of America's willing to waive interest. They  
20 do have a right to ask for that, and if they don't  
21 waive it you have to calculate interest from April.  
22 And now, Mr. Zimmerman, you were in the sale and you  
23 know I gave a little spiel before we started. I  
24 explained the process. You understood what I said,  
25 right? That if you pay your five percent and you

1 don't comply in time, you forfeit the five percent.  
2 I'm willing ... hopefully ... I thought I was being  
3 nice and doing you a favor by saying you can get all  
4 of your money back, and the best you could hope for  
5 is the next sale. Of course, we can't make the sale  
6 until August now. The next sale we can make would  
7 be in August. You can come back and bid again.  
8 Now, they say never to fall in love with a  
9 particular house. Is this a house you have to have,  
10 or you think you're getting a bargain by buying at a  
11 foreclosure sale, or ... you seem troubled by the  
12 notion that I'd set the sale aside, giving you your  
13 money back, and then advertising it again for sale,  
14 that seems to trouble you.

15 **MR. ZIMMERMAN:** I thought that, you know, offering at full  
16 price and, you know, would satisfy the argument, so  
17 to speak. But ... because I ...

18 **THE COURT:** I had the impression when Mr. Anderson argued  
19 that you were in a position to comply with the bid  
20 today, I had the impression that you had a cashier's  
21 check with you. And you tell me no, you're getting  
22 a mortgage and the Bernstein firm is doing the  
23 closing for you.

24 **MR. ZIMMERMAN:** Well, the 255 mortgage, the mortgage  
25 lender has to address that issue, but I've got the

1           difference in the Bank of America account, ready to  
2           close the deal.

3 **THE COURT:**   So what I just said doesn't ... what do you  
4           want? I guess we should get it clear on the record.

5 **MR. ZIMMERMAN:** I want the house.

6 **THE COURT:**   Okay.

7 **MR. ANDERSON:** And we want until Friday, Judge, this time  
8           Friday.

9 **MR. ZIMMERMAN:** Next Friday.

10 **THE COURT:**   Yeah, what happened back in April though? You  
11           bid on the property back in April. You were the  
12           winning bidder and you paid the five percent. What  
13           happened that you couldn't comply with the bid in  
14           full in a timely fashion, the 20 days? You knew  
15           that because I announced it before the sale,  
16           pursuant to a Court order.

17 **MR. ZIMMERMAN:**   Well, when we looked at the bidding  
18           instructions we were, you know, we knew that we  
19           could, we could come up with the 295, which is what  
20           the bidding instruction came to. We didn't realize  
21           ...

22 **THE COURT:**   The bidding instructions from whom, to whom?

23 **MR. ZIMMERMAN:**   Well, the bidding instructions on the  
24           sale.

25 **THE COURT:**   Wait a minute, maybe we're talking lawyer-

1 speak. The bidding instruction, as I understand, is  
2 what Bank of America told the Korn firm that they  
3 should bid. And I think the sale was handled by  
4 Lisa Smith. Is that one that she handled from ERV?

5 **MS. GOLSTON:** Yes.

6 **THE COURT:** Yeah. See, they have to tell her what to bid.  
7 And you started talking about bidding instructions,  
8 and I said from whom to whom. And you seem kind of  
9 confused by that. Who are you talking about that  
10 had bidding instructions and who gave them the  
11 instructions and what did they tell them to bid?

12 **MR. ZIMMERMAN:** I mean, the numbers we ... that was told  
13 to me was, okay, you need to bid 295.

14 **THE COURT:** Who told you that?

15 **MR. ZIMMERMAN:** We talked with someone who was assisting  
16 us with the purchase.

17 **THE COURT:** Who?

18 **MR. ZIMMERMAN:** I don't remember his name, Your Honor.

19 **THE COURT:** Okay.

20 **MR. ZIMMERMAN:** But I ... the question is, well, what if  
21 you go over the 2? I said, well, I'm expecting  
22 gifts. And that's the problem. We had ... I think  
23 we came up to 343, and then we couldn't come up with  
24 anymore.

25 **THE COURT:** Let me take off my nice-guy hat. Mr.

1           Zimmerman, do you realize that you're in contempt of  
2           court because you didn't comply with the Court's  
3           order back in April?

4 **MR. ZIMMERMAN:** Yes.

5 **THE COURT:** All right. And I'm basically looking the  
6           other way on that and saying set the sale aside,  
7           give you your \$17,000-plus back, and have it resold  
8           in August. Now, you seem to have a problem with  
9           that.

10 **MR. ZIMMERMAN:** Well, I guess it's ... if I understood  
11           you, I understood you to ask me what do I want, and  
12           I basically told you that I would like to have the  
13           property.

14 **THE COURT:** Right. Right.

15 **MR. ZIMMERMAN:** You know, I'm almost certain that if you  
16           say, okay, we will continue on with the Master-in-  
17           Equity, my lender could possibly have everything  
18           ready by close of next Friday.

19 **THE COURT:** Okay. Now, I want you to understand that  
20           giving you the money back, that's inconsistent with  
21           the Court order.

22 **MR. ZIMMERMAN:** I understand.

23 **THE COURT:** And that's inconsistent with what I announced  
24           back in April, and you knew that when you bid, that  
25           you can't renege, and I use that in my announcement,

1 I say you can't renege. And typically now ... now,  
2 Mr. Kelchner's client will probably yell at him  
3 because that, normally that \$17,000-plus, it would  
4 be forfeited back and applied as a credit against  
5 the debt. And that would be their money. I mean,  
6 that's Bank of America's money. But you want the  
7 house but you can't comply today, you couldn't  
8 comply last month, couldn't comply the month before.  
9 And you say if I gave you more time you could comply  
10 because you're trying to borrow the money. And your  
11 closing attorney, who is a former president of the  
12 county bar, indicates that subsequent to the sale,  
13 she says, Bank of America as the foreclosing lender  
14 and Mr. Zimmerman agree to adjust the bid amount. I  
15 mean, you ... and they didn't talk to the Court and  
16 say to the Court please adjust this. Y'all decided  
17 amongst yourselves and amongst your closing attorney  
18 to do something quite frankly I'm not sure is legal,  
19 you know, in my opinion. Because we've had a firm  
20 try this once before. In that case the mortgagee  
21 was the successful bidder and they had bid the wrong  
22 amount because they'd forgotten that a deficiency  
23 judgment was demanded. And they literally asked  
24 that we change the public record to adjust the  
25 amount of the bid. And, you know, that type of

1 thing. And I don't believe that's a good idea. And  
2 again, Mr. Zimmerman, I thought I was being nice by  
3 giving you your money back, and that's really,  
4 that's really a sanction against Bank of America  
5 because that's ... normally they would be entitled  
6 to that money. And normally that's what happens to  
7 somebody who doesn't comply with their bid, the  
8 money's forfeited, the five percent is forfeited and  
9 re-advertised and sold again, so. So I'm sorry if  
10 you think I'm being unfair or harsh but, again, to  
11 be blunt, you're in contempt of court. And you're  
12 asking to be ... your response is to ask for more  
13 time, and I'm not inclined to do it. Now, Mr.  
14 Anderson on your behalf has said that you can comply  
15 by Friday, and we can't even get an amount because  
16 Bank of America ... you're not ... don't have any  
17 authority to waive the interest you're entitled to,  
18 do you?

19 **MR. KELCHNER:** No, Your Honor.

20 **THE COURT:** No. You do or you don't?

21 **MR. KELCHNER:** I do not, Your Honor.

22 **THE COURT:** Yeah, yeah. So we don't even know what it  
23 will take to comply. Mr. Zimmerman says he can  
24 comply with the amount he bid back in April, you  
25 know, and that's something y'all may want to work

1 together on. But to ask us to reduce the bid amount  
2 after the sale, without the Court even knowing about  
3 it, apparently the closing attorney thinks that's  
4 okay. I don't think that's okay. And, you know, so  
5 I'm inclined and ... Mr. Kelchner, if you'll write a  
6 brief non-argumentative order setting the sale aside  
7 and re-advertising the property for the August sale.  
8 Deficiency has been ...

9 **MR. KELCHNER:** It's waived.

10 **THE COURT:** Okay. And that can't be changed obviously, so  
11 the property will be advertised for sale on August  
12 5th. Bank of America will pay the cost of re-  
13 advertising, and we'll just give Mr. Zimmerman his  
14 money back. And if he wants to bid again in August,  
15 he can. And we'll take it from there.

16 **MR. ANDERSON:** Okay, Judge.

17 **THE COURT:** All right, thank you sir.

18 **MR. KELCHNER:** Thank you, Your Honor. I apologize, Your  
19 Honor.

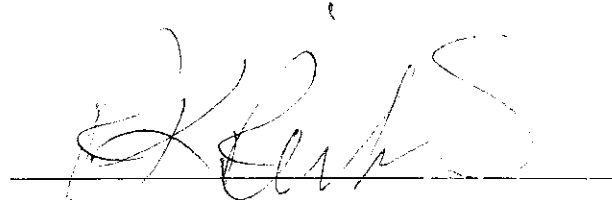
20 **THE COURT:** Oh, no trouble. No trouble.

21 (There being nothing further, the hearing was concluded at  
22 3:26 p.m.)

**CERTIFICATE**

I certify that the foregoing transcript, consisting of 24 pages, is a true, accurate and complete transcript of the status conference held in my presence, Robin K. Reibold, the undersigned Court Reporter, and before The Honorable Joseph M. Strickland, Master in Equity for Richland County, on June 21, 2013, in the within-captioned case.

Said status conference was reported using the method of Stenomask with backup and was transcribed by me.



January 30, 2014

ROBIN K. REIBOLD  
MY COMMISSION EXPIRES: 4-28-2021

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND ) IN THE COURT OF COMMON PLEAS  
 )  
 ) C/A No.: 2011-CP-40-8074

Bank of America, N.A., )  
 )  
 Plaintiff, )

vs. )

Duce Staley; Felicia Woods a/k/a )  
 Felicia B. Woods; SCBT, N.A.; South )  
 Carolina Department of Revenue; )  
 Palmetto Health; Manheim Automotive )  
 Financial Services, Inc.; and Spring )  
 Valley Homeowners' Association, )  
 )  
 Defendants, )

**ORDER VACATING SALE PURSUANT  
 TO RULE 11 S.C.R.C.P.**

2013 JUL 30 PM 4:00  
 CLERK OF COURT  
 C.C.P. & C.S.


On September 21, 2012, I issued a Master-In-Equity's Report and Judgment of Foreclosure and Sale. The property subject to the Plaintiff's mortgage was sold at public sale on April 1, 2013. Willie Zimmerman deposited 5% of his bid with the Court in the amount of \$17,600.00. More than twenty (20) days have passed since the sale and Mr. Zimmerman failed to comply with his bid required by the Court's Order.

The Plaintiff negotiated with Mr. Zimmerman without notifying the Court or the mortgagor. The Plaintiff agreed to change the public record and accept a lower bid, even though it has no authority to change the public record. Mr. Zimmerman contacted the Court to complain about the Plaintiff's demand that his 5% deposit paid to the Court be forfeited.

The foreclosure sale of the subject property is void and is of no force and effect and the sale is set aside. Further, the deposit of Willie Zimmerman will not be forfeited to the

Plaintiff and be returned to Mr. Zimmerman. The Plaintiff may proceed with the foreclosure sale at the next available sales date.

**AND IT IS SO ORDERED.**



---

Joseph M. Strickland  
Richland County Master-In-Equity

July 30, 2013  
Columbia, South Carolina

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF RICHLAND ) CASE #: 2011-CP-40-8074

Bank of America, )  
 )  
Plaintiff, )  
v. )  
 )  
Duce Staley, et al., )  
 )  
Defendants. )

**HEARING**

\*\*\*\*\*

Thursday, November 21, 2013

The hearing before the Honorable Joseph M. Strickland, Master in Equity for Richland County, was taken in Courtroom 2D of the Richland County Judicial Center, 1701 Main Street, Columbia, South Carolina, on the 21st day of November, 2013, before Robin K. Reibold, Court Reporter and Notary Public in and for the State of South Carolina.

**Official Court Reporter**  
*Master in Equity, Richland County*  
1701 Main Street – Post Office Box 192 (29202)  
Columbia, South Carolina 29201

APPEARANCES

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Attorney for the Plaintiff

**S.R. Anderson, Esquire**

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**Beth E. Bernstein, Esquire**

Bernstein & Bernstein, LLC  
1019 Assembly Street  
Columbia, South Carolina 29201  
Attorney for the Third-Party Bidder

**Susan Golston, Bookkeeper**

Office of Master in Equity

1 **THE COURT:** This is Civil Action Number 2011-CP-40-8074,  
2 Bank of America versus Duce Staley. This was a  
3 foreclosure, and we've had a judicial sale a couple  
4 of times. Mr. Zimmerman was the successful bidder  
5 at both sales. And, quite frankly, Ms. Golston was  
6 telling me what was going on, and I believe, Mr.  
7 Anderson, Mr. Zimmerman hasn't complied yet but he's  
8 getting ready to close on ... you know, to get the  
9 money and comply; is that accurate, Ms. Bernstein,  
10 are y'all getting ready to ...

11 **MS. BERNSTEIN:** Yeah, we're hoping to. You know,  
12 sometimes with the lender, you never know because we  
13 have something scheduled and then they have to go  
14 back through underwriting. But we anticipate  
15 closing soon.

16 **THE COURT:** All right. Does the plaintiff have a problem  
17 with that, giving him more time to close?

18 **MR. KELCHNER:** I would. I mean, it's been, as you recall,  
19 this has been delayed once. Or, he didn't comply  
20 the first time. And that was back in July. Now  
21 we're going through the same process. The sale was  
22 September 3rd. And ...

23 **THE COURT:** Now, the first time or the second time?

24 **MR. KELCHNER:** The second time. Excuse me. And, you  
25 know, they had ... on October 17th I believe they

1 requested additional time, to November 4th. It  
2 didn't go through then. Now it's November 21st.  
3 Our concern is that this is the second time this has  
4 happened and that ... I don't know how much longer  
5 Bank of America can wait. And it doesn't seem to me  
6 that there's really enough indication that any  
7 closing is going to go through considering the  
8 promises that they've made to this point.

9 **THE COURT:** And also I'll just point out for clarity of  
10 the record, I did something last time that normally  
11 wouldn't happen. We gave Mr. Zimmerman his money  
12 back. Now, typically when you don't comply the five  
13 percent you put down is forfeited and it's applied  
14 to the debt, it's credited against the debt. So  
15 that ... I'm sure your clients are concerned about  
16 that as well.

17 **MR. KELCHNER:** Yes. Yes, Your Honor, they ... we are.  
18 I'm going to request, in addition to having the sale  
19 vacated and the bid forfeited, that Mr. Zimmerman be  
20 barred from bidding at any subsequent sale or  
21 anybody bidding on his behalf at any subsequent  
22 sale.

23 **THE COURT:** Now, if we were to re-advertise it for sale,  
24 the next sale would probably be January. I'm pretty  
25 sure ... well, the next sale's December 2nd. But

1           today's the 21st of November, and I don't think  
2           there's any way to advertise it in time. So the  
3           next available sales date is January. Is your  
4           client demanding a deficiency judgment?

5 **MR. KELCHNER:** Nom, it's been waived.

6 **THE COURT:** It's been waived. Okay, Mr. Anderson, you  
7           wanted to address that?

8 **MR. ANDERSON:** If Your Honor please, I don't know when the  
9           ad would be run in order to make the January sale.  
10          It will probably be run the 20th, the 27th, and ...

11 **THE COURT:** The 3rd.

12 **MR. ANDERSON:** ... and the 3rd. And I would just ask that  
13          you give to Mr. Zimmerman until that first ad is to  
14          be run in order to close this. That's not going to  
15          hurt the bank any because the bank is going to have  
16          to wait that long anyway, and we'd just ask that he  
17          be granted the date until the first ad is run.

18 **THE COURT:** Any problem with that ...

19 **MR. ANDERSON:** They usually publish on that Thursday, so  
20          that looks like that would be the 19th ...

21 **THE COURT:** 20th of December?

22 **MR. ANDERSON:** Yes, sir.

23 **THE COURT:** Right during the holidays. Or close to the  
24          holidays, I guess. Does your client have any  
25          problem with that?

1 **MR. KELCHNER:** Again, I don't have any authority to  
2 consent to anything, Your Honor, except for ... I  
3 would ask not up to the date, if Your Honor was  
4 inclined to do something like that. I would like at  
5 least a week before the first publishing date so we  
6 can get our ducks in a row and everything, make sure  
7 the order's been signed and clocked, and that we can  
8 appropriately communicate with the newspaper. And I  
9 think doing it ... I don't want to push right up to  
10 the first publishing date.

11 **THE COURT:** All right. All right, Ms. Bernstein?

12 **MS. BERNSTEIN:** Well, I just wanted to, you know, point  
13 out, and I think that everyone here probably is  
14 aware, but it ... closings these days, with  
15 underwriting, is just protracted. It takes much  
16 longer than in years past. Mr. Zimmerman has  
17 applied for the loan, it's in underwriting. We have  
18 constant communication with the lender, so it's  
19 really out of Mr. Zimmerman's hands. And I would  
20 request from the Court that you give some indulgence  
21 to him because unfortunately he is going to be  
22 penalized by not being able to close this in a  
23 timely manner. But if you could give us as much  
24 time as you, without prejudicing the plaintiff, we  
25 would ask for that indulgence ...

1 THE COURT: Okay.

2 MS. BERNSTEIN: ... to help Mr. Zimmerman out.

3 MR. ANDERSON: Fristella takes care of publishing, and I  
4 think that if we have a self-executing order in  
5 effect, to the extent then that the first Thursday  
6 when it's to be published, it is to be published  
7 unless it's otherwise closed.

8 THE COURT: All right. Do you want to give ... you want  
9 more time than that though, right?

10 MR. KELCHNER: Well, I don't want to do it the day of.

11 THE COURT: Okay.

12 MR. KELCHNER: I mean, I would like at least a week  
13 beforehand.

14 THE COURT: All right. And let me throw another wrench.  
15 I'm going to be out of town, well, not out of town,  
16 I'm going to be out of the office starting the week  
17 of December 16, and won't be back until January 2nd,  
18 even though I will be ... my staff can get ahold of  
19 me obviously. And I'll be ... I'm planning to be in  
20 town.

21 MS. BERNSTEIN: Where you going?

22 THE COURT: Nowhere, nowhere.

23 MS. BERNSTEIN: Oh, just taking ...

24 THE COURT: Yeah, just taking ... well, you know what they  
25 do with annual leave days, you either use them or

1           lose them. But I try to accommodate everybody. You  
2           don't mind taking a late compliance as long as he  
3           does it in a reasonable time, is that ...

4 **MR. KELCHNER:** Right, I always ... if this is, you know,  
5           the kind of indulgence you're inclined to give, I  
6           would also request that in any order that there be a  
7           ... if the bid is forfeited, that Mr. Zimmerman or  
8           anyone on his behalf is forever barred from bidding  
9           at a subsequent sale.

10 **THE COURT:** Forever or only the next sale?

11 **MR. KELCHNER:** As long as this case is open ... well, as  
12           long ... for one ... I would give at least for one  
13           year, just to ...

14 **THE COURT:** One year?

15 **MR. KELCHNER:** Yeah. Just because this is, you know, the  
16           second time this has happened and there's ... I  
17           understand that closings take longer these days, but  
18           it's been pretty ... I think it's enough ...  
19           enough's enough as far as my client's concerned.

20 **MR. ANDERSON:** I figured there was going to be a bar, just  
21           that he was barred from this property.

22 **MR. KELCHNER:** Right. Well, that's his ... no, it's this  
23           property, that's ...

24 **THE COURT:** Yeah. Well, we normally ... I've never banned  
25           anybody forever, and I've never banned anybody for a

1 year. I usually bar them from bidding at the next  
2 sale, and not just, not just, Mr. Zimmerman, not  
3 just you, it would be your attorneys or anybody  
4 working for you, a real estate agent or relative or  
5 something like that. It'd be, you know, assigned  
6 heirs and the whole language we put in. And I think  
7 that's fair enough. And your client would keep his  
8 money, \$17,000 ... was it 75?

9 **MR. KELCHNER:** \$18,365.

10 **THE COURT:** Eighteen ... yeah, that'd be forfeited and  
11 then credited against the debt. Yes, ma'am?

12 **MS. BERNSTEIN:** Your Honor, maybe I need to get some  
13 clarification. The first sale did not go through  
14 because I thought that the two parties agreed to a  
15 lesser amount, which this Court refused to honor.  
16 And that's why the sale did not go through, not  
17 because Mr. Zimmerman was unable to close.

18 **MR. KELCHNER:** Well, I believe that had something to do  
19 with it obviously. I mean, he didn't close ... he  
20 was unable to close so, I mean, that's one reason we  
21 got to this point.

22 **THE COURT:** Well, and the reason the Court had a problem  
23 with it is because ...

24 **MS. BERNSTEIN:** Because you didn't know.

25 **THE COURT:** I'm sorry?

1 **MS. BERNSTEIN:** That they did it without Court approval.  
2 **THE COURT:** Well, exactly. I mean, we had the judicial  
3 sale, a public sale. The other bidders, you know,  
4 or other potential bidders, you know, that was part  
5 of my concern. And I think we found out about the  
6 deal that Bank of America was trying to cut because  
7 Mr. Zimmerman contacted our office and said, hey,  
8 you know, they wanted ... I think they wanted him to  
9 pay the five percent on the full bid but they were  
10 going to give him a discount on the compliance.  
11 Does that sound accurate? Mr. Zimmerman, do you  
12 remember that?  
13 **MR. ZIMMERMAN:** I believe it does.  
14 **THE COURT:** That's what happened, and that's how we found  
15 out that there was ...  
16 **MR. KELCHNER:** I don't think that's right. I don't think  
17 our office was necessarily in communication or part  
18 of any ... structuring any supposed deal. I think  
19 though that if you foresee that this closing doesn't  
20 go through and he's allowed to bid again, I don't  
21 ... there's really nothing to indicate that we would  
22 not be in the same position in late January or  
23 February, when we're talking about pushing the thing  
24 back to March or April.  
25 **THE COURT:** Now, Ms. Golston, how much does he have to

1           come up with to comply with his bid?

2 **MS. GOLSTON:** I don't have the figures.

3 **THE COURT:** You don't have the figures, you haven't done  
4           it? Okay. I think though, Mr. Zimmerman, you're in  
5           the process of ... you have some funds in the file.  
6           I see a bank statement from Bank of America ...

7 **MR. ZIMMERMAN:** Yes.

8 **THE COURT:** ... indicating the money you have in your ...

9 **MR. ZIMMERMAN:** Your Honor?

10 **THE COURT:** Yes, sir?

11 **MR. ZIMMERMAN:** I'm not an attorney, I don't know all the  
12           procedures. But with regard to the first sale, I  
13           had all the funding ready to go. My lender was  
14           ready to go. We were waiting on Bank of America to  
15           get back with us. We waited for well over a month.  
16           But when the approval came back to me, via email,  
17           and I have copies of it, I sent an email to Ms.  
18           Bernstein and said, okay, Bank of America has agreed  
19           to lower the property. A day later I get an email  
20           from Korn Law Firm saying that the Master-in-Equity  
21           has got a problem with this, they're going to ...  
22           they're petitioning to vacate the sale, da, da, da,  
23           da, da. I'm like, I don't even know what this  
24           means.

25 **THE COURT:** Okay.

1 **MR. ZIMMERMAN:** And so I came here with the understanding  
2 that, okay, what do I need to do. And you asked the  
3 question, do you have the 352. Well, the 352 less  
4 the five percent. I said no, I don't, the lender  
5 has the balance. I had the other amounts in my bank  
6 accounts, ready to go.

7 **THE COURT:** Okay.

8 **MR. ZIMMERMAN:** I have a good faith letter, the  
9 appraisal's done, but we're waiting on Bank of  
10 America. So we could have closed the first time  
11 around.

12 **THE COURT:** Oh, okay. Okay.

13 **MR. ZIMMERMAN:** But ...

14 **THE COURT:** Now, how soon can you close this time?

15 **MR. ZIMMERMAN:** Well, we're waiting on the ...

16 **THE COURT:** Who is the lender?

17 **MS. BERNSTEIN:** Wells Fargo.

18 **MR. ZIMMERMAN:** We're waiting on the bank to finish their  
19 underwriting procedures.

20 **THE COURT:** Okay. I'll just tell you, generally speaking  
21 now, most people that bid in the judicial sales have  
22 their financing lined up before they make a  
23 commitment.

24 **MR. ZIMMERMAN:** I know that now.

25 **THE COURT:** And last time, I mean, the ... and I'll just

1 say this so you don't have to read between the  
2 lines. The fact that I refunded your money was a,  
3 in effect a sanction against Bank of America because  
4 typically that money's forfeited; it would go to the  
5 plaintiff, so. I didn't say it was a sanction, but  
6 in effect, the same effect, it was ... I'm sure the  
7 Korn Law Firm had to explain to them what happened  
8 to their money.

9 **THE COURT:** Yes, ma'am, Ms. Bernstein?

10 **MS. BERNSTEIN:** Well, you know, he's paying more this time  
11 around too. The second bid was higher than the  
12 initial bid.

13 **MR. KELCHNER:** Your Honor, if I may?

14 **THE COURT:** Yes, sir.

15 **MR. KELCHNER:** And I don't ... obviously the record, first  
16 time around the record is ... but I will, and please  
17 correct me if I'm wrong, but my understanding was  
18 that the intent of ... after Mr. Zimmerman was to  
19 buy the property, I think he was going to use it as  
20 a rental property, is that ... I might be wrong. I  
21 don't know, is that correct or ... was that going to  
22 be used as rental property? Because I thought there  
23 was some relationship between Mr. Zimmerman and the  
24 current occupant. I'm not sure if that's ... if I'm  
25 correct or not, if I'm recalling a different case.

1 **THE COURT:** Okay. The next sale you could make would be  
2 the January 6 sale. There's no deficiency demanded;  
3 that would give you the rest of this month and the  
4 whole month of December to deal with. Mr.  
5 Zimmerman, would you or your lawyer, would y'all be  
6 adverse to paying the cost of advertising? It's  
7 usually around \$500.

8 **MR. KELCHNER:** I can't say, I don't have the cost in front  
9 of me for what it was for this.

10 **THE COURT:** Yeah.

11 **MR. ANDERSON:** He'll pay that, Your Honor.

12 **THE COURT:** Okay. In that case, I'm willing to give him  
13 until really December ... well, December 31st is not  
14 a holiday, it's New Year's Eve though.

15 **MS. BERNSTEIN:** January 1st is a holiday.

16 **THE COURT:** January 1st is a holiday, and the 31st of  
17 course is the day before the holiday. You're going  
18 to celebrate some that day.

19 **MS. BERNSTEIN:** My office will be open so if I need to  
20 close that day, we will be open.

21 **THE COURT:** Okay.

22 **MR. KELCHNER:** I'm a little confused, Your Honor. If  
23 we're going to ... how would we be able to publish  
24 for a January sale without vacating ...

25 **THE COURT:** You're right. We have to do all that.

1 **MR. KELCHNER:** ... the first sale. So I would think we  
2 have to vacate the first sale, this September 3rd  
3 sale. Once that is done, it would cut off the  
4 ability to comply with that September 3rd sale. So  
5 I would think, at least prior to the first  
6 publishing, and again I would ask for at least, you  
7 know, five business days ...

8 **THE COURT:** What about ...

9 **MR. KELCHNER:** ... for the order to get filed and then put  
10 into effect.

11 **THE COURT:** You think you can close by December 16th,  
12 which is ... today's the 21st of November.

13 **MR. ZIMMERMAN:** That's what we're working on.

14 **THE COURT:** Okay.

15 **MR. ZIMMERMAN:** Because Wells Fargo I know is awaiting a  
16 decision here because the email saying that, you  
17 know, until you get even an extension, you know,  
18 we're going to have to put it on hold because we  
19 need ... it needs to go through underwriting.

20 **THE COURT:** All right. All right. Instead of an order  
21 vacating the sale at this time, why don't you  
22 prepare an order extending the time to comply with  
23 the bid until December 16th, 2013, with the  
24 understanding that if Mr. Zimmerman doesn't comply  
25 he will have to bear the cost of advertising and be

1           barred from bidding at any subsequent judicial sale  
2           regarding this particular piece of property.

3 **MR. KELCHNER:**    Would you want me ... December 16th, would  
4           there be a provision in there that should he not  
5           comply no further order vacating the sale is  
6           necessary or ...

7 **THE COURT:**    No.

8 **MR. KELCHNER:**    Or would I submit another Court order  
9           vacating the sale at that time?

10 **THE COURT:**    You'd submit another order at that time.

11 **MR. KELCHNER:**    Okay.    And, Your Honor, should ... again,  
12           just for my clarification as far as the forfeiture  
13           of deposit if the sale is vacated, that would be  
14           forfeited to the plaintiff?

15 **THE COURT:**    That should be part of the order.

16 **MR. KELCHNER:**    And as far as ... I'm sorry, one more.    As  
17           far as the bar of any January sale, would I include  
18           that?

19 **THE COURT:**    Yes.

20 **MR. KELCHNER:**    Okay.

21 **THE COURT:**    He'll be barred from bidding ...

22 **MR. KELCHNER:**    At the January sale.

23 **THE COURT:**    On this particular piece of property.    He can  
24           certainly come and bid on something else.

25 **MR. KELCHNER:**    Right.

1 **THE COURT:** But not just him though, his attorneys and  
2 anybody working for him, or any relatives and things  
3 like that. Is that clear? Yes, ma'am?

4 **MS. BERNSTEIN:** I want some additional clarification.  
5 Compliance means what? If we close on the 16th,  
6 sometimes the money's not in my account to wire  
7 necessarily on the 16th, or they might not receive  
8 it until the 17th; is that still in compliance ...

9 **THE COURT:** Actually he needs to pay us. Yes.

10 **MS. BERNSTEIN:** Pay you? Yeah, that's right.

11 **THE COURT:** Pay our office, yeah. Yeah. And then we, we  
12 cut a check to the Korn Law Firm. Yes, sir, Mr.  
13 Zimmerman?

14 **MR. ZIMMERMAN:** Are you saying that I need to have the  
15 full 348 plus any additional fees to you instead of  
16 Ms. Bernstein's office?

17 **THE COURT:** Well, I mean, Ms. Bernstein will help you at  
18 the closing. And she certainly will make sure that  
19 you're in compliance.

20 **MR. ZIMMERMAN:** Okay.

21 **THE COURT:** And her question was what's compliance.

22 **MS. BERNSTEIN:** If we close on the 16th I might not have a  
23 check ready ... it has to be certified, yes.

24 **THE COURT:** Yeah, that won't be a problem, would it?

25 **MR. KELCHNER:** I don't ... I guess. But at the same time,

1 I don't know if you're going to have the funds. I  
2 mean, that's a tight window for us to go run a sale,  
3 get an order filed and get a sale run, because if  
4 something goes sideways on that then we've missed  
5 the first sale date, so.

6 **MR. ANDERSON:** How about if we put in the order that Ms.  
7 Bernstein will close it by the 16th?

8 **MS. BERNSTEIN:** Yeah.

9 **MR. ANDERSON:** And so notify Ms. Golston?

10 **THE COURT:** In that case your client's made whole I guess,  
11 if they in fact close on the 16th, even though the  
12 funds haven't been transferred to our office yet.  
13 How does that sound? I tell you what, why ...

14 **MR. KELCHNER:** I can draft that in an order.

15 **THE COURT:** Okay, yeah.

16 **MS. BERNSTEIN:** Those things come up a lot these days,  
17 with when I can disburse the monies in my account  
18 and so forth.

19 **THE COURT:** Well, and hopefully that won't happen.  
20 Hopefully Mr. Zimmerman will get his loan approved  
21 and closed, and then y'all get taken care of and ...

22 **MS. BERNSTEIN:** Well ...

23 **THE COURT:** ... the property taken care of, and that'll be  
24 it. But, yeah, if you can also circulate the order  
25 to Ms. Bernstein and Mr. Anderson and see what they

1 think.

2 MR. KELCHNER: Well, just have ... I'll circulate it.

3 THE COURT: Yes, sir. Anything else?

4 MR. ANDERSON: No, sir.

5 THE COURT: Anything else today?

6 MR. KELCHNER: No, Your Honor.

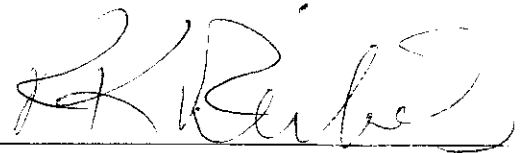
7 THE COURT: All right. Thank you all.

8 (There being nothing further, the hearing was concluded.)

**CERTIFICATE**

I certify that the foregoing transcript, consisting of 19 pages, is a true, accurate and complete transcript of the hearing taken before me, Robin K. Reibold, the undersigned Court Reporter. This hearing was held without a jury before The Honorable Joseph M. Strickland, Master in Equity for Richland County, on November 21, 2013, in the within-captioned case.

Said hearing was reported using the method of Stenomask with backup and was transcribed by me.



January 31, 2014

ROBIN K. REIBOLD  
MY COMMISSION EXPIRES: 4-28-2021

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Bank of America, N.A.,

Plaintiff,

vs.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc. and Spring Valley Homeowners' Association,,

Defendant.

IN THE COURT OF COMMON PLEAS  
OF THE FOURTEENTH JUDICIAL  
CIRCUIT

C.A. No. 2011-CP-40-8074

**NOTICE OF MOTION AND  
MOTION TO EQUITABLY ESTOP  
PLAINTIFF FROM FAILING TO HONOR  
EARLIER AGREEMENT WITH  
SUCCESSFUL BIDDER**

DEC 11 PM 4:38

TO: ALAN M. STEWART, ESQ., ATTORNEY FOR BANK OF AMERICA

YOU WILL PLEASE TAKE NOTICE that Willie Zimmerman, the Successful Bidder at the September 3, 2013 foreclosure sale, prays that this Court issue an order equitably estopping Plaintiff from honoring its agreement with Zimmerman made on June 18, 2013, to reduce the price bid by Zimmerman at April 1, 2013 foreclosure sale to \$341,200 in order to accommodate Zimmerman's available loan proceeds at that time.

By Order of this Court dated July 30, 2013, the April 1, 2013 sale was declared to be void, in part because Plaintiff reduced the bid amount without court authorization. A subsequent sale was held on September 3, 2013 and the only two parties bidding were Zimmerman and Plaintiff. Despite its earlier agreement with Zimmerman to reduce the price, Plaintiff bid an amount exceeding \$341,200 at the September 3, 2013 sale, in which Zimmerman was ultimately the successful bidder.

Because the only two bidders at the September 3, 2013 sale were Plaintiff and Zimmerman, Plaintiff should be equitably estopped from failing to honor its earlier agreement with Plaintiff for a price of \$341,200.

WHEREFORE, Mr. Zimmerman prays that this Court issue an order to enforce the agreement and bar the Plaintiff, Bank of America, from vacating the sale and forfeiture Mr. Zimmerman's deposit which was tendered on September 3, 2013, until which time Mr. Zimmerman has secured the funds necessary to complete his bid.

Respectfully submitted,  
BOYKIN & DAVIS, LLC

By:   
Kenneth A. Davis

P.O. Box 11844  
Columbia, SC 29211  
Phone (803) 254-0707  
Facsimile (803) 254-5609

ATTORNEY FOR WILLIE ZIMMERMAN,  
SUCCESFUL BIDDER

December 11, 2013

Columbia, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Bank of America, N.A.,

Plaintiff,

vs.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc. and Spring Valley Homeowners' Association.,

Defendant.

IN THE COURT OF COMMON PLEAS  
OF THE FOURTEENTH JUDICIAL CIRCUIT

C.A. No. 2011-CP-40-8074

NOTICE OF MOTION AND  
MOTION TO EXTEND TIME TO COMPLY  
WITH BID

2011 P11 4:38

TO: ALAN M. STEWART, ESQ., ATTORNEY FOR BANK OF AMERICA

YOU WILL PLEASE TAKE NOTICE that Willie Zimmerman, the Successful Bidder ("Successful Bidder"), by and through undersigned counsel, hereby moves for a 30-day extension of time in which to complete his bid regarding the property which is the subject of this action. Mr. Zimmerman has filed a substantive motion relating to the bid and needs to have that motion resolved before he can complete the bid.

Therefore, the Successful Bidder respectfully request that this motion for extension be granted in order so that the substantive motion filed on his behalf be heard.

Respectfully submitted,

BOYKIN & DAVIS, LLC

By:   
Kenneth A. Davis

P.O. Box 11844  
Columbia, SC 29211  
Phone (803) 254-0707  
Facsimile (803) 254-5609

ATTORNEYS FOR SUCCESSFUL BIDDER

December 11, 2013  
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Bank of America, N.A.

PLAINTIFF,

vs.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBF, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners' Association,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

ORDER EXTENDING PERIOD TO COMPLY WITH BID

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2011-CP-40-8074

DEFICIENCY WAIVED

FILED  
2013 DEC 17 AM 9:24  
JANET L. W. HIGBURN  
CLERK C.P. & D.S.

F11-06934

In this case, on September 21, 2012, I issued a Master in Equity's Report and Judgment of Foreclosure and Sale. The property subject to the Plaintiff's mortgage was sold at public auction on April 1, 2013. Willie Zimmerman was the successful bidder at this sale and tendered 5% of his bid with the Court in the amount of \$17,600.00. Thereafter, Mr. Zimmermann failed to comply with his bid and this Court issued an Order Vacating the Sale on July 30, 2013. Said Order declared the sale to be void and of no force and effect, vacated said sale, and returned the deposit to Mr. Zimmerman.

Thereafter, Plaintiff resumed its foreclosure action and the subject property was sold at public auction on September 3, 2013. Again, Mr. Zimmerman was the successful bidder at that sale and deposited 5% of his bid with the Court. More than 30 days passed since the sale date and Mr. Zimmerman had not yet complied with his bid. On October 17, 2013, Mr. Zimmerman requested through his counsel, S.R. Anderson, Esq., for an extension of time until November 4, 2013 to comply with his bid. Plaintiff did not consent to the request for an extension but did not object to it. This Court granted Mr. Zimmerman's request and provided Mr. Zimmerman until November 4, 2013 to comply. Mr. Zimmerman has not tendered the remaining amount owed to complete his bid as required by this Court. This Court scheduled a Status Conference regarding this matter for November 21, 2013.

At the hearing, Counsel for Plaintiff, John B. Kelchner, Mr. Zimmerman, and Mr. Anderson appeared. Also appearing was Beth Bernstein, counsel for Mr. Zimmerman who represented that she would perform the loan closing which would provide the funds allowing Mr. Zimmerman to comply with his bid. Mr. Zimmerman stated that his reason for not complying was that his loan application for the funding for the bid was still under review by his lender and requested that he be allowed additional time to comply. He proposed that he have a period of time up and to the date by which the first advertisement

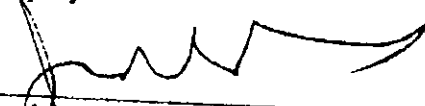
of a Notice of Sale would have to be published in order for the property to be sold at the January 6, 2014 public sale.

Plaintiff opposed Mr. Zimmerman's request and moved before this Court to vacate the sale and require the forfeiture of Mr. Zimmerman's deposit tendered on September 3, 2013 unto Plaintiff. Plaintiff also sought for this Court to forever bar Mr. Zimmerman, or anyone on his behalf, from bidding at any future foreclosure sale of the subject property on the basis that Plaintiff has been unduly prejudiced by Mr. Zimmerman's failure to comply with his bids in the two prior foreclosure sales and, should Mr. Zimmerman be the successful bidder at any future foreclosure sale, Plaintiff would be subject to additional irreparable harm and prejudice.

Upon review of Mr. Zimmerman's request and Plaintiff's motion at the hearing,

IT IS HEREBY ORDERED THAT:

1. Mr. Zimmerman has until December 16, 2013 to close the loan necessary to provide the funds to comply with the bid regarding the September 3, 2013 sale. Mr. Zimmerman, through his counsel representing him at the closing, shall notify this Court and counsel for the Plaintiff by 5:00 p.m., December 16, 2013 as to whether said closing was completed and confirming that the funds will be available to submit to the Court upon receipt from the lender.
2. Should the closing fail to be completed by the date and time proscribed in Paragraph One (1) herein:
  - a. The foreclosure sale of the subject property that took place on September 3, 2013 shall be void and of no force and effect and the sale shall be set aside;
  - b. The deposit of Mr. Zimmerman shall be forfeited unto Plaintiff, less costs of sale;
  - c. The next public sale of the subject property shall be advertised for January 6, 2014;
  - d. Mr. Zimmerman shall submit to the Court the costs for advertising the Notice of Sale for the January 6, 2014 sale; AND
  - e. Mr. Zimmerman, or anyone on his behalf, is barred from bidding at the next foreclosure sale of the subject property.

  
\_\_\_\_\_  
Joseph M. Strickland  
Master in Equity

Columbia, South Carolina

Dec. 17, 2013

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Bank of America, N.A.

PLAINTIFF,

vs.

Duce Staley, Felicia Woods a/k/a Felicia B. Woods, SCBT, N.A., South Carolina Department of Revenue, Palmetto Health, Manheim Automotive Financial Services, Inc., and Spring Valley Homeowners' Association,

DEFENDANT(S).

F11-06934

IN THE COURT OF COMMON PLEAS

ORDER VACATING SALE AND FORFEITURE OF DEPOSIT

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2011-CP-40-8074

DEFICIENCY WAIVED

JEANETTE W. McBRIDE  
C.C.P. & C.S.  
2013 DEC 17 AM 9:24  
FILED  
RICHLAND CO. CLERK

In this case, on September 21, 2012, I issued a Master in Equity's Report and Judgment of Foreclosure and Sale. The property subject to the Plaintiff's mortgage was sold at public auction on September 3, 2013. Willie Zimmerman was the successful bidder at that sale and deposited 5% of his bid with the Court. Thereafter, Mr. Zimmermann failed to comply with his bid and this Court held a status conference on November 21, 2013 at which time this Court ordered that Mr. Zimmerman had until December 16, 2013 to close the loan necessary to provide the funds to comply with the bid regarding the September 3, 2013 sale. Furthermore, Mr. Zimmerman was required, through his counsel representing him at the closing, to notify this Court and counsel for the Plaintiff by 5:00 p.m., December 16, 2013 as to whether said closing was completed and confirm that the funds would be available to submit to the Court upon receipt from the lender from which he obtained said funds.


It was further ordered that should the closing have failed to have been completed by the date and time proscribed, the foreclosure sale of the subject property that took place on September 3, 2013 would be declared void and of no force and effect, said sale would be set aside, the deposit of Mr. Zimmerman would be forfeited unto Plaintiff, less costs of sale, the next public sale of the subject property would be advertised for January 6, 2014, Mr. Zimmerman would be required to submit to the Court the costs for advertising the Notice of Sale for the January 6, 2014 sale, and Mr. Zimmerman, or anyone on his behalf, would be barred from bidding at the next foreclosure sale of the subject property.

It now appears that the closing in which Mr. Zimmerman was to have obtained the funds necessary to comply with his bid at the September 3, 2013 sale was not completed by the date and time proscribed and Mr. Zimmerman has not complied with his bid. Therefore,

IT IS ORDERED:

1. The foreclosure sale of the subject property that took place on September 3, 2013 is void and of no force and effect and the sale is set aside;

2. The deposit of Mr. Zimmerman is hereby forfeited unto Plaintiff, less costs of sale;
3. The next public sale of the subject property shall be advertised for January 6, 2014;
4. Mr. Zimmerman shall submit to the Court the costs for advertising the Notice of Sale for the January 6, 2014 sale immediately; AND
5. Mr. Zimmerman, or anyone on his behalf, is barred from bidding at the next foreclosure sale of the subject property.



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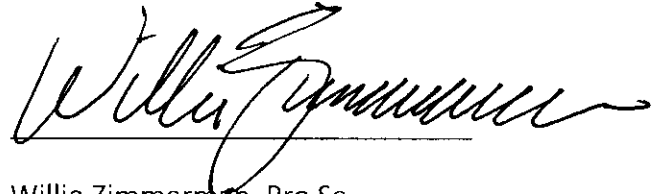
Joseph M. Strickland  
Master in Equity

Columbia, South Carolina

Dec. 17, 2013

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



August 20, 2013

Willie Zimmerman, Pro Se  
Post Office Box 2013  
Irmo, South Carolina 29063  
Phone: (803) 466-1372

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AUG 20 2014  
SC Court of Appeals

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AUG 05 2014  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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Appeal from RICHLAND COUNTY  
Joseph M. Strickland, Master in Equity  
Court of Common Pleas

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**RECEIVED**

AUG 20 2014

**Appellate Case No. 2014-000140**

**SC Court of Appeals**

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Bank of America, N.A., ..... Respondent

v.

Willie Zimmerman, .....Appellant

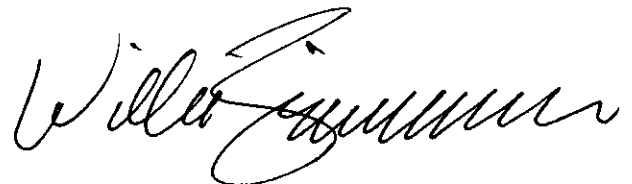
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PROOF OF SERVICE

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I, Willie Zimmerman, served upon the Respondent this RECORD ON APPEAL by placing the same in the United States Mail, first class postage prepaid, addressed to the following as shown this 20<sup>th</sup> day of August, 2014:

Chip Hicks, Esquire  
KORN LAW FIRM, P.A.  
1300 Pickens Street  
Columbia, South Carolina 29201



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