

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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SC Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

The Honorable Robert W. Davis
Special Referee

Appellate Case No.: 2020-000952
Case No.: 2019-CP-29-00617

Buffalo Creek Investments, Inc., ... Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus and Christopher Gravley, Respondents,
and Edwin Young and Barrett Maners, ... Intervenors,

Of whom, Edwin Young and Barrett Maners are the Appellants.

RECORD ON APPEAL

W. Keith Martens
Hamilton Martens, LLC
Post Office Box 10940
Rock Hill, SC 29731
(803) 329-7672
keith.martens@hamiltonmartens.com
ATTORNEYS FOR APPELLANTS

OTHER PARTIES OF RECORD:
Stephen H. Pettus
Christopher Gravley

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STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,)
Plaintiff,)

vs.)

Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)
Defendants.)

ORDER OF REFERENCE
(Non-Jury)
Foreclosure of Real Estate Mortgage

Upon motion of Philip E. Wright, attorney for the Plaintiff, it appearing pursuant to the revised Rule 53(b) of the South Carolina Rules of Civil Procedure that this action is one for the foreclosure of a mortgage and as such may be referred to The Honorable Robert W. Davis, as Special Referee for Lancaster County,

Now therefore, IT IS ORDERED that the above-entitled cause be, and the same is hereby, referred to The Honorable Robert W. Davis, as Special Referee for Lancaster County, to make appropriate findings of fact and conclusions of law with authority to dispose of any and all issues and enter a final judgment in the cause, without further order of court, to order a judicial sale on any day, not just a regular judicial sales day and to hear any issues and make any orders after sale or judgment, including but not limited, issues involving surplus funds pursuant to Rule 71(c) SCRCF, Petitions or Motions relating to Writ of Assistance or any other actions as to possession, and/or removal or property, and issues pursuant to appraisal proceedings under S.C. Code Ann. Section 29-3-680, *et seq.* (1976 SC Code of Laws, as amended).

Any appeal from the final judgment in this cause shall be made to the appropriate Appellate Court.

AND IT IS SO ORDERED.

I SO MOVE:

s/Philip E. Wright
408 North Main Street
Lancaster, SC 29720
(803) 286-4343
S.C. Bar No. 6241
philwright@pewpa.com

ATTORNEY FOR PLAINTIFF

I CONSENT TO SERVE:

s/Robert W. Davis
Post Office Box 356
Kershaw, SC 29067
(803) 475-3737
S.C. Bar No. 1602
firm@rwdatty.com

SIGNATURE PAGE TO FOLLOW

ELECTRONICALLY FILED - 2019 Jun 21 12:36 PM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

ROA 000002

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2019-CP-29-00145

Buffalo Creek Investments, Inc.

Stephen H. Pettus a/k/a Stephen Pettus and

PLAINTIFF(S)

Christopher Gravley

DEFENDANT(S)

Submitted by: Philip E. Wright

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

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.

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

Circuit Court Judge

Judge Code

Date

ROA 000003

For Clerk of Court Office Use Only

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

Philip E. Wright
408 North Main Street
Lancaster, SC 29720

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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

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

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



Common Pleas

Case Caption: Buffalo Creek Investments Inc VS Stephen H Pettus , defendant, et al

Case Number: 2019CP2900617

Type: Order/Referred to Master or Special Referee

So Ordered

s/Jeff Hammond, Lancaster County Clerk of Court

Electronically signed on 2019-06-21 12:54:18 page 5 of 5

ROA 000005

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF LANCASTER	)	CASE NO. 2019-CP-29-00617
Buffalo Creek Investments, Inc.,	)	
	)	
Plaintiff,	)	
	)	DECREE OF FORECLOSURE
vs.	)	
	)	
Stephen H. Pettus a/k/a Stephen	)	
Pettus and Christopher Gravley,	)	
	)	
Defendants.	)	

This action was commenced on May 17, 2019, by the filing of the Lis Pendens, Summons, Complaint and Certification of Exemption from ADR of the Plaintiff. By its Complaint, the Plaintiff seeks to foreclose a real estate mortgage on the property that is the subject of this action and to collect unpaid rent.

MM
#1
The Defendants were served the Lis Pendens, Summons, Complaint and Certification of Exemption from ADR as will more fully appear by reference to the Affidavits of Service filed in the record herein.

Based on the Affidavits of Default of Philip E. Wright, Attorney for the Plaintiffs, it appears that the Defendants are in default.

The real property which is the subject of this foreclosure is not subject to the terms of the Administrative Order of the Supreme Court of South Carolina dated May 2, 2011 (2011-05-02-01). The mortgage was a line of credit granted to allow the Defendants to invest in a business.

Pursuant to an Order of Reference, this case was referred to the undersigned as Special Referee with full authority to enter final judgment in this case without further order of this Court. Any appeals from the decision of the undersigned shall be made directly to the appropriate Appellate Court.

This matter was originally scheduled for hearing July 3, 2019 but was continued to allow the Plaintiff to appear to testify on issues raised in the case. Pursuant to an Amended Notice of Hearing, a hearing was held in this case on September 11, 2019 at 11:00 p.m., at the law offices of Philip E. Wright at 408 North Main Street in Lancaster, South Carolina. The Special Referee and Chad Whitley, President of the Buffalo Creek Investments, Inc., appeared but the Defendants did not appear at 11:00 a.m. The hearing commenced at 11:05 a.m.

Based upon the pleadings filed in the record and the sworn testimony of the Plaintiff and exhibits introduced into evidence, this Court makes the following findings of fact and conclusions of law.

This Court finds and concludes that this Court has jurisdiction of the parties and the real property that is the subject of this action.

mm
#2
This Court finds and concludes that on or about May 11, 2018, the Defendants for value received, made, executed and delivered to the Plaintiff their promissory note in writing wherein and whereby they promised to pay the Plaintiff the principal sum of Fifty Thousand and No/100 Dollars (\$50,000.00). The note was entered as Exhibit 1. The note provided for a \$40,000.00 advance against the line of credit. That advance was made May 11, 2018. The second advance of \$10,000.00 was made on June 5, 2018.

This Court finds and concludes that in order to better secure the payment of the indebtedness evidenced by the aforesaid promissory note, the Defendant Stephen H. Pettus executed and delivered to the Plaintiff his real estate mortgage wherein and whereby he conveyed to the Plaintiff by way of real estate mortgage the property that is the subject of this action, and that this real estate mortgage was recorded in the Office of the Register of Deeds for Lancaster County, South Carolina on May 11, 2018 in Mortgage Book 3551, at Page 50. The real estate mortgage was entered as Exhibit 2. The property that is subject to this real estate mortgage is described as follows:

ROA 000007

ALL that certain piece, parcel or lot of land, together with improvements thereon, lying, being and situate in Gills Creek Township, Lancaster County, South Carolina, fronting on the west side of Cane Mill Road, being designated as Lot 1 on plat of Providence Crossing-Phase I, more particularly described on plat of survey entitled 'Plat of Surveyed for Jerry Wayne Boone & Laura Faye Boone' dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Being the identical property conveyed to Stephen H. Pettus by deed recorded October 10, 2017 in Book 1088 at page 141 with the Register of Deeds for Lancaster County, South Carolina.

MM
#3

This Court finds and concludes that the aforesaid promissory note and real estate mortgage provided, inter alia, that the Defendants would pay to the Plaintiff, its successors and assigns, the indebtedness evidenced by the promissory note and real estate mortgage, plus interest thereon, advances for the protection of the security or title to the property described in the real estate mortgage, advances for taxes and insurance premiums; and that in the event of the failure of the Defendants to comply with any covenant, condition or agreement in the promissory note and real estate mortgage, the Plaintiff may at its option declare all amounts secured by the real estate mortgage to be immediately due and payable and to foreclose the real estate mortgage and to pursue any other remedies as may be authorized by law, and that in the event the indebtedness secured by the real estate mortgage, or any part thereof, is established by or in any action for foreclosure of the real estate mortgage, the Plaintiff may also recover, in addition to the said debt or so much thereof as shall be unpaid, a reasonable sum for the attorney for the Plaintiff for professional services rendered in such action, such fee to be incorporated in the judgment of foreclosure in such action, together with all other costs of collection.

This Court finds and concludes that the real estate mortgage of the Plaintiff is a first lien on the subject property; that proper demand has been made by Plaintiff and that the acceleration

requirements of the promissory note and real estate mortgage have been met; and that Plaintiff is entitled to foreclose its real estate mortgage.

The Plaintiff submitted into evidence (Exhibit A) a summary of payments on the mortgage and a lease which is the Second Cause of Action in this matter. The Defendants made three payments on the mortgage totaling \$1,650.00 and have made no payments on that mortgage since December 2018. The Defendants are in default under the terms of the Promissory Note.

The Plaintiff also testified as to the Second Cause of Action that the Defendants rented a building from the Plaintiff for use as an automotive repair shop. The Defendants made three monthly payments at a reduced rental rate of \$1,500.00 and then made three monthly payments of \$2,500.00, the regular rent amount and made one payment of \$2,100.00 in June 2018. The Defendants made no more rent payments and owe for the months of July through October for a total due of \$10,000.00 on the back rent.

 This Court finds and concludes that as of September 11, 2019, there is due and owing to the Plaintiff the sum of Seventy-Three Thousand Twenty-Nine and 96/100 Dollars (\$73,029.96), plus interest from September 11, 2019 at the rate of \$19.95 per day in accordance with the terms and conditions of the promissory note and real estate mortgage, until the said sum is paid in full.

This Court further finds and concludes that the Plaintiff is entitled to recover from the Defendants a reasonable sum as attorney's fees, and this Court finds and concludes that the sum Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) is a reasonable sum to be paid to the attorney for the Plaintiffs in the prosecution of this action.

This Court further finds and concludes that the Plaintiff is entitled to recover from the Defendants all taxable costs and disbursements of this proceeding in the amount of \$559.56, including the filing fee, costs of service, cost of publication and a reasonable fee to the undersigned for his services as Special Referee. This Court finds and concludes that a base fee of

Two Hundred Fifty and No/100 Dollars (\$250.00) is a reasonable fee to be paid to the undersigned in the event the property does not sell for more than the debt due and if the property does sell for more than the debt due, the Special Referee's fee will be computed on the statutory commission.

This Court finds that at the reference hearing the Plaintiff specifically waived its right to seek a personal or deficiency judgment against the Defendants.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That the Plaintiff is entitled to receive from the Defendants the total sum of Seventy-Three Thousand Twenty-Nine and 96/100 Dollars (\$73,029.96), including the Ten Thousand and No/100 Dollars (\$10,000.00) delinquent rent payment, plus attorney's fees in the amount of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00), together with all taxable costs in the Affidavit of Debt and disbursements of this action together with the appropriate Special Referee's fee as set forth above, and that the Plaintiff is entitled to the foreclosure of its real estate mortgage.
2. That the mortgaged premises which are subject of this action described in the real estate mortgage shall be duly advertised for sale at public auction by the Special Referee or his designated agent to the highest bidder for cash at the Lancaster County Courthouse, 104 North Main Street, Lancaster, South Carolina, on the first available sales day following the advertisement of this property or some subsequent sales day during the legal hours of sale, by publication of said notice once a week for three consecutive weeks in a newspaper published and circulated in Lancaster, South Carolina.
3. That the mortgaged premises which are subject of this action described in the mortgage shall be duly advertised for sale at public auction by the Special Referee or his designated agent to the highest bidder for cash at the Lancaster County Courthouse, 104 North Main Street, Lancaster, South Carolina, on the first available sales day following the

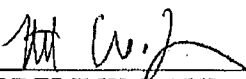
advertisement of this property or some subsequent sales day during the legal hours of sale, by publication of said notice once a week for three consecutive weeks in a newspaper published and circulated in Lancaster, South Carolina.

4. That the proceeds of the sale be applied first, to the costs and disbursements of this action; second to the total indebtedness due the Plaintiff; and that any funds remaining after payment of the amounts due to Plaintiff be disbursed by the Special Referee, after the receipt of petitions in support of any person's right to receive a portion of the surplus and the holding of a surplus hearing.

5. That upon compliance with the terms of the sale and delivery of deed of sale by the Referee or his designee to the purchaser, such purchaser shall be let into possession of the premises and the Sheriff of Lancaster 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 or its assigns in full, quiet and peaceable possession of said premises without delay, and to keep such successful bidder or his or its assigns in peaceable possession.

#1
6. That the Defendants, and all persons whomsoever claiming under them, be forever barred and foreclosed of all right, title, interest and equity of redemption or right of possession in the said mortgage premises, or any part thereof.

AND IT IS SO ORDERED.



ROBERT W. DAVIS
SPECIAL REFEREE

September 18, 2019
Lancaster, South Carolina.

ROA 000011

EXHIBIT A**LEASE DECEMBER 2017**
(Defendants never signed written lease)

Rent \$1,500.00 per month for first three months to allow Defendants to start business.

December 2017	\$1,500.00 payment
January 2018	\$1,500.00 payment
February 2018	\$1,500.00 payment

Rent increased to \$2,500.00 per month

March 2018	\$2,500.00 payment
April 2018	\$2,500.00 payment
May 2018	\$2,500.00 payment
June 2018	\$2,100.00 payment
July – October 2018	no payments, tenants were asked to vacate the building, rent owed at end of October 2018 was \$10,000.00.

Tenants vacated building in January 2019 and removed all improvements they made.

Tenants were \$10,000.00 behind on rent when they vacated and agreed to add the \$10,000.00 to amount due on the note and mortgage.

NOTE / MORTGAGE
(\$50,000.00 line of credit)

\$40,000.00 advanced May 11, 2018 – monthly interest only payments of \$500.00

\$10,000.00 advanced June 5, 2018

Payment of \$650.00 on June 5, 2018 – \$150.00 applied to principal

July 2018	no payment
August 2018	\$500.00 payment
September 2018	no payment
October 2018	no payment
November 2018	no payment
December 2018	\$500.00 payment

No further payments on note and mortgage after December 2018.

Plaintiff cleaned and restored building to market, rented in July 2019 to new tenant at same rate of \$2,500.00 per month.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF LANCASTER	)	CASE NO. 2019-CP-29-00617
Buffalo Creek Investments, Inc.,	)	
	)	
Plaintiff,	)	
	)	REPORT AND ORDER
vs.	)	CONFIRMING SALE
	)	
Stephen H. Pettus a/k/a Stephen	)	
Pettus and Christopher Gravley,	)	
	)	
Defendants.	)	

1. That pursuant to a Judgment and Decree of this Court made September 18, 2019 and filed September 20, 2019 in the above-entitled action, and after due and legal notice, advertisement and publication according to law, I sold the property described in the said Decree on Sales Day, Monday, November 4, 2019, during the legal hours of sale before the Lancaster County Courthouse at Lancaster, South Carolina.

2. That at such sale the said property was bid in by Edwin G. Young (6/10 interest) and Barrett M. Maners (4/10 interest) at and for a consideration of Seventy-Eight Thousand Seven Hundred Fifty and No/100 Dollars (\$78,750.00), that being the highest bid therefor.

3. That a good and sufficient Deed of conveyance should now be executed and delivered to the purchaser.

4. That the deed reported to be executed and delivered be and the same hereby is affirmed and ratified and title to the said premises is hereby decreed to be vested in the purchaser.

5. That the Register of Deeds for Lancaster County, South Carolina, is hereby authorized and directed to satisfy and cancel of record the mortgage as follows: Stephen H. Pettus, mortgage to Buffalo Creek Investments, Inc. dated and recorded May 11, 2018 in Mortgage Book 3551, at Page 50.

6. That the proceeds from the sale of the property described in said Decree shall be disbursed as follows:

CONSIDERATION

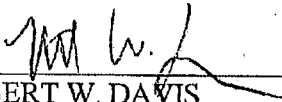
Bid paid by Purchaser	\$ 78,750.00
Interest paid by Purchaser	\$ 270.49
TOTAL PAID BY PURCHASER	\$ 79,020.49

DISBURSEMENTS

Buffalo Creek Investments, Inc.	\$ 74,597.98
Philip E. Wright – attorney's fees	2,500.00
Philip E. Wright – costs	885.01
Robert W. Davis – Referee's fee	250.00
Robert W. Davis – Referee's commission	787.50
TOTAL DISBURSEMENTS	\$ 79,020.49

8. That the Sheriff of Lancaster County is hereby ordered and authorized to assist Edwin G. Young and Barrett M. Maners in taking possession of the subject premises by removing any persons occupying the said property and placing the Plaintiff in peaceful, quiet possession of the said premises.

AND IT IS SO ORDERED.


 ROBERT W. DAVIS
 SPECIAL REFEREE

#2
 November 14, 2019
 Lancaster, South Carolina.

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.

Stephen H. Pettus a/k/a Stephen Pettus and

PLAINTIFF(S)

Christopher Gravley

DEFENDANT(S)

Submitted by: Philip E. Wright

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
n/a		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Note: Title abstractors and researchers should refer to the official court order for judgment details.

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

W. J. Lee
Circuit Court Judge

Special Referee

SPECIAL REFEREE
Judge Code

11/14/19
Date ROA 000015

For Clerk of Court Office Use Only

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

Philip E. Wright
408 North Main Street
Lancaster, SC 29720

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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

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

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



Lancaster Common Pleas

Case Caption: Buffalo Creek Investments Inc VS Stephen H Pettus , defendant, et al
Case Number: 2019CP2900617
Type: Special Referee/Report of Sale

So Ordered

s/Jeff Hammond, Lancaster County Clerk of Court

Electronically signed on 2019-11-19 09:59:51 page 5 of 5

ELECTRONICALLY FILED - 2019 Nov 19 10:05 AM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

ROA 000017

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

**ORDER VACATING FORECLOSURE
AND SETTING ASIDE JUDICIAL SALE**

This matter came before the Court on January 22, 2020, for hearing on the Motion to Vacate Foreclosure Sale, which was filed by Defendants on November 27, 2019. Appearing at the hearing were Kathleen McDaniel, attorney for Defendants, Phillip Wright, attorney for Plaintiff, and Keith Martens, attorney for Edward G. Young and Barrett M. Maners, who purchased the subject property at judicial sale on November 4, 2019.

FACTS

W
#1

This matter arose out of a foreclosure action. The real property subject to this matter is located at 2818 Cane Mill Road, Lancaster, South Carolina 29720. The property is owned by Stephen H. Pettus, who purchased the property for \$242,500.00 on October 9, 2017. The publicly available tax record for the subject property shows that the property was assessed at the owner-occupied rate of 4%. No party disputed at the hearing of this matter that Defendants live at the subject property.

Plaintiff initiated this foreclosure action on May 17, 2019. In the Complaint, Plaintiff alleged that the subject property is not owner-occupied, and, therefore, Defendants would not be entitled to the foreclosure intervention protections afforded by the South Carolina

Supreme Court's Administrative Order No. 2011-05-02-01, issued on May 2, 2011. There are no other mortgages or liens on the property identified in the Complaint, and no party at the hearing on January 22, 2020, introduced any evidence of any other mortgages or liens affecting the subject property.

Despite stating in the Complaint that Defendants do not live at that subject property, Plaintiff sought to serve Defendants at the subject property. The Affidavit of Service, filed on May 20, 2019, states that Defendant Gravley was served at the subject property by delivering the Summons and Complaint to "Stephen H. Pettus-Partner, a person of discretion residing at the Defendant's residence."

The matter was referred to Special Referee Robert W. Davis on June 21, 2019. A reference hearing was scheduled for July 3, 2019. Defendants appeared but Plaintiff did not; therefore, the reference hearing was rescheduled for September 11, 2019. Defendants have averred that they attempted to appear at the September hearing but arrived 10 minutes late and were told by counsel for Plaintiff that the hearing was conducted and completed in their absence. The Special Referee issued the Record of Hearing on September 11, 2019.

On September 20, 2019, the Special Referee issued a Decree of Foreclosure, directing the sale of the subject property at public auction. The subject property was sold at auction on November 4, 2019, to Edwin G. Young and Barrett M. Maners for the purchase price of \$78,750.00. On November 19, 2019, this Court issued its Report and Order Confirming Sale.

On November 15, 2019, this Court issued an Order for Writ of Assistance directing Defendants to vacate the subject property by noon on December 2, 2019. The Affidavit

of Service for the Order for Writ of Assistance states the subject property as the address for Defendant Pettus.

On November 27, 2019, Defendants filed the Motion to Vacate Foreclosure Sale. The Court initially set a hearing date of December 12, 2019. However, upon reviewing the matter, Plaintiff consented to vacate the foreclosure sale, and informed the Court by email on December 11, 2019, that a hearing would not be needed because Plaintiff consented to vacate the foreclosure. Mr. Young and Mr. Maners then filed a motion to intervene in the matter so as to contest vacating the foreclosure. The Court heard this matter on January 22, 2020.

STANDARD OF REVIEW

A mortgage foreclosure is an action in equity, and the review of a judicial sale, including whether to set aside the sale, is also equitable and is left to the sound discretion of the trial court. *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 150, 662 S.E.2d 424, 425 (Ct. App. 2008); *E. Sav. Bank, FSB v. Sanders*, 373 S.C. 349, 354, 644 S.E.2d 802, 805 (Ct. App. 2007).

CONCLUSIONS OF LAW

“Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible.” *Regions Bank v. Wingard Props. Inc.*, 394 S.C. 241, 252, 715 S.E.2d 348 (Ct. App. 2011); *Buckley v. Shealey*, 370 S.C. 317, 323-24, 635 S.E.2d 76, 79 (2006); *Ex Parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (Ct. App. 1983). Courts generally do not set aside a judicial sale unless there are “cogent reasons” to do so and “it can be done without violating principle or doing injustice.” *E. Sav. Bank*, 373 S.C. at 355, 644 S.E.2d at 805. A judicial sale will be set aside when either the sale price is so gross as to shock the conscience or the sale “is

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accompanied by other circumstances warranting the interference of the court." *Wells Fargo Bank*, 378 S.C. at 150, 662 S.E.2d at 425.

As to the finality of judicial sales, Section 15-39-870 of the South Carolina Code (2005) provides,

Upon the execution and delivery by the proper officer of the court of a deed for any property sold at a judicial sale under a decree of a court of competent jurisdiction the proceedings under which such sale is made shall be deemed *res judicata* as to any and all bona fide purchasers for value without notice, notwithstanding such sale may not subsequently be confirmed by the court.

This statute exists because "sound public policy requires that the validity of judicial sales be upheld, **if in reason and justice it can be done.**" *Cumbe v. Newberry*, 251 S.C. 33, 37, 159 S.E.2d 915, 917 (1968) (emphasis added).

As explained further herein, there are "cogent reasons" to vacate the foreclosure and set aside the judicial sale. In addition, the sale is "accompanied by other circumstances warranting the interference of the court," and the sale price is "so gross as to the shock the conscience." Furthermore, purchasers Mr. Young and Mr. Maners are not bona fide purchasers for value without notice because they were on notice that the property was owner-occupied and that Defendants had not been afforded the required foreclosure intervention protections. For these reasons, it is equitable and just to vacate the foreclosure and set aside the judicial sale.

Taking all facts presented to the Court into account, the equities weigh in favor of vacating the foreclosure and setting the sale aside. Defendant Pettus paid \$242,500.00 for the property. It appears that he has paid this purchase price in full because no party submitted any evidence of any other mortgages, liens, or encumbrances other than the mortgage of Plaintiff. If the foreclosure is not vacated, Defendants will lose all of the

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money that was paid to purchase the home as well as their home. This would be a significant forfeiture.

Mr. Young and Mr. Maners paid only \$78,750.00 to purchase the subject property at the November 2019 judicial sale. They received a Deed to the property on November 14, 2019. Less than two weeks later, Defendants notified Mr. Maners that they had filed the Motion to Vacate the Foreclosure Sale. Counsel for Plaintiff stated at the hearing that Plaintiff stands ready to refund the \$78,750.00 purchase and re-initiate the foreclosure proceeding against Defendants. Thus, if the foreclosure is vacated and the sale set aside, Mr. Young and Mr. Maners will simply be put back into the same place they were prior to the judicial sale. They will have not lost the money they paid to purchase the property at the judicial sale.

Plaintiff will also be put back into the same position he was prior to the judicial sale because can re-initiate the foreclosure proceeding against Defendants.

There are also cogent reasons and other circumstances warranting the interference of this Court to vacate the foreclosure and set aside the judicial sale.

Most importantly, the publicly available information for this case and Lancaster County's tax records demonstrate that the subject property was owner-occupied and that Defendants were denied the foreclosure intervention protections required by the Supreme Court's May 2011 Administrative Order.

The property tax bills for 2018 and 2019 show the total appraised value of the land and buildings as \$234,800. The real property was assessed for \$9,390.00, which means that the owner-occupied rate of 4% was applied. This is information that is public record

and any purchaser would be on at the very least constructive notice of the owner-occupied assessed tax rate.

In addition, it is also public record (by virtue of the filed Affidavit of Service) that the Plaintiff purported to serve Defendant Gravley with the Summons and Complaint not by personal service but by claiming to have left those documents "at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein" pursuant to Rule 4(d)(1) of the South Carolina Rules of Civil Procedure. Thus, for the purposes of service of process, Plaintiff must have believed that the subject property was Defendant Gravley's "usual place of abode." The Affidavit of Service states that Defendant Pettus resides at the subject property as would have been required to effectuate good service on Defendant Gravley. Plaintiff's Affidavit of Service is directly contradictory to Plaintiff's allegation in the Complaint that the subject property is not owner-occupied.

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The Affidavit of Service for the Order for Writ of Assistance, which Order was pursuant to the Petition of Mr. Maners, also indicates that the subject property is the residence of Defendant Pettus, indicating that Mr. Young and Mr. Maners knew that Defendants reside at the subject property.

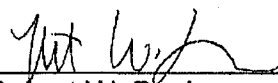
Proper application of the Supreme Court's May 2011 Administrative Order is critical in assuring that foreclosures affecting owner-occupied property are properly handled and that those facing foreclosure receive foreclosure intervention protections before their home can be taken from them. All "citizens are charged with knowledge of existing law." *Labruce v. City of N. Charleston*, 268 S.C. 465, 467, 234 S.E.2d 866, 867 (1977). Thus, Mr. Young and Mr. Maners were on notice that the subject property was

owner-occupied and that Defendants had been denied necessary foreclosure intervention procedures.

Finally, the amount paid by purchasers at the judicial sale shocks the conscience of this Court. The price paid at the judicial sale was only 32% of the price Defendant Pettus paid for the subject property.

For the foregoing reasons, Defendants' Motion to Vacate the Foreclosure Sale is GRANTED and the judicial sale is set aside. Accordingly, this Court will issue a Deed conveying title to the subject property back to Defendant Pettus. Plaintiff is ordered to refund the purchase price of \$78,750.00 to Edward G. Young and Barrett M. Maners within 10 days of the date of this Order.

And it is so ORDERED.



Robert W. Davis
Special Referee for Lancaster County

February 20, 2020

Kershaw, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the following as indicated herein below, by mailing a copy of same on the date below by First Class United States Mail, postage prepaid, addressed to the following:

**DOCUMENTS SERVED: ORDER VACATING FORECLOSURE AND SETTING ASIDE
JUDICIAL SALE**

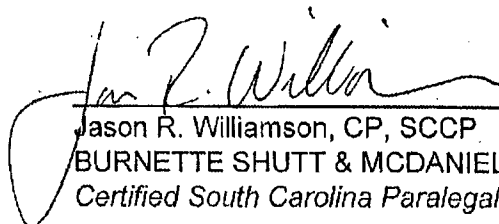
PARTIES SERVED:

Philip Wright, Esq.
PHILIP E. WRIGHT, PA
408 N. Main Street
Lancaster, SC 29720

W. Keith Martens, Esq.
HAMILTON MARTENS
241 Oakland Ave.
Rock Hill, SC 29730

ATTORNEY FOR PLAINTIFF

**ATTORNEY FOR PUTATIVE
INTERVENORS EDWARD G. YOUNG
AND BARRETT M. MANERS**


Jason R. Williamson, CP, SCCP
BURNETTE SHUTT & MCDANIEL, P.A.
Certified South Carolina Paralegal

Columbia, South Carolina

February 24, 2020

ROA 000025

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No, 2019-CP-29-00617

**ORDER ON MOTION FOR
RECONSIDERATION**

On March 5, 2020, Edwin G. Young and Barrett Maners filed a Motion for Reconsideration, requesting (1) that this Court grant their motion to intervene in this proceeding and (2) that this Court amend its Order Vacating Foreclosure and Setting Aside Judicial Sale so as to deny Defendants' motion and affirm title to the subject property in Young and Maners.

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A hearing on this matter was delayed in compliance with Order 2020-03-18-01 of South Carolina Chief Justice Donald W. Beatty, issued on March 18, 2020, which Order mandated a statewide moratorium on foreclosure hearings and directed Masters-in-Equity not to proceed in any other manner regarding foreclosures until subsequent order. By Order 2020-04-30-02, dated April 30, 2020, Chief Justice Beatty directed that hearings in foreclosure matters could resume on May 15, 2020. Thereafter, this matter came before the Court on June 3, 2020, for telephonic hearing on the record on the Motion for Reconsideration

Appearing at the hearing were Kathleen McDaniel, attorney for Defendants, and Keith Martens, attorney for Young and Maners.

As to their first ground for reconsideration, the Order Vacating Foreclosure and Setting Aside Judicial Sale, filed on February 27, 2020, is amended to reflect that the Court has granted Young and Maners's motion to intervene in this matter.

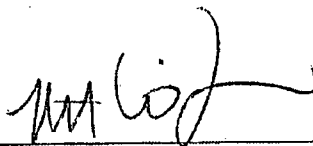
The remainder of the Motion for Reconsideration is DENIED.

Accordingly, this Court will issue a Deed conveying title to the subject property back to Defendant Pettus.

In order to protect the interests of all parties, Plaintiff is directed to immediately place funds in the amount of the purchase price of \$78,750.00 in an interest-bearing account to be held in such account during the pendency of any appeal.

If there is no appeal, Plaintiff shall refund the purchase price of \$78,750.00 to Intervenor Young and Maners within 10 days of the expiration of the time to appeal.

#2 And it is so ORDERED.



Robert W. Davis
Special Referee for Lancaster County

June 17, 2020

Kershaw, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

**ORDER TO VOID TITLE UNDER
ORDER OF COURT**

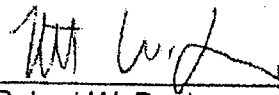
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THIS MATTER COMES BEFORE THE COURT upon the need to void the Title Under Order of Court that was recorded on November 15, 2019, in Deed Book 1284 at page 162-164 in the Office of the Lancaster County Register of Deeds, and which Title Under Order of Court purported to transfer title to the real property located at 2818 Cane Mill Road, Lancaster, South Carolina, 29720, Parcel Id#: 0102E-0E-001.00 to Edwin G. Young and Barrett M. Maners.

By Order filed February 27, 2020, and as affirmed by Order filed ~~June~~ ^{July 10} __, 2020, this Court vacated the judicial sale upon which the Title Under Order of Court was issued. Accordingly, the Title Under Order of Court is void.

THEREFORE, IT IS HEREBY ORDERED THAT the Title Under Order of Court purporting to convey 2818 Cane Mill Road, Lancaster, SC 29720 to Edwin G. Young and Barrett M. Maners, recorded in Deed Book 1284 at page 162-164 in the Office of the Lancaster County Register of Deeds, **SHALL BE VOIDED.**

The Lancaster County Register of Deeds shall record a copy of this Order to Void Title Under Order and shall index the subject property as follows: Edwin G. Young as Grantor, Barrett M. Maners as Grantor, and Stephen H. Pettus as Grantee.

AND IT IS SO ORDERED.



Robert W. Davis
Special Referee for Lancaster County

July 10
June __, 2020

Kershaw, SC

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STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

**DEFENDANTS' MOTION TO VACATE
FORECLOSURE SALE**

**TO THE HONORABLE ROBERT W. DAVIS, SPECIAL REFEREE FOR LANCASTER
COUNTY:**

This is a foreclosure action. The real property subject to this foreclosure is located at 2818 Cane Mill Road, Lancaster, South Carolina 29720. Plaintiff initiated this foreclosure action on May 17, 2019. The Complaint erroneously avers that the real property that is the subject of this action is not owner-occupied.

The matter was referred to Special Referee Robert W. Davis. A reference hearing was scheduled for July 3, 2019. Defendants appeared but Plaintiff did not; therefore, the reference hearing was rescheduled for September 11, 2019. Defendants attempted to appear at the hearing but arrived 10 minutes late and were told by counsel for Plaintiff that the hearing was conducted in their absence. The Special Referee issued the Record of Hearing the same day. On September 20, 2019, the Special Referee issued a Decree of Foreclosure, directing the sale of the real property at public auction. The real property was sold at auction on November 4, 2019, to Edwin G. Young and Barrett M. Maners. On November 19, 2019, this Court issued its Report and Order Confirming Sale. On November 15, 2019, this Court issued an Order for Writ of Assistance and Writ of

Assistance, stating that the Defendants must vacate the real property by December 2, 2019. There is no indication on the online public index that this Writ of Assistance was served on Defendants.

Defendants now seek to stay execution of the Writ of Assistance and vacate the foreclosure sale. A judicial sale can be set aside where the sale "is accompanied by other circumstances warranting the interference of the Court." *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 150, 662 S.E.2d 424, 425 (Ct. App. 2008). The circumstances warranting this Court's interference with the judicial sale are as follows.

First, Plaintiffs were never served with the Summons and Complaint. Plaintiffs have no recollection of a process server coming to their home at 2818 Cane Mill Road and serving them with any papers.¹ In support of that belief, Defendants have reviewed the video footage of their front door camera, and there is no video of anyone coming to their door on May 20, 2019. There are no Affidavits of Service indicating that Defendants were served in any manner other than at their Cane Mill home. Because nothing was served on May 20, 2019, this Court lacked jurisdiction entirely for this proceeding.

Second, Plaintiff incorrectly informed the Court that the Cane Mill Road home is not owner occupied. In fact, it is owner occupied. The property tax bills for 2018 and 2019 are attached as **Exhibit 1**. The total appraised value of the land and buildings is \$234,800. The real property was assessed at the owner-occupied rate of 4% for an assessed value of \$9,390.00. This is information that is public record and any purchaser

¹ Defendants are preparing Affidavits in support of this Motion and will file those Affidavits later today.

would be on at the very least constructive notice of the owner-occupied assessed tax rate.

In addition, it is also public record (by virtue of the filed Affidavits of Service) that the Plaintiff purported to serve Defendant Christopher Gravley with the Summons and Complaint not by personal service but by claiming to have left those documents "at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein" pursuant to Rule 4(d)(1) of the South Carolina Rules of Civil Procedure. Thus, for the purposes of service of process, Plaintiff must have believed that 2818 Cane Mill Road was his "usual place of abode." That is directly contradictory to Plaintiff's allegation in the Complaint that 2818 Cane Mill Road is not owner-occupied.

By misleading the Court into finding that the real property was not owner-occupied, Plaintiff attempted to avoid the applicability of Chief Justice Toal's May 2011 Order *In re Mortgage Foreclosure Actions*. This administrative order provides the following definitions:

(1) "Mortgagor" shall include every owner, mortgagor, and debtor under the note and mortgage at issue.

(2) "Mortgagee" shall include the owner and holder of the note and mortgage, any party acting on behalf of the owner and holder of the note and mortgage for the purpose of receiving payments, dealing with the mortgagor, or administering the loan evidenced by the note and mortgage, and any party seeking foreclosure of the subject mortgage, or otherwise acting as the agent of the owner and holder of the note in connection with the loan or the foreclosure of the note and mortgage, except for the mortgagee's attorney.

(3) "Owner-Occupied dwelling" is defined as mortgaged real property that is the principal residence of any mortgagor.

In re Mortg. Foreclosure Actions, 396 S.C. 209, 211, 720 S.E.2d 908 (2011).

As set forth above, 2818 Cane Mill Road is the Defendants' principal residence, thus it is owner-occupied. Because Plaintiff seeks to foreclose on Defendants' owner-occupied dwelling, Plaintiff was required to follow the procedure set forth in Chief Justice Toal's Order. Failure to do so is fatal to the foreclosure proceeding and grounds to vacate the sale.

The Plaintiff and foreclosure sale purchasers cannot have it both ways. 2818 Cane Mill Road cannot be owner-occupied for the purpose of service of process but not owner-occupied to avoid compliance with Chief Justice Toal's May 2011 Order In re Mortgage Foreclosure Actions. The foreclosure sale purchasers had, at the very least, constructive if not actual notice of the failure of service of process and Plaintiff's failure to comply with Chief Justice Toal's May 2011 Order regarding foreclosure of owner-occupied property. Accordingly, this Court should vacate the foreclosure sale and dismiss in its entirety the underlying foreclosure proceeding.

Based upon the foregoing, Defendants pray that this Court vacate the foreclosure sale and stay execution of the Order for Writ of Assistance and Writ of Assistance until such time as a hearing can be had on this Motion to Vacate Foreclosure Sale. Because of the urgency of the pending Writ of Assistance with a deadline of December 2, 2019, Defendants request an expedited Order staying execution of the Writ of Assistance.

Because of the urgency of this matter, counsel for Defendants has not had an opportunity to consult with counsel for Plaintiffs or the third-party purchasers prior to filing this Motion.

Signature on following page

s/Kathleen McDaniel

Kathleen McDaniel (SC Bar No. 74826)

BURNETTE SHUTT & MCDANIEL, PA

Post Office Box 1929

Columbia, South Carolina 29202

Telephone: (803) 904-7913

Facsimile: (803) 904-7910

KMcDaniel@BurnetteShutt.Law

ATTORNEY FOR DEFENDANTS

Columbia, South Carolina

November 27, 2019

Exhibit 1

LANCASTER COUNTY S.C.
PROPERTY TAX NOTICE - TAX YEAR 2018

LANCASTER COUNTY

CARRIE W. HELMS
COUNTY TREASURER
P.O. BOX 729
LANCASTER, S.C. 29721

RECEIPT # 001837-18-5	TAX DISTRICT	ASSESSMENT VALUE	TAX LEVY	PROPERTY TAX
LANCASTER COUNTY	01	9,390	325.4	3055.51

	COUNTY	CITY	TOTAL
PROPERTY TAX	3,055.51		3,055.51
LESS HOMESTEAD EXEMPTION			0.00
LESS SCHOOL TAX CREDIT	1,450.76		1,450.76
LESS L.O.S.T.	134.31		134.31
PLUS FIRE FEE			0.00
PLUS ASSESSMENT FEES			0.00
PLUS STORMWATER FEE			0.00
PLUS BROOKCHASE FEE			0.00
PLUS TREETOP FEE			0.00
NET AMOUNT DUE	1,470.44		0.00

PAY THIS AMOUNT BY: 01/15/2019 ==>

PAY THIS AMOUNT
1,470.44

APPROVED BY BOARD OF EDUCATION	LEVY MILLS	TAX
SCHOOL		2,061.11
APPROVED BY COUNTY COUNCIL	LEVY MILLS	TAX
COUNTY		734.27
USC-LANCASTER		44.13
CAPITAL IMPROVEMENT		46.95
COURT SECURITY		34.74
FIRE FEE		
ASSESSMENT FEES		
STORMWATER FEE		
BROOKCHASE FEE		
TREETOP FEE		
APPROVED BY CITY COUNCIL	LEVY MILLS	TAX
MUNICIPAL TAX		

PERSONAL PROPERTY

APPRAISAL

234,800

RATIO

ASSESSED VALUE

9,390

DESCRIPTION OF REAL OR PERSONAL PROPERTY

818 CANE MILL RD AD#19-42348 0102E-0E-001.00
DB 1088 141

CLASS	ACRES/LOTS	LAND APPRAISAL	# BLDGS	BLDGS APPRAISAL	RATIO	ASSESSED VALUE
	0/1	39000	1	195800		9390

NAME PETTUS STEPHEN H

RECEIPT # 001837-18-5

TAX MAP # 0102E-0E-001.00

PROPERTY DESCRIPTION

2818 CANE MILL RD AD#19-42348
DB 1088 141

Taxable Appraisal
Prior Year Taxes:

GROSS TAXES DUE:	3,055.51
LESS HOMESTEAD EXEMPTION	0.00
LESS SCHOOL TAX CREDIT	1,450.76
LESS L.O.S.T.	134.31
PLUS FEES	0.00

PAY THIS AMOUNT
BY 01/15/2019

1,470.44

PENALTY AMOUNTS DUE AFTER JANUARY 15, 2019

JAN 16-FEB 1, 2019 3%	0.00
FEB 2-MARCH 18, 2019 10%	0.00
After MARCH 18, 2019 15% plus cost	0.00

15% Penalty added after March 18th to unpaid taxes (including Fire Fees) will be forwarded to the Delinquent Tax Collector and will be subject to additional penalties and costs. Contact the Delinquent Tax Collector's Office for current tax amounts due before paying.

☐ Please check here if you would like a receipt mailed. Receipts are available on our website www.mylanastersctax.org

☐ Check here if a change of address is being returned

CURRENT NAME AND ADDRESS

PETTUS STEPHEN H

818 CANE MILL RD

LANCASTER SC, 29720

NOTICE #
001837-18-5

TAX MAP #
0102E-0E-001.00

ADDRESS CHANGE (RETURN THIS PORTION ONLY IF CHANGING ADDRESS)

ADDRESS _____

CITY _____ STATE _____ ZIP _____

____ HOME ADDRESS ____ MAILING ADDRESS ____ BOTH

ELECTRONICALLY FILED - 2019 Nov 27 11:28 AM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

ROA 000036

LANCASTER COUNTY S.C.
PROPERTY TAX NOTICE - TAX YEAR 2019

LANCASTER COUNTY

CARRIE W. HELMS
COUNTY TREASURER
P.O. BOX 729
LANCASTER, S.C. 29721

RECEIPT # 034197-19-3	TAX DISTRICT	ASSESSMENT VALUE	TAX LEVY	PROPERTY TAX
LANCASTER COUNTY	01	9,390	338.15	3175.23
	COUNTY	CITY	TOTAL	
PROPERTY TAX	3,175.23		3,175.23	
LESS HOMESTEAD EXEMPTION			0.00	
LESS SCHOOL TAX CREDIT	1,497.71		1,497.71	
LESS L.O.S.T.	169.76		169.76	
PLUS FIRE FEE			0.00	
PLUS ASSESSMENT FEES			0.00	
PLUS STORMWATER FEE			0.00	
PLUS BROOKCHASE FEE			0.00	
PLUS TREETOP FEE			0.00	
TOTAL AMOUNT DUE	1,507.76			
PAY THIS AMOUNT BY: 01/15/2020 ==>				PAY THIS AMOUNT
				1,507.76

APPROVED BY BOARD OF EDUCATION	LEVY MILLS	TAX
SCHOOL		2,108.06
APPROVED BY COUNTY COUNCIL	LEVY MILLS	TAX
COUNTY		788.77
USC-LANCASTER		46.01
CAPITAL IMPROVEMENT		46.95
COURT SECURITY		35.68
FIRE FEE		
ASSESSMENT FEES		
STORMWATER FEE		
BROOKCHASE FEE		
TREETOP FEE		
APPROVED BY CITY COUNCIL	LEVY MILLS	TAX
MUNICIPAL TAX		

DESCRIPTION OF REAL OR PERSONAL PROPERTY					
818 CANE MILL RD AD#19-42348 0102E-0E-001.00					
DB 1088 141					
CLASS	ACRES/LOTS	LAND APPRAISAL	# BLDGS	BLDG APPRAISAL	ASSESSED VALUE
	0/1	39000	1	195800	9390

CURRENT NAME AND ADDRESS PETTUS STEPHEN H 818 CANE MILL RD LANCASTER SC, 29720	NOTICE # 034197-19-3 TAX MAP # 0102E-0E-001.00	ADDRESS CHANGE (RETURN THIS PORTION ONLY IF CHANGING ADDRESS) ADDRESS _____ CITY _____ STATE _____ ZIP _____ _ HOME ADDRESS _ MAILING ADDRESS _ BOTH
---	---	---

NAME PETTUS STEPHEN H	
RECEIPT # 034197-19-3	
TAX MAP # 0102E-0E-001.00	
PROPERTY DESCRIPTION	
2818 CANE MILL RD AD#19-42348 DB 1088 141	
Taxable Appraisal Prior Year Taxes:	
GROSS TAXES DUE: 3,175.23 LESS HOMESTEAD EXEMPTION 0.00 LESS SCHOOL TAX CREDIT 1,497.71 LESS L.O.S.T. 169.76 PLUS FEES 0.00	
PAY THIS AMOUNT BY 01/15/2020 1,507.76	

PENALTY AMOUNTS DUE AFTER JANUARY 15, 2020	
JAN 16-FEB 1, 2020 3%	1,552.99
FEB 2-MARCH 18, 2020 10%	1,658.54
After MARCH 18, 2020 15% plus cost	1,733.92

15% Penalty added after March 18th to unpaid taxes (including Fire Fees) will be forwarded to the Delinquent Tax Collector and will be subject to additional penalties and costs. Contact the Delinquent Tax Collector's Office for current tax amounts due before paying.

- ☐ Please check here if you would like a receipt mailed. Receipts are available on our website www.mylancastersctax.org
- ☐ Check here if a change of address is being returned

ELECTRONICALLY FILED - 2019 Nov 27 11:28 AM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF LANCASTER	)	
Buffalo Creek Investments, Inc.,	)	C/A No. 2019-CP-29-00617
	)	
Plaintiff,	)	
	)	
v.	)	NOTICE OF APPEARANCE
	)	MOTION TO INTERVENE AND
Stephen H. Pettus a/k/a Stephen	)	REQUEST FOR HEARING
Pettus and Christopher Gravley,	)	
	)	
Defendants.	)	
	)	

TO THE COURT AND COUNSEL OF RECORD:

The undersigned attorneys hereby give notice of their appearance in this action, as Counsel for Edwin G. Young and Barrett M. Maners ("Putative Intervenor"). Putative Intervenor move to intervene as a matter of right, pursuant to the provisions of Rule 24(a) S.C. R. Civ. P. Putative Intervenor also request an opportunity to be heard prior to entry of any order that purports to invalidate, in whole or in part, the foreclosure deed issued to Putative Intervenor on or about November 14, 2019. In support of this motion, Putative Intervenor would allege and show as follows:

1. This action was commenced and prosecuted to final judgment as a foreclosure action, maintained by Plaintiff against Defendants for foreclosure of a mortgage covering real property located at 2818 Cane Mill Road, Lancaster, South Carolina (the "Mortgaged Property").

2. On information and belief, Defendants were properly served with Plaintiff's summons and complaint and, if not, Defendants waived service. The record of proceedings reflects that Defendants were served with the Summons, Lis Pendens and Complaint; Notice of

Reference; Notice of Hearing; and Order of Foreclosure and Sale, among other pleadings and notices.

3. At no time prior to entry of a final judgment of foreclosure did Defendants allege any impropriety or irregularity with the proceedings.

4. This court entered a final decree of foreclosure and ordered a judicial sale of the Mortgaged Property on or about September 20, 2019.

5. Following entry of that decree of foreclosure, the Mortgaged Property was advertised and sold in accordance with South Carolina law, on or about November 4, 2019. Putative Intervenorers were the successful bidders at the foreclosure sale and were bona fide purchasers of the Mortgaged Property, without notice of any alleged irregularity or impropriety in the foreclosure proceeding.

6. Putative Intervenorers are now the owners of record of the Mortgaged Property.

7. Putative Intervenorers have been informed and, therefore, believe that Plaintiff and Defendants intend to "submit an order" purporting to invalidate or set aside the final judgment in this action, without any justifiable basis to do so.

8. South Carolina Code § 15-39-870 provides:

Upon the execution and delivery by the proper officer of the court of a deed for any property sold at a judicial sale under a court of competent jurisdiction the proceedings under which such sale is made shall be deemed res judicata as to any and all bona fide purchasers for value without notice, notwithstanding such sale may not subsequently be confirmed by the court.

9. Plaintiff and Defendants are barred and estopped from challenging the validity of Putative Intervenorers' deed, pursuant to the provisions of S.C. Code Ann. § 15-39-870 and the doctrine of res judicata. As bona fide purchasers for value without notice, Putative Intervenorers are entitled to be placed in immediate possession of the Mortgaged Property.

10. Putative Intervenor claim an interest relating to the property or transaction which is the subject of this action and are so situated that the disposition of this action may as a practical matter impair or impede their ability to protect that interest. The interest of Putative Intervenor is not adequately protected by any of the existing parties to this action.

11. Putative Intervenor request an opportunity to be heard prior to entry of any orders that purport to invalidate or set aside Putative Intervenor's deed to the Mortgaged Property.

This motion will be based upon the South Carolina Rules of Civil Procedure, the pleadings and affidavits already of record and the appropriate statutory and case law. Counsel certifies that because of the exigent nature of this motion, including the expressed intention of Counsel for Plaintiff to promptly "submit an order" purporting to invalidate the concluded foreclosure proceedings, that prior consultation with other counsel regarding the substance of this motion could not be timely held.

December 13, 2019

s/W. Keith Martens
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ATTORNEYS FOR PUTATIVE INTERVENORS

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
) IN THE COURT OF COMMON PLEAS
) SIXTH JUDICIAL CIRCUIT

Buffalo Creek Investments, Inc.,)
) C/A No. 2019-CP-29-00617
Plaintiff,)
))
v.) MOTION FOR RECONSIDERATION
) (RULE 59(e) S.C.R. Civ. P.)
Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)
))
Defendants.)

Pursuant to Rule 59(e) S.C. R. Civ. P., intervening parties Edwin Young and Barrett Maners ("Purchasers") move for reconsideration of the Special Referee's Order Vacating Foreclosure and Setting Aside Judicial Sale, dated February 20, 2020 and filed February 27, 2020 (the "Order"). Purchasers received written notice of entry of the Order via ECF on February 27, 2020.

MOTION AND GROUNDS FOR RECONSIDERATION

Purchasers respectfully urge the referee to reconsider his Order and to affirm the judicial sale in favor of Purchasers. In support of this motion, Purchasers submit that the referee abused his discretion by considering factors that were not germane to the issue before the court. The referee also issued his Order without the benefit of recent South Carolina Supreme Court authority, as announced in Winrose Homeowners' Association, Inc. v. Hale, 428 S.C. 563, 837 S.E.2d 47 (2019),¹ and the referee's findings and conclusions of the Order are incongruous with

¹ Winrose was decided by the South Carolina Supreme Court at the same time the referee was considering Defendants' motion. The South Carolina Supreme Court issued its opinion in Winrose on December 18, 2019 (approximately three weeks after Defendants filed their motion in this case) and denied rehearing of that opinion on January 20, 2020 (two days before the hearing on Defendants' motion in this case).

the holding of Winrose. Finally, although the referee and other parties permitted Purchasers to participate in the hearing and to oppose Defendants' motion, the Order does not reflect that Purchasers' motion to intervene was granted. For clarity of the record, Purchasers request that the referee amend the Order to reflect that Purchasers were permitted to intervene. The specific grounds for this motion are enumerated below:

1. The referee should reconsider his order because South Carolina's appellate courts have never instructed or permitted courts to "balance the equities" of parties when considering a motion to vacate a judicial sale.

The Order makes clear that the referee engaged in an extensive "balancing of the equities" as he considered Defendants' motion. *See* Order at 4-5. However, South Carolina's Supreme Court has never applied or prescribed a "balancing of the equities" standard in cases such as this. By employing that standard to decide Defendants' motion, the referee abused his discretion.

The very recent decision of the South Carolina Supreme Court, Winrose Homeowners' Association, Inc. v. Hale, 428 S.C. 563, 837 S.E.2d 47 (2019) is controlling precedent, and it requires this court to reconsider the Order and to affirm the sale to Purchasers. In that case, the Supreme Court reiterated this state's long-standing rule that:

a judicial sale will not be set aside due to an inadequate sale price *unless*: (1) the price was so grossly inadequate as to shock the conscience of the court; or (2) an inadequate – but not grossly inadequate – price at the sale is accompanied by other circumstances from which the court may infer fraud has been committed."

Winrose, 428 S.C. 563, 569, 837 S.E.2d 47, 50 (2019)(italics added)(citing Singleton v. Mullins Lumber Co, 234 S.C. 330, 351, 108 S.E.2d 414, 424 (1959)). Winrose makes clear that the grounds for setting aside a foreclosure sale are very limited, and those grounds do not include

any consideration of the parties' "relative equities" or of "who has more at stake." Winrose requires this court to reconsider its order and to affirm the sale in favor of Purchasers.

2. The referee should reconsider his order because no reported South Carolina case has held that a sale price in excess of 30% of a property's value is so low that it "shocks the conscience of the court."

The referee should also reconsider and reverse his finding that Purchasers' bid, which was more than 32% of the "price Defendant Pettus paid for the subject property" and approximately 33.4% percent of the assessed tax value, was so low that it "shock[ed] the conscience of the court." Again, Winrose is instructive. In that case, the Supreme Court recognized that "a search of South Carolina jurisprudence reveals only when judicial sales are for less than [10%] of a property's actual value[] have our courts consistently held the discrepancy to shock the conscience of the court." Winrose, 428 S.C. at 570, 837 S.E.2d at 51. While the Winrose litigants did not ask the Supreme Court to "formally adopt [the 10%] threshold or choose a different threshold" as a "bright-line" standard, Winrose suggests that, if presented with the appropriate opportunity, the Supreme Court would establish a "bright-line" threshold somewhere between 10% and 30%:

It is worth noting that our appellate courts have never had the opportunity to consider a case in which the winning bid amounted to between 10% and 30% of the actual value of the property, and thus have not had an opportunity to set a different threshold.

Winrose, 428 S.C. at 53 n. 6, 837 S.E.2d at 47 n.6 (2019); *see also* Restatement (Third) of Property ("Generally, a court is warranted in invalidating a sale where the sale price is less than 20% of fair market value and, absent other foreclosure defects, is usually not warranted in invalidating a sale that yields in excess of that amount."). Whether the presumptive threshold would remain at 10% or migrate upward is a purely academic question. Even if the "threshold" were 30%, Purchasers' successful bid still exceeds that amount. This court should reconsider its

finding that Purchasers' bid was "so low as to shock the conscience" in light of the Supreme Court's discussion in Winrose.

3. The referee should reconsider his determination that Purchasers were not "bona fide purchasers for value without notice" because Purchasers were entitled to a presumption that the referee "considered and adjudicated the regularity and sufficiency of each and every step" of the foreclosure proceeding and because they were not "charged with knowledge" of the South Carolina Supreme Court's 2011 Administrative Order, as a matter of law.

The referee found that Purchasers were not "bona fide purchasers for value without notice" because Purchasers "should have" recognized that the underlying foreclosure action proceeded to judgment in violation of the South Carolina Supreme Court's 2011 Administrative Order. Order at 6. The referee's determination of this issue is problematic for two reasons, and it improperly deprives Purchasers of their status as bona fide purchasers and the protections afforded them under South Carolina Code Section 15-39-870 (Law. Co-op. 2005).

First, the referee's finding ignores the presumption, to which Purchasers are entitled, that "the court considered and adjudicated the regularity and sufficiency of each and every step in the [underlying] proceedings." Gladden v. Chapman, 106 S.C. 486, 91 S.E. 796, 797 (1917). By ignoring this presumption, the referee shifted the risk that a sale may be vacated because of "irregularities" in the underlying action from the litigants (who had a full opportunity to raise those issues, either in the litigation or through appeal) to an innocent purchaser (who had no opportunity to direct the conduct of the underlying proceeding). This is anathema to the well-settled jurisprudence of our state. Id.; see also Robinson v. Estate of Harris, 378 S.C. 140, 146, 662 S.E.2d 420, 423 (Ct. App. 2008)(a purchaser's title is "not affected by [mortgagor's claim of defective service of process in the foreclosure action.]); Tederall v. Bouknight, 25 S.C. 275, 280

(1886)(“purchaser at such sale is in no way responsible for mere irregularities in the proceedings, or even error in the judgment, under which the sale is made.”).

The referee’s finding is also based upon an erroneous legal conclusion that the Supreme Court’s 2011 Administrative Order is “the law” and, therefore, Purchasers are “charged with knowledge” of that order. *See* Order at 6. Purchasers have not found any authority supporting the referee’s conclusion that an administrative order, signed by a single justice of the Supreme Court has the effect or force of law. In fact, the only case Purchasers have located suggests just the opposite. *See Weber v. Bank of America, N.A.*, 2013 WL 4820446, n. 5 (D.S.C. 2013)(Anderson, J.)(“Even if the Toal [2011] Administrative Order² did include . . . a mandate [for foreclosure intervention], the court is not aware of any authority providing that the Chief Justice, sitting alone, possesses the law-making authority of the entire South Carolina Supreme Court.”).

While the referee correctly noted that “all citizens are charged with knowledge of existing law,” that same presumption does not apply to administrative orders of the Supreme Court. The referee’s conclusion that Purchasers were “charged with knowledge” of the Supreme Court’s 2011 Administrative Order as “the law of the state” is erroneous. That error of law has, in turn, caused the referee to abuse his discretion and to wrongly decide Defendants’ motion. The referee should reconsider his Order because it is based, at least in part, on an erroneous legal conclusion that Purchasers were “charged with knowledge” of Chief Justice Toal’s 2011 Administrative Order.

4. The referee should reconsider his order because Defendants did not present any evidence that the foreclosure sale was “accompanied by other circumstances from which the court may infer fraud has been committed.”

² Weber involved the very same administrative order that is at the heart of Defendants’ motion.

The South Carolina Supreme Court's opinion in Winrose makes clear that, where a judicial sale is challenged, the party challenging that sale must establish either: (1) that the price paid was "so grossly inadequate as to shock the conscience of the court"; or (2) that an inadequate – but not grossly inadequate – price was paid and the sale was accompanied "by other circumstances from which the court may infer fraud has been committed." 428 S.C.563, 837 S.E.2d 47 (S.C. 2019). The referee's Order contains no finding or inference of fraud and Defendants did not even allege, much less present evidence to create such an inference. Once again, Winrose requires the referee to reconsider and reverse his Order.

5. The referee should amend the Order to accurately reflect Purchasers' intervention and appearance as parties in this case.

While the transcript of hearing and the Order both reflect that Purchasers were permitted to argue in opposition to Defendants' motion, the referee never actually granted Purchasers' motion to intervene. For clarity in the record, the referee should amend his order and grant Purchasers' motion.

CONCLUSION AND CERTIFICATION

For each of the enumerated reasons, Purchasers respectfully request that the referee reconsider his Order and enter an amended order that denies Defendants' motion and affirms Purchasers' title to the property. Counsel certifies, pursuant to Rule 11 S.C. R. Civ. P., that he had no obligation to consult with opposing counsel prior to filing this motion. Counsel further certifies that consultation would have been futile.

[SIGNATURES ON FOLLOWING PAGE]

March 5, 2020

s/W. Keith Martens

W. Keith Martens

S.C. Bar 8645

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ATTORNEYS FOR INTERVENORS/PURCHASERS

EDWIN G. YOUNG AND BARRETT MANERS

ELECTRONICALLY FILED - 2020 Mar 05 11:04 AM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-_____

Buffalo Creek Investments, Inc.,)

Plaintiff,)

vs.)

Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)

Defendants.)

LIS PENDENS

TO WHOM IT MAY CONCERN:

TAKE NOTICE that an action is pending in this Court under the foregoing title for the foreclosure of the following real estate mortgage, to wit:

Mortgagor: Stephen H. Pettus

Mortgagee: Buffalo Creek Investments, Inc.

Dated: May 11, 2018

Recorded: May 11, 2018 in Mortgage Book 3551, at Page 50 in the Office of the Register of Deeds for Lancaster County, South Carolina, securing payment in an original amount of Fifty Thousand and No/100 Dollars (\$50,000.00):

Description of property covered by said mortgage:

ALL that certain piece, parcel or lot of land, together with improvements thereon, lying, being and situate in Gills Creek Township, Lancaster County, South Carolina, fronting on the west side of Cane Mill Road, being designated as Lot 1 on plat of Providence Crossing-Phase I, more particularly described on plat of survey entitled 'Plat of Surveyed for Jerry Wayne Boone & Laura Faye Boone' dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina.

ROA 000048

Being the identical property conveyed to Stephen H. Pettus by deed recorded October 10, 2017 in Book 1088 at page 141 with the Register of Deeds for Lancaster County, South Carolina.

s/Philip E. Wright
408 North Main Street
Lancaster, SC 29720
(803) 286-4343
S.C. Bar No. 6241
philwright@pewpa.com

ATTORNEY FOR PLAINTIFF

May 17, 2019
Lancaster, South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-_____

Buffalo Creek Investments, Inc.,)

Plaintiff,)

vs.)

Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)

Defendants.)

SUMMONS

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber hereof at his office within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for a judgment by default to be rendered against you for the relief demanded in the Complaint.

TO ANY DEFENDANTS UNDER 18 YEARS OF AGE OR ANY OTHER PERSONS UNDER ANY LEGAL DISABILITY OR ANY PERSONS KNOWN OR UNKNOWN WHO MAY HAVE A CLAIM OR INTEREST:

You are hereby notified to apply for appointment of a Guardian ad Litem to represent any minor Defendant or any other persons under any legal disability or any persons known or unknown who may have a claim or interest within thirty (30) days after the service of this Summons upon you and if you fail, application will be made by the Plaintiff herein for such appointment.

s/Philip E. Wright
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Lancaster, SC 29720
(803) 286-4343
S.C. Bar No. 6241
philwright@pewpa.com

ATTORNEY FOR PLAINTIFF

May 17, 2019
Lancaster, South Carolina.

ROA 000050

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF LANCASTER	)	CASE NO. 2019-CP-29-_____
Buffalo Creek Investments, Inc.,	)	
	)	
Plaintiff,	)	
	)	COMPLAINT
vs.	)	
	)	
Stephen H. Pettus a/k/a Stephen	)	
Pettus and Christopher Gravley,	)	
	)	
Defendants.	)	
_____	)	

The Plaintiff would respectfully allege and show unto this Court as follows:

FOR A FIRST CAUSE OF ACTION
(Foreclosure of Commercial Mortgage)

1. That the Plaintiff is a corporation organization organized and existing under the laws of the State of North Carolina and does business in Lancaster County.
2. That the Defendant Stephen H. Pettus is, upon information and belief, a resident of Waxhaw, North Carolina.
3. That the Defendant Christopher Gravley is, upon information and belief, a resident of Max Meadows, Virginia.
4. That the real property which is the subject of this action is situated in Lancaster County, South Carolina.
5. That this real estate mortgage is not subject to the provisions of the Home Affordable Modification Program (HMP) and is not owned, secured or guaranteed by the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac).
6. That the real property which is the subject of this foreclosure is not owner occupied and is not subject to the terms of the Administrative Order of the Supreme Court of

South Carolina dated May 2, 2011 (2011-05-02-01). The mortgage was granted to allow the Defendants to invest in a business.

7. That on or about May 11, 2018, the Defendants for value received, made, executed and delivered to the Plaintiff their promissory note in writing wherein and whereby they promised to pay to the Plaintiff the sum of Fifty Thousand and No/100 Dollars (\$50,000.00), together with interest therein at a rate of 12 percent from the date of the note to the maturity date with a balloon payment of all interest and principal due on May 11, 2020. A copy of the Note is attached hereto and incorporated herein by reference.

8. That in order to better secure the payment of the indebtedness evidenced by the aforesaid promissory note, the Defendant Stephen H. Pettus made, executed, and delivered to the Plaintiff his real estate mortgage, wherein and whereby he conveyed to the Plaintiff by way of mortgage the following described real property situated in Lancaster County, South Carolina:

ALL that certain piece, parcel or lot of land, together with improvements thereon, lying, being and situate in Gills Creek Township, Lancaster County, South Carolina, fronting on the west side of Cane Mill Road, being designated as Lot 1 on plat of Providence Crossing-Phase I, more particularly described on plat of survey entitled 'Plat of Surveyed for Jerry Wayne Boone & Laura Faye Boone' dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Being the identical property conveyed to Stephen H. Pettus by deed recorded October 10, 2017 in Book 1088 at page 141 with the Register of Deeds for Lancaster County, South Carolina.

9. That this real estate mortgage was filed in the Office of the Register of Deeds for Lancaster County, South Carolina on May 11, 2018 in Mortgage Book 3551, at Page 50.

10. The Defendant Christopher Gravley did not provide security for his responsibility on the commercial loan.

11. That the aforesaid promissory note and real estate mortgage further provided that in the event of the failure of the mortgagor to comply with any covenant, condition, or agreement in the promissory note and real estate mortgage, the Plaintiff may, at its option, declare all amounts secured by the real estate mortgage to be immediately due and payable and to foreclose the real estate mortgage and pursue any other remedies as may be authorized by law; and in the event the indebtedness secured by the real estate mortgage, or any part thereof, is established by or in any action for foreclosure of the subject real estate mortgage, the Plaintiff may also recover of the mortgagor all costs of collection and attorney's fees, such fee to be incorporated in the judgment of foreclosure in such action.

12. That the Plaintiff is the owner and holder of the promissory note and real estate mortgage, and that the terms and conditions thereof have been breached by the failure and refusal of the Defendants to pay when due the installments of the indebtedness evidenced by the aforesaid promissory note, and the failure of the Defendants to pay when due all taxes, assessments, and other charges that may be levied or assessed against the said property and all judgments and all other amounts that have become a lien thereon.

13. That by reason of the breach by the Defendants of the terms, covenants, and conditions of the said promissory note and real estate mortgage, the Plaintiff has exercised its option to declare the entire mortgage indebtedness due and payable.

14. That as of May 10, 2019, there is now due and owing to the Plaintiff from the Defendants the sum of Fifty-Eight Thousand Four Hundred Forty-Two and 75/100 Dollars (\$58,442.75), plus interest from said date in accordance with the terms and conditions of the promissory note and real estate mortgage, until the said sum, together with interest, costs, and attorney's fees have been paid in full.

15. That, upon information and belief, the Plaintiff is entitled to have its real estate mortgage foreclosed and the subject collateral should be sold at public auction as provided by law and the proceeds therefrom should be applied to the indebtedness due the Plaintiff by the Defendants.

16. That the Plaintiff specifically reserves its right to seek a personal or deficiency judgment against the Defendants. The Plaintiff reserves the right to waive the deficiency prior to sale of the subject property.

FOR A SECOND CAUSE OF ACTION
(Rent Due)

17. That the Plaintiff incorporates the allegations of the First Cause of Action herein by reference.

18. The Defendants agreed to rent a building from the Plaintiff to use for the operation of the business.

19. The Defendants failed to pay rent as required by the rental agreement.

20. The Defendants are now \$10,000.00 delinquent in rent on the building. The Plaintiff seeks a judgment for the amount of rent due of \$10,000.00.

WHEREFORE, the Plaintiff prays:

AS TO THE FIRST CAUSE OF ACTION
(Foreclosure of Commercial Mortgage)

1. That the amount of the indebtedness due to the Plaintiff by the Defendants under the promissory note and real estate mortgage, including interest at the loan rate, costs, and attorney's fees be ascertained and determined by this Court.

2. That the real estate mortgage of the Plaintiff be foreclosed and that the subject collateral be sold under the Order and direction of this Court at public auction as provided by law.

3. That the proceeds from such sale be applied to the payment of the indebtedness due the Plaintiff, including interest until paid at the loan rate, costs, and attorney's fees; and that the balance, if any, be held subject to further Order of this Court.

4. For entry a deficiency judgment against the Defendants for any amounts still due and owing the Plaintiff following disposition of the collateral.

5. That the Defendants and all persons and entities whomsoever claiming by, under, or through the named Defendants be forever barred and foreclosed of all right, title, estate, interest, and equity of redemption in or to the said mortgaged premises and each and every part thereof.

AS TO THE SECOND CAUSE OF ACTION
(Rent)

6. That the Court enter judgment against the Defendants in the amount of \$10,000.00 for rent due on the premises rented by the Defendants for their business

7. For such other and further relief as the Court may deem just and proper.

s/Philip E. Wright
408 North Main Street
Lancaster, SC 29720
(803) 286-4343
S.C. Bar No. 6241
philwright@pewpa.com

ATTORNEY FOR PLAINTIFF

May 17, 2019
Lancaster, South Carolina.

SATISFACTION: The debt evidenced by
this Note has been satisfied in full this
_____ day of _____, 20____.

PROMISSORY NOTE

Marshville, NC

\$50,000.00

May 11, 2018

FOR VALUE RECEIVED the undersigned, Stephen Pettus and Christopher Gravley, jointly and severally, promise to pay Buffalo Creek Investments, Inc., or order the principal sum of Fifty Thousand Dollars and no/100 (\$50,000.00), with interest from May 11, 2018 at the amount of \$500.00 per month for Twenty-four (24) months interest only payments at twelve percent (12%) APR payable in lawful money of the United States of America, at the office of Buffalo Creek Investments, Inc., 5415 Gilboa Road, Marshville, NC 28103 or at such place as the legal holder hereof may designate in writing. It is understood and agreed that additional amounts may be advanced by the holder hereof as provided in the Instruments, if any, securing this Note and such advances will be added to the principal of this Note and will accrue interest at the above specified rate of interest from the date of advance until paid. The principal and interest shall be due and payable as follows:

Twenty-four months (24) payments of interest (12% APR) on amount drawn, the first payment Four hundred dollars (\$400.00) being due and payable on June 11, 2018, and the final interest only payment due on May 11, 2020. If any monthly payment is not received within 15 days of its due date a 4% late penalty will be charged.

Amount drawn on May 11, 2018 of Forty Thousand dollars (\$40,000.00). Balance of available funds, Ten Thousand dollars (\$10,000.00) to be drawn at a later date.

In the event of (a) default in payment of any installment of principal or interest hereof as the same becomes due and such default is not cured within ten (10) days from the due date, or (b) default under the terms of any instrument securing this Note, and such default is not cured within fifteen (15) days after written notice to maker, then in either such event the holder may without further notice, declare the remainder of the principal sum, together with all interest accrued thereon and, the prepayment premium, if any, at once due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any other time. The unpaid principal of this Note and any part thereof, accrued interest and all other sums due under this Note and the Deed of Trust, if any, shall bear interest at the rate of Fifteen per cent (15%) per annum after default until paid.

All parties to this Note, including maker and any sureties, endorsers, or guarantors hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note and Deed of Trust notwithstanding any change or changes by way of release, surrender, exchange, modification or substitution of any security for this Note or by way of any extension or extensions of time for the payment of principal and interest; and all such parties waive all and every

ROA 000056

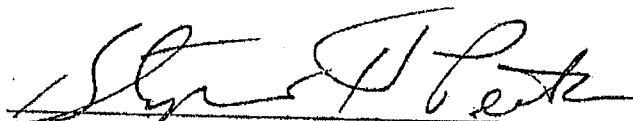
kind of notice of such change or changes and agree that the same may be made without notice or consent of any of them.

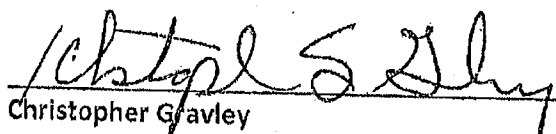
Upon default the holder of this Note may employ an attorney to enforce the holder's rights and remedies and the maker, principal, surety, guarantor and endorsers of this Note hereby agree to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on said Note, plus all other reasonable expenses incurred by the holder in exercising any of the holder's rights and remedies upon default. The rights and remedies of the holder as provided in this Note and any Instrument securing this Note shall be cumulative and may be pursued singly, successively, or together against the property described in the Deed of Trust or any other funds, property or security held by the holder for payment or security, in the sole discretion of the holder. The failure to exercise any such right or remedy shall not be a waiver or release of such rights or remedies or the right to exercise any of them at another time.

This Note is to be governed and construed in accordance with the laws of the State of North Carolina.

This Note is given as money loaned, and is secured by a Deed of Trust which is a first lien upon property therein described.

IN TESTIMONY WHEREOF, each Individual maker has hereunto
Set his hand and adopted as his seal the word "SEAL" appearing
Beside his name, the day and year first above written.


Stephen Pettus (SEAL)


Christopher Gravley (SEAL)

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

VERIFICATION OF ACCOUNT

PERSONALLY appeared before me as Notary Public in and for the County and State aforesaid, the undersigned, who being first duly sworn on oath states that he is the President of Buffalo Creek Investments, Inc., Plaintiff, a corporation organized and existing under the laws of the State of North Carolina; that he has knowledge of the facts herein set forth, and is duly authorized to make the Affidavit; that the annexed accounts of the said Plaintiff against the Defendants are within the knowledge of affiant, true, just and correct; that as of May 10, 2019, there is now due from said Defendants, the total sum of \$68,442.75, with interest and reasonable attorney's fees, and that all just, lawful offsets, payments and credits have been allowed.

BUFFALO CREEK INVESTMENTS, INC.

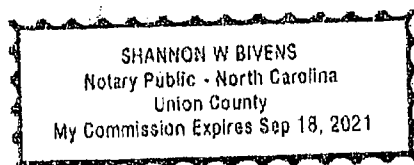
By: *Chad Whitley*

Chad Whitley

Sworn to before me this
10 day of May, 2019.

Shannon W Bivens

Notary Public for North Carolina

My Commission Expires: Sept 18, 2021

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

1. The amount of the debt is that as stated in the Complaint attached hereto.
2. The Creditor is the Plaintiff as named in the Summons and Complaint.
3. The debt described in the Complaint attached hereto will be assumed to be valid by the Creditor's law firm unless you, the debtor, within thirty (30) days after receipt of this notice, dispute, in writing, the validity of the debt or some portion thereof.
4. If you, the debtor, notify the Creditor's law firm in writing within thirty (30) days of receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain a verification of the debt and a copy of the verification will be mailed to you, the debtor, by the Creditor's law firm.
5. If the Creditor named in the attached Complaint is not the original Creditor, and if you make a written request to the Creditor's law firm within the thirty (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.
6. Written requests should be addressed to Philip E. Wright, 408 North Main Street, Lancaster, SC 29720.
7. This notice should not be construed as a thirty (30) day grace period. The Creditor may pursue collection efforts immediately and not wait thirty (30) days.
8. **THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,)

Plaintiff,)

vs.)

Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)

Defendants.)

RECORD OF HEARING

Pursuant to the Order of Reference filed in the above cause of action, a hearing was held before The Honorable Robert W. Davis. Special Referee. Counsel of record is as follows:

ATTORNEY FOR PLAINTIFF: Philip E. Wright
ATTORNEY FOR DEFENDANTS: No appearance

The Lis Pendens, Summons, Complaint and Certification of Exemption from ADR were filed on May 17, 2019. Affidavits of Service are filed and show that service was properly effected upon the Defendants herein. The Defendants are in default. There is an Affidavit of Non-Military Service indicating that the Defendants are not in the military service of the United States of America.

The Plaintiff testified concerning the mortgage and rental debt and submitted a summary of those debts.

The Plaintiff's attorney offered into evidence the following documents:

1. Promissory Note
2. Mortgage
3. Affidavit of Debt by an agent of Plaintiff
4. Summary of Debt

By the Affidavit of Debt, the Plaintiff established the total debt amount due, including the Ten Thousand and No/100 Dollars (\$10,000.00) delinquent rent payment, is Seventy-Three

Thousand Twenty-Nine and 96/100 Dollars (\$73,029.96). The Plaintiff seeks attorney's fees of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) and costs of Five Hundred Fifty-Nine and 56/100 Dollars (\$559.56) for a total debt of Seventy-Six Thousand Eighty-Nine and 52/100 Dollars (\$76,089.52).

The Plaintiff moved for foreclosure of the subject mortgage, with equity of redemption by the Defendants barred, and for a sale of the subject property. The relief was granted, and the hearing was concluded.

s/Philip E. Wright
408 North Main Street
Lancaster, SC 29720
(803) 286-4343
S.C. Bar No. 6241
philwright@pewpa.com

ATTORNEY FOR PLAINTIFF

September 11, 2019
Lancaster, South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS
FOR THE SIX JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,
Plaintiff,

vs.

Stephen H. Pettus a/k/a Stephen
Pettus and Christopher Gravely,
Defendants.

MOTION HEARING
HELD BEFORE SPECIAL REFEREE ROBERT W. DAVIS

January 22, 2020

10:05 a.m.

* * *

At Lancaster County Courthouse
104 North Main Street
Lancaster, South Carolina

Reported by:
Taura J. Vulcano, CSR, RPR

HAMILTON COURT REPORTING, LLC
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A P P E A R A N C E S

For the Plaintiff:

PHILIP E. WRIGHT, ESQ.
Philip E. Wright, P.A.
408 North Main Street
Lancaster, South Carolina 29720
803.286.4343
phil.wright@pewpa.com

For the Defendants:

KATHLEEN McDANIEL, ESQ.
Burnett Shutt & McDaniel, P.A.
P.O. Box 1929
Columbia, South Carolina 29202
803.904.7913
KMcDaniel@BurnetteShutt.Law

For the Intervenor Maners and Young:

W. KEITH MARTENS, ESQ.
Hamilton Martens
P.O. Box 10940
Rock Hill, South Carolina 29731
803.329.7662
keith.martens@hamiltonmartens.com

* * *

I N D E X

A R G U M E N T

P A G E

BY KATHLEEN McDANIEL, ESQ:

4, 39

BY W. KEITH MARTENS, ESQ.:

28

E X H I B I T S

D E F E N D A N T S

D E S C R I P T I O N

P A G E

Exh. 1 Deed filed 10/10/17 from Adams to Pettus

7

Exh. 2 Deed filed 11/15/19 to Maners and Young

48

Exh. 3 Affidavit of Stephen Pettus

48

Exh. 4 Affidavit of Christopher Gravely

48

* * *

1 P R O C E E D I N G S

2 THE COURT: Ms. McDaniel, it looks like
3 you're asking that the foreclosure be set aside on
4 behalf of your clients.

5 MS. McDANIEL: That's correct, Your
6 Honor. May it please the Court, Your Honor,
7 Kathleen McDaniel for Defendants Stephen Pettus and
8 Christopher Gravley. We're here today on our motion
9 to set aside -- well, to vacate the foreclosure and
10 to set aside the foreclosure sale that occurred on
11 November 4, 2019. In this case, Mr. Pettus and
12 Mr. Gravley are residents of the property that was
13 foreclosed upon.

14 Following the foreclosure proceedings --
15 and I'll explain in a minute the facial defects of
16 that proceeding that should have been evident to any
17 purchaser. Following the foreclosure proceedings
18 the property was sold at a foreclosure sale on
19 November 4th and purchased by Mr. Maners and
20 Mr. Young. On November 14th it appeared that the
21 deed, a deed was issued for the property and the
22 purchase price was paid and the mortgage was, I
23 believe, marked as satisfied.

24 When my clients came to me after that
25 point, we were looking through the record on the

1 foreclosure and it appeared to me that the
2 third-party purchasers are not able to take the
3 protection as buyers without notice of alleged
4 defect. So the statute that Mr. Maners and
5 Mr. Young seek the protection of is Section
6 15-39-870, which would seem to give a third-party
7 purchaser all rights against setting aside the sale.
8 However, it requires to be the innocent third-party
9 purchaser, that purchaser must have purchased the
10 property without notice of any alleged defects in
11 the proceedings prior to the sale. And what I want
12 to go through for you today, Your Honor, is the list
13 of defects that we've identified that anyone would
14 have been on notice of because these defects are
15 clearly ascertainable from the public record.

16 Before I get into that, however, I do
17 want to put on the record that we were going to have
18 this hearing, I believe, before Christmas. And at
19 that time, the day before -- the night/evening
20 before the hearing Phillip Wright, the attorney for
21 Buffalo Creek Investments, contacted me and said
22 that they would consent to vacate the foreclosure.
23 Of course, we contacted you, let you know that we
24 didn't need to have a hearing to go forward, and
25 that is when, of course, Mr. Maners and Mr. Young

1 informed of all of those communications, and that's
2 when they moved to intervene and to prevent the
3 vacation of this foreclosure.

4 What I also want the Court to keep in
5 mind is that foreclosure proceedings are proceedings
6 in equity. And in this case the equity weighs
7 heavily in favor of vacating the foreclosure and
8 returning the property to Mr. Pettus and
9 Mr. Gravley.

10 What I will pass up to the Court and
11 would like to be put into evidence; although, it's a
12 matter of public record. I'll show opposing counsel
13 a copy. What I've shown is the -- oh, pardon me,
14 that's wrong. Here you go.

15 What I have is a copy of the deed whereby
16 Mr. Pettus purchased this property in 2017 showing
17 that the purchase price was \$242,500. This
18 matter -- this deed was recorded on October 11,
19 2017. And Your Honor, I would request permission to
20 put this deed into evidence.

21 THE COURT: Yes.

22 MR. MARTENS: No objection.

23 MS. McDANIEL: Is it okay if I approach
24 and pass it up to you?

25 THE COURT: Yes, we'll mark this but I'll

1 want to look at it too. This is the deed from Lloyd
2 and Jennifer Adams to Stephen H. Pettus in
3 consideration \$242,500 and it was recorded
4 October 10, 2017.

5 So we'll have this marked as Exhibit A --
6 Exhibit 1.

7 (Exhibit 1 marked for identification.)

8 MS. McDANIEL: Thank you, Your Honor.

9 Your Honor, the reason that this is
10 important is because one of the most important
11 equitable maxims is that equity abhors a forfeiture.
12 And in this case permitting the property to remain
13 with the purchasers would actually work a
14 significant forfeiture in this case. Mr. Pettus
15 paid the purchase price in full. There is no
16 indication that there was any other prior mortgage
17 on the property. There is no indication that any
18 other amount was owed on the property at the time
19 the mortgage at issue here was given. So Your
20 Honor, my clients, Mr. Pettus and Mr. Gravley, if we
21 lose, they lose not only the house, they -- the
22 house that they live in, their residence, they also
23 lose \$242,500 that they paid to purchase that house.
24 On the other hand, Mr. Maners and
25 Mr. Young, if we prevail, they get their money back.

1 They do not end up in any worse position than they
2 would have started out before. So if the sale is
3 set aside, it's my understanding that Buffalo Creek
4 Investments would refund the money and they go back
5 to the same position that they were in before. They
6 have not been harmed in any way. So, Your Honor,
7 the equity weighs very heavily in not putting my
8 clients out of their home. Your Honor, I wanted to
9 put that in front of you first and foremost. And we
10 can keep that in mind as we move through this
11 hearing.

12 Second, we have a -- the affidavit that
13 we filed, the affidavits that we filed in
14 conjunction with the petition to vacate the
15 foreclosure indicates that Mr. Pettus and
16 Mr. Gravley have no recollection of actually being
17 served with this foreclosure summons and complaint.
18 In addition, they have reviewed the camera footage
19 at the front of their house, and on the date that it
20 is alleged that they were served with the
21 foreclosure summons and complaint, there is no
22 footage of anyone appearing at the home.

23 Your Honor, that is in their affidavit
24 that was filed November 27, 2019. So the failure of
25 proper service robs this court of jurisdiction. Now

1 that we know that they weren't properly served, robs
2 this court of jurisdiction. That jurisdiction,
3 according to Mr. Maners' attorney, they contend that
4 service of process was somehow waived. However,
5 there is no evidence that that service of process
6 was ever waived on the face of the records that
7 appear -- on the face of the documents that appear
8 in the public record.

9 So this is a little bit of a complicated
10 argument, but bear with me. So in the order of
11 foreclosure -- let me get to that -- I'm sorry, the
12 Decree of Foreclosure, on the second page of the
13 Decree of Foreclosure, the court notes -- states
14 that this matter was originally scheduled for
15 hearing July 3, 2019, but was continued to allow the
16 plaintiff to appear to testify on issues raised in
17 this case.

18 There is no indication on the face of
19 this order that my clients actually showed up for
20 that hearing. And Your Honor -- go ahead. You look
21 like you want to say something.

22 THE COURT: I believe they did. I'm not
23 absolutely certain.

24 MS. McDANIEL: Yes, sir. I believe that,
25 yes, they did show up.

1 THE COURT: All right.

2 MS. McDANIEL: But there is nothing in
3 this order that we're looking at now is what
4 Mr. Young and Mr. Maners would have notice of. And
5 so there is nothing in this order that shows that
6 they actually showed up to indicate that they would
7 have waived service by showing up for the hearing.

8 Now, we don't deny that they showed up.
9 In their affidavit they also state that, yes, indeed
10 they did show up. However, the matter was continued
11 because plaintiff's counsel was completely
12 unprepared to go forward with the matter. That is
13 important because they showed up for the first one.
14 The matter was continued, and per the affidavit of
15 Mr. Gravley and Mr. Pettus, they arrived about ten
16 minutes late for the second hearing and were not
17 permitted to even talk to you to ask that the
18 hearing actually go forward with them present.

19 So that was, I have to say, a travesty of
20 justice. You know, their house is going to be taken
21 away from them. They show up ten minutes late for
22 the hearing, which is not unreasonable. It's
23 surprising to me that a foreclosure could have taken
24 place and the evidence could have been taken,
25 consideration could have been made within that ten

1 minutes in their complete absence.

2 They show up and it's their testimony
3 that Mr. Wright came out -- it is my understanding
4 that the hearing was at his office. It's their
5 testimony that Mr. Wright came out, told them the
6 hearing was over and to go away. They testify in
7 their affidavit that they went and sat in the
8 parking lot, and then about 15 minutes later saw
9 you, Your Honor, Mr. Wright and someone else leave
10 the building. So it is clear that you-all were
11 still in there and they were prevented from ever
12 presenting any argument on their own behalf at this
13 foreclosure matter -- foreclosure hearing.

14 Your Honor, if that is not a reason to --
15 let me get my language, my correct language for
16 this. Your Honor, Wells Fargo Bank versus Turner,
17 378-SE-147 from Court of Appeals 2008 says a
18 judicial sale can be set aside where the sale is
19 accompanied by other circumstances warranting the
20 interference of the court. Your Honor, the
21 exclusion of my clients from the hearing on this
22 extraordinarily important matter obviously warrants
23 the interference of the court in dealing with
24 setting aside this foreclosure.

25 So those are some of the irregularities

1 that perhaps, while not obvious from the face of the
2 documents in the record, are known to the Court and
3 are basis for the Court's interference in this
4 proceeding.

5 Now, as to the things that any purchaser,
6 any potential purchaser at that foreclosure sale
7 would have been on notice of that are defects in the
8 foreclosure process that renders them to not be a
9 purchaser without notice are the following. Most
10 importantly, most importantly, this is an
11 owner-occupied piece of property.

12 Plaintiffs cannot have it both ways.
13 They say that they served Mr. Gravley and Mr. Pettus
14 at the property. That service would have only been
15 good because I believe only Mr. -- only Mr. Pettus
16 was home, and so he accepted service for
17 Mr. Gravley.

18 THE COURT: And Mr. Pettus is the actual
19 owner on the deed.

20 MS. McDANIEL: That is correct.

21 THE COURT: And, of course, Mr. Gravley
22 was named as a party.

23 MS. McDANIEL: That is correct, Your
24 Honor. And he lives there. And the only way
25 service on Mr. Gravley at that location, having left

1 it with Mr. Pettus, the only way service would have
2 been proper was if Mr. Gravley also lives there. So
3 Mr. Gravley is a defendant in this case. And if he
4 was properly served, the only way that he could have
5 been properly served is if he lives in that home.

6 So Your Honor, the -- they cannot claim
7 that they don't live in the home for the purposes of
8 avoiding the foreclosure intervention proceedings
9 but at the same time claim that they do live in the
10 home for the purposes of service. And that, Your
11 Honor, that is obvious from the -- from the record
12 itself.

13 Now, in addition to that, the tax records
14 are public knowledge, public record. Anyone who is
15 going to be purchasing a piece of property, you
16 know, it's understood they're going to do their due
17 diligence and that they are on constructive notice
18 of information that is publicly available. As also
19 attached to the -- our petition is a copy of the --
20 is a copy of the Lancaster, South Carolina Property
21 Tax Notice for this location. And doing a little
22 bit of math, it's obvious that this is taxed at a
23 4 percent tax rate, which is the tax rate for owner-
24 occupied property.

25 Your Honor, so that is certainly

1 information that the purchaser would be on notice of
2 to tell them that this is owner-occupied property,
3 which is inconsistent with the allegations of the
4 complaint that this is not owner-occupied property.
5 So that is a defect on the face of the documents.

6 Your Honor, in addition we have the
7 language that the amount of the judgment itself,
8 \$78,000, the amount of the mortgage was only
9 \$50,000. However, the Court added an additional
10 amount for back rent on a completely different piece
11 of property. So if we take a look at the -- which
12 was improper on its face, Your Honor, and I'll point
13 out why.

14 And Your Honor, let me just say this. I
15 know that foreclosure proceedings usually go sort of
16 according to a set plan, there is kind of a roadway
17 that it's done. And I don't mean to say that you've
18 done anything wrong necessarily. I'm just trying to
19 point out that these are places where the record
20 shows that there was a defect and that they were on
21 notice of that defect.

22 So if we take a look at the order -- I'm
23 sorry, the Decree of Foreclosure. The Decree of
24 Foreclosure states that on the -- pages aren't
25 numbered, but on the fourth page it goes through the

1 Exhibit A. Notice that Exhibit A, summary of
2 payments, was entered into evidence. The second
3 full paragraph states that the plaintiff also
4 testified as to the second cause of action that the
5 defendants rented a building from the plaintiffs for
6 use as an automotive repair shop.

7 Your Honor, let me just stop right there.
8 Buffalo Creek Investments does not own that repair
9 shop. That property is actually owned by Chad
10 Whitley, who is not a party to this proceeding. And
11 I did not bring a printout of it but I did -- on the
12 way here I confirmed that, and I did look on the
13 Lancaster County Tax Assessor's Web site. And the
14 parcel summary for 1118 Camp Creek Road states that
15 the owner is Chad Whitley, not Buffalo Creek
16 Investments. So Chad Whitley is not a party to this
17 foreclosure proceeding. That's obvious on the face
18 of the documents. It's obvious from the publicly
19 available records that Buffalo Creek is not an owner
20 or landlord or anyone with the authority to collect
21 rent from my clients for the 111- -- the 1118 Camp
22 Creek Road property.

23 So number one, the landlord was not even
24 a party to this proceeding so it was improper for
25 rent to be even adjudicated in any way much less be

1 added to the debt of this foreclosure judgment.

2 Second, there is no evidence in the
3 record that my clients ever agreed in any way or
4 modified the note or the mortgage in any way to have
5 that additional debt added to the mortgage, to the
6 note.

7 Your order, Your Honor, simply states the
8 defendants made three monthly payments at a reduced
9 rental rate and then made three monthly payments of
10 3,500, the regular rent amount, and made one payment
11 of 2,100 in June 2018. The defendants made no more
12 rent payments and owe for the months of July through
13 October for a total due of \$10,000 on the back rent.
14 Then the Court goes on to say: The Court finds and
15 concludes that there is an amount due and owing of
16 \$73,000.

17 Your Honor, there is no finding in this
18 order that my clients agreed to any modification of
19 the note or the mortgage to include that additional
20 \$10,000. The only information that you were
21 provided was the summary of debt prepared by
22 Mr. Wright. And Your Honor, if we take a look at
23 that, we've got a bit of a problem there because,
24 Your Honor, that is part of the Record of Hearing.
25 And the Record of Hearing -- following the Record of

1 Hearing, there is an attachment called the Affidavit
2 of Debt. And that affidavit simply states that
3 there is principal in the amount of \$59,846, which
4 would include the additional 10,000, the back rent,
5 and that is signed by Phillip Wright -- excuse me.

6 There is another document called Summary
7 of Debt, which is unsigned, undated. It's not an
8 affidavit, it's just a flimsy piece of paper, and
9 that is the only piece of paper where there is any
10 statement, albeit completely inadmissible, that my
11 clients agree to add the \$10,000 amount due for rent
12 onto the mortgage. Your Honor, that's not
13 admissible evidence. That's not a sworn statement.
14 That's not an indication that the note and mortgage
15 were ever modified to include that \$10,000 in back
16 rent.

17 And, Your Honor, the note and mortgage
18 are written documents subject to the statutes of
19 fraud and they cannot be modified orally, because
20 they are subject to the statute of fraud because the
21 note and interest constituted an interest in land
22 and also because it calls for periodic payments over
23 a course longer than one year, they are subject to
24 the statute of fraud. That means that there cannot
25 be an oral modification of that note and mortgage

1 that would permit the addition of the \$10,000 to be
2 added to the judgment amount.

3 And, Your Honor, again that is
4 information that is on the face of the documents.
5 These are -- all I'm looking at here are all the
6 documents that Mr. Maners and Mr. Young would have
7 had access to at the time that they purchased this
8 property. And Your Honor, I will note for the
9 record it's my understanding that both of them are
10 real estate agents, have had lots of dealings with
11 real estate matters. So it would -- I would have
12 expected them to have conducted some amount of due
13 diligence prior to purchasing this, and all of this
14 information would have been available there for them
15 to find. And they would have understood the import
16 of it as well.

17 There's one or two really significant
18 problems with this proceeding. The note, the
19 promissory note, on the second page of the
20 promissory note it says: This note is to be
21 governed and construed in accordance with the laws
22 of the state of North Carolina, not South Carolina.
23 Your Honor, this entire proceeding was undertaken
24 under the laws of the State of South Carolina or at
25 the very least there is no indication that the laws

1 of North Carolina were considered in this case. So
2 that in and of itself is a defect, a failure in the
3 foreclosure proceedings obvious from the face of the
4 documents.

5 This is also important because that
6 choice of law provision is inconsistent with the
7 choice of law provision in the mortgage. The
8 mortgage states that it is supposed to be construed
9 and enforced under the laws of the State of South
10 Carolina. So Your Honor, I simply cannot
11 understand, again, how did we get to this point with
12 the, for lack of a better word, rather sloppily
13 drafted documents.

14 And furthermore, to the extent that these
15 are consumer home loans which, you know, every
16 indication is that this was money that was loaned
17 for -- certainly there is no indication other than
18 the language in the complaint that this would have
19 been a consumer loan. And under Section 37-23-70, a
20 consumer home loan cannot specify a choice of law
21 provision other than South Carolina. So the note
22 itself is in violation of South Carolina code.

23 I would also ask the Court to take
24 judicial notice of the fact that Buffalo Creek
25 Investments is not licensed -- registered with the

1 secretary of state to do business in South Carolina.
2 They're a North Carolina entity, and they're not
3 registered to conduct any business in South
4 Carolina, much less the making of a note and
5 mortgage.

6 I also have some deficiencies to point
7 out in terms of Mr. Maners' petition. So if we look
8 post the sale, Mr. Maners filed a petition for writ
9 of assistance to take possession of the property.
10 And there are some real issues regarding that. So
11 in terms of timing we have Mr. Maners' petition is
12 dated and filed on November 15, 2019. In that
13 petition he states that: Despite demand the
14 defendants have refused to vacate the residence and
15 the surrounding property.

16 Now, what I'll explain here is that it's
17 hard for me to see how there could have been any
18 demand made because of the timing here. So this
19 petition is filed on November 15, 2000 [sic] at
20 2:25 p.m. There is no notice of a hearing on the
21 petition. There is no request that this be heard
22 ex parte; however, it appears that it was heard ex
23 parte with no notice to my clients.

24 But interestingly and perhaps this was
25 just a typo, but the date that Your Honor issued the

1 order for writ of assistance and writ of assistance
2 was the previous day, November 14th. That this
3 order for writ of assistance was filed on
4 November 15th, but the date that it says it was
5 issued and ordered is November 14th, which would be
6 the day before the petition was even filed asking
7 for the relief.

8 Also, the deed from into Mr. Maners and
9 Mr. Young was also recorded on November 15th, about
10 40 minutes before the petition for writ of
11 assistance was filed. So it's hard for me to
12 understand how in that 40 minutes it could be
13 determined that there had been a demand for the
14 property, it was refused and, oh, my gosh, I have to
15 have a writ of assistance to get them out of the
16 property now. That timing, especially when the
17 order for the writ of assistance was issued the day
18 before. All of that timing is very curious and
19 difficult to understand.

20 Not only is that timing problematic, but
21 the order confirming the sale, report and order
22 confirming the sale was not even filed until four
23 days later on November 14th [sic]. So we've got the
24 deed being issued four days prior to the order
25 confirming the sale, we've got the writ of

1 assistance being issued before the sale is even
2 confirmed, and we've got the writ of assistance
3 being issued and filed at the exact same time, 2:25
4 on November 15th that the petition for the writ of
5 assistance was filed. So Your Honor, it just -- it
6 calls into question whether or not there was truly a
7 demand for the vacation of the property that would
8 have necessitated the writ of assistance that called
9 me into this situation.

10 And those are some irregularities that
11 appear in the face of the proceeding. And Your
12 Honor, I have -- if I may pass you up a copy of the
13 deed into the -- the deed into Mr. Maners and
14 Mr. Young.

15 THE COURT: That's going to be an
16 exhibit?

17 MS. McDANIEL: Yes, Your Honor. It may
18 already be in the record.

19 MR. MARTENS: It was attached to
20 Mr. Maners' affidavit.

21 THE COURT: All right.

22 MS. McDANIEL: And Your Honor, in support
23 of the fact that there had never been any demand for
24 the -- you know, for the property, I do have a new
25 affidavit from Mr. Gravley. Let's see, do we have

1 the one from Mr. Pettus as well? I'll let opposing
2 counsel have a look at that. That I would like to
3 put into the record as well, Your Honor.

4 MR. MARTENS: Your Honor, we don't object
5 to the introduction of these affidavits, but we do
6 object to any attempt for these to be introduced as
7 evidence of some irregularity in the sale. And
8 that's what we're here about is the motion to set
9 aside the sale. These goes to the attack on the
10 underlying proceeding and then an attack on the
11 petition for writ of assistance. None of this is
12 directed toward the sale itself. And I'll get into
13 that in my argument in chief. So we don't object to
14 the introduction, but we do object to them as
15 evidence of anything irregular with the sale.

16 MS. McDANIEL: And Your Honor, that's
17 correct, these don't address the sale. They address
18 the underlying proceedings.

19 THE COURT: Okay.

20 MS. McDANIEL: And Your Honor, if I may,
21 there would not have been a sale but for the
22 improper proceeding below.

23 So Your Honor, if we take a look at that,
24 the affidavit of Mr. Pettus -- and I apologize,
25 Exhibit 1 I left off. That is the settlement

1 statement prepared by Trimnal & Myers; however, the
2 key information from that is actually attested to
3 within the affidavit. The initial draw from the
4 loan by Buffalo Creek Investments, not Chad Whitley,
5 was on \$40,000. 1,657 of that was directed to the
6 pay the property taxes for the Cane Mill Road home.
7 The remaining \$10,000 were drawn at a later date.
8 They began renting 1118 Camp Creek Road in October
9 2017, and it was their understanding consistent with
10 the ownership records from the Lancaster County
11 Assessor site that Chad Whitley was the owner of
12 that property, not Buffalo Creek Investments. And
13 again, Your Honor, Chad Whitley is not a party to
14 this proceeding.

15 Mr. Pettus and Mr. Gravley both testify
16 that they did not agree for the rent to be increased
17 \$250,000, and they also, in paragraph 18, contrary
18 to the summary of debt, stated they did not agree to
19 add the \$10,000 for rent due to the principal on the
20 promissory note and mortgage. Paragraph 20 states
21 that this is all information that they would have
22 presented at the referenced hearing had they been
23 permitted to appear..

24 Then they go on to state that they
25 understand from Mr. Maners' petition that he says he

1 demanded the property, but they say that they never
2 received any demand to vacate that property, that
3 the statement in that petition is false. And that's
4 the petition for the writ of assistance after the
5 sale.

6 All right. And Your Honor, that is
7 the -- I'm sorry, my long-winded summary of facial
8 defects of the sale that would have put any
9 noticer -- any purchaser on notice that there were
10 defects in the proceeding here in addition to the
11 problems with the underlying foreclosure proceeding
12 that would give a reason for the court to interject
13 itself at this point.

14 Your Honor, again, the equities weigh
15 heavily in favor of returning the property to my
16 clients. In speaking with Mr. Wright, we certainly
17 agree that if he wants to restart the foreclosure
18 proceedings, that's certainly something that they
19 can do and that this time it would be done with the
20 proper foreclosure intervention protections afforded
21 to owner-occupied property. And if the property is,
22 you know, foreclosed again and goes up for sale
23 again, then, of course, Mr. Maners and Mr. Young
24 could purchase it.

25 THE COURT: And you're talking about he

1 gets the total which he paid for it?

2 MS. McDANIEL: Yes, Your Honor.

3 THE COURT: All right.

4 MS. McDANIEL: And, Your Honor, that --
5 essentially that puts everybody back into the
6 position they were in prior to this foreclosure
7 proceeding, and it avoids the terrible forfeiture of
8 my clients' almost \$250,000 and their home. So Your
9 Honor, we would request that the Court vacate the
10 foreclosure, vacate the sale and put all the parties
11 back into the positions that they were prior to the
12 foreclosure.

13 THE COURT: And start all over.

14 MS. McDANIEL: Correct, Your Honor.

15 Thank you.

16 THE COURT: Yes, sir.

17 MR. WRIGHT: Your Honor, may I before
18 Mr. Martens. The only issue -- I would like to be
19 heard on the issue of service.

20 THE COURT: Okay.

21 MR. WRIGHT: Your Honor, we submitted --
22 at least parties were served by our process server,
23 Mr. Pennington, and filed his affidavit. It's in
24 the clerk's file. I believe that counsel for the
25 owners has acknowledged that they both live there.

1 And the affidavit on the processor server indicates
2 he served Mr. Pettus, and he had substituted service
3 on the other person who lived there, the other --
4 whatever. They appeared at the first hearing, and
5 they did not object to jurisdiction.

6 The hearing actually commenced. And if
7 you recall, we stopped the hearing because of issues
8 that they were raising. My client was not at the
9 hearing. They were raising issues that I had no
10 knowledge of. So we stopped the hearing and told
11 them we would reconvene a hearing at a later date,
12 and we mailed him notice of that hearing at the
13 address where they said they lived.

14 And so I don't think the service of
15 process is an issue. I think they were properly
16 served. The issue is were they properly served with
17 the notice to a right of foreclosure intervention,
18 and whether or not any of the subsequent proceedings
19 were proper. She's raised a number of issues I have
20 not began to look at.

21 But the position of the plaintiff on the
22 foreclosure is that we do not object to vacation of
23 the sale and refund of the proceeds to the buyer at
24 the sale and amending the pleadings and restarting
25 the foreclosure.

1 THE COURT: Meaning in a sense they
2 weren't given notice of the right to foreclosure
3 intervention --

4 MR. WRIGHT: They were not.

5 THE COURT: -- according to Chief Justice
6 Toal's administrative order? It proceeded as if it
7 was not owner-occupied property when perhaps it was.

8 MR. WRIGHT: Your Honor, I frankly don't
9 think it matters that it was owner occupied under
10 that second notice. I think it's much broader than
11 the 2008 order by the Justice. And then, frankly,
12 that was an error in the pleadings, the space was
13 owner occupied, and that was my error in including
14 that paragraph. We have owner-occupied and
15 nonowner-occupied foreclosure. We put the wrong
16 paragraph in the order. I don't think that's an
17 operative fact in this case. It's simply a mortgage
18 that needs to be foreclosed. And depending on what
19 the Court does, we will proceed accordingly.

20 THE COURT: All right. Anything further
21 on that?

22 MS. McDANIEL: No, Your Honor. Thank
23 you.

24 THE COURT: All right. Yes, sir.

25 MR. MARTENS: Thank you, Your Honor. May

1 it please the Court. Im Keith Martens and I'm here
2 on behalf of Barrett Maners and Ed Young who were
3 purchasers of this property at foreclosure sale.
4 Every argument and every challenge that defendants
5 have made is contrary to the well-established public
6 policy of this state, which provides that the courts
7 in a judicial sale are to protect good faith
8 purchasers by upholding the finality of the sale
9 unless there is a cogent reason to set it aside.
10 And the language I'm using is the language that our
11 courts have used from the late 1800s through modern
12 times. The courts since at least 1886 have said
13 that a purchaser at a foreclosure sale is in no way
14 responsible for mere irregularities in the
15 proceedings or even an error in the judgment under
16 which the sale is made.

17 And that case is cited -- that I've cited
18 is from South Carolina Supreme Court, Tederall
19 versus Bouknight, an 1886 case, which has been
20 repeatedly cited by courts since that time.

21 So we start with the proposition, Your
22 Honor, that the well-established public policy of
23 this state is to affirm the sale unless there's a
24 cogent reason to set it aside. The case law
25 supports that proposition, the statute that's cited

1 in our brief supports that proposition.

2 Under the common, law, courts have
3 typically permitted a sale to be set aside in two
4 limited circumstances. One is where the sale price
5 is so low that it shocks the conscience. That --
6 that allegation has not been raised in this case nor
7 could it properly be raised in this case. The cases
8 where the courts have held that a sale price is so
9 low as to shock the conscience have typically
10 required a purchase price of no more than ten
11 percent of the value.

12 We have in the record and Counsel has
13 introduced this deed -- we have in the record that
14 the purchase price the defendants paid for this
15 property was \$240,000. We have in the record the
16 price that my clients paid at auction was \$78,750.
17 About 33-34 percent of the price. So there is no --
18 there is no basis by which this Court can conclude
19 based on the longstanding case law that the purchase
20 price was so low that it shocks the conscious. And
21 I haven't heard that challenge raised in this case,
22 for that matter.

23 The other grounds where our courts have
24 allowed sales to be set aside is where the sales
25 price is low and the sale, the sale is accompanied

1 by other circumstances warranting interference of
2 the court. The cases -- the only cases that I have
3 found in my research, Your Honor, where the court
4 has found that a sale was accompanied by other
5 circumstances warranting interference of the court
6 were these facts. There was a -- this was a case
7 from the early 1900s. One partner handled a
8 foreclosure action, but he couldn't attend the sale.
9 He asked his partner to go to the sale for him and
10 bid on the property. The partner knew nothing about
11 the action. He went to the sale. Prior to the sale
12 he asked the selling officer, "What's the amount of
13 the debt?" The selling officer said \$2,500. And in
14 fact, the debt was 11,000. Because of that error,
15 it was perpetrated by the selling officer, he bid
16 \$2,800 for the property. Came back to his office,
17 told his partner, "We got the property."

18 His partner said, "Wait, a minute. That
19 wasn't how much the debt was."

20 They petitioned to have the sale set
21 aside because the error of the selling officer
22 resulted in a lower sale price than otherwise would
23 have been generated by the sale. And keep in mind
24 that the purpose of the foreclosure sale is for the
25 benefit of these parties. It's to liquidate the

1 debt. It's to discharge the defendant's debt and
2 satisfy the plaintiff's debt. So there is a benefit
3 in getting as much sales price as we can get.

4 And that's why the courts have said we're
5 not going to set aside sales because of post act --
6 post facto challenges to the underlying proceeding.
7 The purchaser is in no way responsible for
8 irregularities in the proceeding.

9 Defendants have not asserted a single
10 challenge to the sale. They have not alleged there
11 was an irregularity in the manner of the sale. They
12 have not alleged that there was a manner in the way
13 that my clients bid on this property. They have
14 challenged the underlying proceeding.

15 Now, they raised a lot of things here
16 today that are not in their motion. What they
17 raised in their motion had to do with the Chief
18 Justice's 2011 administrative order. And their
19 contention is that my folks should have seen the
20 four percent tax rate charged by Lancaster County,
21 should have drawn the conclusion from that that this
22 was owner-occupied property, should have known what
23 Chief Justice Toal's order directed of attorneys
24 handling foreclosure actions, and should have
25 ignored your finding that that order didn't apply.

1 Now, it's one thing for my clients to
2 have knowledge that this was owner-occupied
3 property. It's far another -- it's a far different
4 thing to argue that my clients who are not lawyers,
5 who are not lawyers handling foreclosure actions,
6 who were not parties to the underlying proceeding,
7 should have known what that administrative order
8 said, should have known that your ruling it didn't
9 apply was erroneous, and should have taken all that
10 into account when they bid on this property.

11 That argument, Your Honor, is directly
12 contrary to what the Supreme Court has said on this
13 issue. Gladden versus Chapman, a 1917 case from the
14 Supreme Court has said that it must be presumed from
15 the judgment that was rendered that the Court
16 considered and adjudicated the regularity and
17 sufficiency of each and every step in the
18 proceedings leading up to it, including the
19 sufficiency of the complaint, the issuance and
20 service of process upon the defendants, and the
21 right and interests of the parties to the action
22 under the allegation and evidence. And although the
23 conclusions with respect to those matters or any of
24 them might have been erroneous so that they would
25 have been reversed on appeal, they do not make the

1 judgment void.

2 And that's consistent with this notion
3 that purchasers at foreclosure sales are not
4 responsible for alleged irregularities in the
5 underlying proceeding. The defendants have not
6 demonstrated any cogent reason that this foreclosure
7 sale should be set aside. They raise lots of
8 challenges to the underlying action. They've raised
9 the challenge to the writ of assistance that was
10 procured after the purchase. They have not raised
11 any challenge to the sale that would warrant this
12 court's interference.

13 The second reason that my client's deed
14 should not be set aside is the statutory basis of
15 15-39-870. And 15-39-870 says upon execution and
16 delivery by the proper officer of any deed for a
17 property sold at a judicial sale, the proceedings
18 under which the sale is made shall be deemed res
19 judicata as to any and all bona fide purchasers for
20 value without notice, even if the sale is not
21 confirmed by the court.

22 And again -- and our courts have said the
23 purpose of this statute passed by our legislature is
24 to protect people just like my client and uphold the
25 finality of the sale. Now, to claim the protections

1 of this statute, the purchaser is only required to
2 demonstrate that he was a good faith purchaser for
3 value without notice. And the courts have said that
4 that requires evidence of payment of the purchase
5 price, acquisition of legal title to the property,
6 and a bona fide purchase. And you must also
7 demonstrate that each of these things occurred
8 before you had any notice of a defect in the
9 underlying proceedings.

10 There are two fairly recent cases that
11 address this statute directly. One is a 2008 case
12 from the Court of Appeals called Robinson versus the
13 Estate of Harris. And in Robinson versus the Estate
14 of Harris, there was a foreclosure action; it
15 resulted in a judgment; the property was sold at
16 foreclosure sale. And then after all of that had
17 occurred the mortgagor, right, or the lawful debtor,
18 came back and challenged the underlying proceeding.
19 In their allegation -- there were actually
20 affidavits given in that case. And the affidavits
21 contested service of process. It said that
22 Ms. Harris at the time she was allegedly served was
23 incompetent, she couldn't have been served, those
24 were all -- and supposedly she was served through
25 her son. He gave an affidavit that said, "It wasn't

1 me. I didn't get service." And so the challenge to
2 the case was "We never got served." And they made
3 the same argument the defendants make here: You
4 didn't have jurisdiction to proceed, you didn't have
5 jurisdiction to issue this foreclosure sale, you
6 didn't have jurisdiction to sell the property.

7 The Court of Appeals said: No, that's
8 not true. While you may have had a valid challenge
9 to the underlying proceeding, you can't use that
10 challenge to attack the validity of the sale. And
11 the court said: We're not going to set aside the
12 sale based on that challenge.

13 There is another case, Bloody Point
14 Property Owners Association -- and these are both in
15 the brief that we filed with the Court. It's a 2014
16 case where the defendants were served by
17 publication. And after the foreclosure sale, after
18 the foreclosure proceeding, after the sale, the
19 judgment -- the debtors came back and said, "We live
20 in Pennsylvania. This publication that supposedly
21 served us with the notice of this proceeding was
22 published in Beaufort County, in the Island Packet,
23 Hilton Head Island Packet. There is no way we would
24 have gotten notice of this proceeding living in
25 Pennsylvania from publication in Beaufort County,

1 South Carolina."

2 And the court said that's not good
3 enough. What the court looks to and Counsel has
4 made some arguments that sort of blur the line
5 between what was known at the time of the sale and
6 what is known today. What's important is what these
7 purchasers had available to them and known to them
8 at the time of the auction and the sale.

9 Mr. Maners' affidavit establishes that he
10 looked at the case file. The case file reflected
11 the defendants were properly served. The case file
12 reflected the defendants were not in the Armed
13 Services of the United States. The case file
14 reflected that they had not answered. The case file
15 reflected Your Honor's determination that Chief
16 Justice Toal's order did not apply. All those
17 things are reflected by the case file. My clients,
18 in reliance on that -- and after conducting their
19 due diligence, came to the sale, they submitted
20 their bid in good faith. They had no knowledge that
21 there were reported irregularities with the
22 underlying transaction until after the sale had
23 occurred, after they had paid their purchase price,
24 after they had received their deed, after they had
25 recorded their deed.

1 And our courts and our legislature and
2 the public policy of this state says that regardless
3 of whatever the alleged irregularities are in the
4 underlying transaction, my clients are entitled to
5 be protected from that. And it only makes sense,
6 Your Honor. And what the courts have said, the
7 basis of this public policy is that it is far more
8 important that there is certainty and finality in a
9 judicial sale of property than it is that on
10 occasion there was some underlying irregularity.

11 And they say that the harm that would be
12 done to the public at large and the chilling effect
13 it would have on bids at public sales outweighs the
14 one-off harm that may occur from time to time
15 because there was some alleged irregularity in the
16 underlying proceeding. It is far more important to
17 protect the sanctity and finality of that sale.

18 And we believe that given that long
19 expressed and unequivocal expression of the public
20 policy of this state by both the legislature and our
21 courts that the equities weigh firmly in my clients'
22 favor. And that this sale -- I'm losing my voice.
23 That means I talked too long. That this sale ought
24 to be confirmed and that the motion should be
25 denied.

1 MS. McDANIEL: Your Honor, if I may
2 respond briefly?

3 THE COURT: Yes, yes.

4 MS. McDANIEL: Thank you, Your Honor.

5 Your Honor, I want to point out that the
6 Robinson v. Estate of Harris case, that case was
7 actually decided in regards to the expiration of the
8 statute of limitations and the application of
9 laches, the laches doctrine. In this case we are
10 not dealing with a statute of limitations. So that
11 case is inapplicable in this consideration.

12 Your Honor, Mr. Martens points out the
13 public policy of the state. He points out the
14 statute regarding bona fide purchaser and value;
15 however, both of those, the public policy and the
16 statute, provides for an exception where there is a
17 cogent reason to set aside the sale.

18 THE COURT: Let me. On the first page of
19 his brief --

20 MS. McDANIEL: Yes, Your Honor.

21 THE COURT: -- you know, he cites the
22 Bloody Point case about three fourths of the way
23 down. And it says that: For this reason South
24 Carolina courts have consistently held a judicial
25 sale should not be set aside except for cogent

1 reasons.

2 Do you see that?

3 MS. McDANIEL: Yes, Your Honor.

4 THE COURT: Okay. I'll ask him to
5 respond to that when you finish, but I was going to
6 ask him that question.

7 MS. McDANIEL: Okay. An, Your Honor, I'm
8 glad that you have, you know, pulled that out
9 because that really is kind the basis of our
10 argument. We believe there are cogent reasons here
11 to set aside this sale, and I've outlined this for
12 quite some time.

13 But first and foremost this is owner-
14 occupied property, which should have -- it's clear
15 from the public record itself, and they were not
16 afforded the required protection.

17 THE COURT: This is the next question I
18 wanted to ask you to respond to, too, as far as
19 other than that Bloody Point case if they brought a
20 writ of assistance, at that point they had to know
21 the property was owner occupied. And that was after
22 the fact, you know, but, you know, this is Justice
23 Toal's order, you know. And had it been owner
24 occupied, then we can -- and that had been known,
25 then that should have been complied with.

1 So I'm going to ask you to respond to
2 both of those, if you would please.

3 MR. MARTENS: So in response to your
4 first question what are the cogent reasons, I think
5 I've outlined in my argument.

6 THE COURT: You have. I've got to decide
7 if they walk, you know, which side would they go.

8 MR. MARTENS: Well, sure. And so the
9 cogent reasons, as I said, there are two instances
10 that our courts have said constitute, quote, cogent
11 reasons to set aside a sale. And the first is when
12 the sale -- sale price was shockingly low. And I
13 talked about that. That hasn't been asserted.

14 THE COURT: Yes.

15 MR. MARTENS: Second is when the sale
16 price is low and the sale is accompanied by other
17 circumstances warranting the court's interference.
18 And, again, the only case -- there were two cases
19 that I looked at that directly dealt with this
20 issue. The first one I talked about where the
21 partner showed up at the sale and the sale officer
22 mistakenly told him the debt was 2,500 and it was
23 actually 11,000. In that case the court said, yeah,
24 it's a cogent reason to set aside the sale. There
25 was an irregularity.

1 The other case dealt with a -- you know,
2 you talk about the most sympathetic plaintiff you
3 can find -- or most sympathetic defendant. A widow
4 with children, her property was sold at foreclosure
5 sale. She had never been to the courthouse, didn't
6 understand how it worked. It was hot. She went
7 down the street to get under a shade street to wait
8 for the property to be sold. And by the time she
9 was able to get back her allegation was that she
10 wasn't able to get the bidding -- selling officer's
11 attention in order to place her bid and the property
12 was sold to someone else.

13 The court was very sympathetic, you know,
14 we understand you're not familiar with the process,
15 we understand you're going to lose your home, we
16 understand you're a widow with small children, but
17 that's not a enough -- that's not a cogent enough
18 reason to set aside the sale. And so the sympathy
19 or the fact that it's someone's home or the fact
20 that the chief justice issued an order that --
21 again, I want to point out that my clients are real
22 estate agents. That's what they've been accused of,
23 that's what they've alleged, a real estate agent not
24 lawyers. My clients would not have any reason to
25 have read Chief Justice Toal's order.

1 So there is no cogent reason -- and so
2 inadequacy of price accompanied by some other
3 irregularity or gross inadequacy of price, none of
4 that has been alleged here. Those are the only two
5 circumstances in which our courts have found a
6 cogent reason exists.

7 The other issue it talks about here, you
8 asked about the writ of assistance. Again, we're
9 talking about a point in time. And you're making an
10 infer- -- well, I'm not suggesting that you're
11 making an inferential leap. An inferential leap has
12 to be made in order for -- in order to conclude that
13 by seeking a writ of assistance my client must have
14 known it was owner occupied and, therefore, must
15 have known that that order applied and, therefore,
16 must have known that your determination that order
17 doesn't apply was erroneous. That's an inferential
18 leap that a purchaser at a foreclosure sale is not
19 required to make.

20 They're entitled to presume that you
21 considered that issue, that you ruled on that issue
22 in due course, that you have considered the rights
23 of the parties and that you properly issued your
24 order and you properly sold that property. It's
25 simply erroneous to say no harm, no foul because my

1 clients have been harmed. They're entitled to the
2 property, and they're entitled to their deed.

3 And it's not -- it's not -- it's
4 inequitable to simply say because that plaintiff may
5 have made a mistake in their proceeding, give back
6 your property and get your money back. And we
7 believe the equity stays with my clients.

8 THE COURT: Anything further?

9 MS. McDANIEL: Yes, Your Honor. So Your
10 Honor, going back to your -- the question about is
11 this cogent, is this a cogent reason to set aside
12 the sale. We certainly believe that it is. And not
13 only is it a cogent reason to set aside the sale;
14 pursuant to the Wells Fargo case cited our petition
15 to vacate the sale, the circumstances that I have
16 described for you do warrant the interference of the
17 court. And that is what we're asking for here, Your
18 Honor.

19 The -- I agree that the court has set
20 aside sales where the price was shockingly low.
21 There is no limitation in the case law that says
22 that's the only time that a sale can be set aside.
23 In addition, Your Honor, what Mr. Martens has
24 glossed over a little bit is the provision of the
25 Section 15-39-870 says that it protects all bona

1 fide purchasers for value without notice. And that
2 means without notice of a defect.

3 And so Your Honor, we would allege -- we
4 would argue that all of the defects that we've
5 pointed out from the -- it is owner occupied, that
6 that was known from the face of the documents; it
7 was not handled under North Carolina law, there is
8 inconsistency between South Carolina and North
9 Carolina, all of those points that I have outlined
10 in my main argument, those are all cogent reasons
11 that would warrant the interference of the Court in
12 setting aside this sale.

13 To Mr. Martens' point that his clients,
14 they're just real estate people, they're not
15 attorneys, every single citizen of the United States
16 is charged with knowledge of the laws of the state.
17 You don't have to be an attorney to have to comply
18 with and understand that the laws apply to you.
19 They don't have to have been an attorney to know
20 that Justice Toal's order was out there and what it
21 means. They are charged with the knowledge of that.

22 Pro se clients don't get to come into
23 court and say, "Well, I didn't know it was against
24 the law to do this so let me off." And in this case
25 Your Honor every one is charged with knowledge of,

1 you know, the law and the public record.

2 Finally, Mr. Martens claims that his
3 clients are going to be harmed if they get their
4 money back. There is no harm to them. They get
5 their money back. My clients' harm will lose
6 \$242,000 and their home if we lose here. They get
7 their money back.

8 They're put in exactly the same position
9 as they were before. There is no harm to Buffalo
10 Creek Investments because they can restart the
11 foreclosure proceeding and proceed apace to have
12 this done properly.

13 So Your Honor, we believe that the --
14 Mr. Maners and Mr. Young are not bona fide
15 purchasers for value without notice, and that this
16 Court should interfere -- interject in this
17 proceeding to set aside the sale. It hurts.
18 Putting everyone back in the place where they were
19 before is what the equity calls for in this case.

20 THE COURT: Is there anything further
21 you'd like to say?

22 MR. MARTENS: No, Your Honor.

23 THE COURT: All right. Are we done with
24 the case?

25 MS. McDANIEL: Yes, Your Honor.

1 THE COURT: Okay. Do you intend to have
2 the transcript typed or only if it goes any further?

3 MS. McDANIEL: Only if we have to appeal.

4 THE COURT: Okay. Because I'm going to
5 need to make a decision in this case. And I will do
6 that, and I will let you know probably on a
7 conference call.

8 MS. McDANIEL: Your Honor, would it be
9 helpful to you if we had the transcript prepared for
10 you to refer to?

11 THE COURT: Well, if you were going to do
12 that, you know, I would use that, you know, to do
13 that. I don't know if you wanted to go to the
14 expense of doing that or not. Both of you have made
15 very good arguments. Your brief was very good.
16 Both your arguments were very good, and I believe I
17 can make a decision in this case without it. But if
18 you were going to do it anyway, you know, I would
19 use that.

20 MS. McDANIEL: Okay, Your Honor. Well,
21 we had planned to do it just if we had to.

22 THE COURT: Only if you had to do it, all
23 right, so far. In that case I'll try to make a
24 decision on this, you know, as soon as possible, and
25 I'll try to get you both on a conference call.

1 MR. WRIGHT: Your Honor, I intend to ask
2 for a transcript simply to have a record or
3 depending upon where we go after this. So I am
4 going to ask for a transcript from her.

5 THE COURT: In that case, I would like to
6 get the transcript, you know, and review it and then
7 make the decision after we have that transcript.

8 MR. MARTENS: That will be fine, Your
9 Honor. And I -- I'm not -- I don't want to commit
10 my clients' money without talking to them. But
11 maybe what we could do is just share the cost of the
12 transcript between the three parties, if that suits
13 all.

14 THE COURT: You can all discuss that if
15 you want to. If you want to do that and share the
16 cost. And these two deeds that you brought, do they
17 need to be marked as exhibits?

18 MS. McDANIEL: Yes, Your Honor. The two
19 deeds and the two affidavits that were added.

20 THE COURT: All right. So this one is
21 Number 1, this one is Number 2, and then the two
22 affidavits underneath that.

23 (Exhibits 2 through 4 marked for
24 identification.)

25 THE COURT: All right. Anything further?

1 All right. We're done.

2 MS. McDANIEL: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (Whereupon, at 11:14 a.m., the foregoing
5 proceeding was concluded.)
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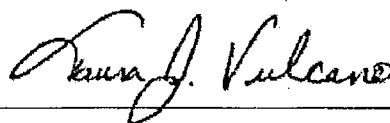
STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

CERTIFICATE OF REPORTER

I, TAURA J. VULCANO, CSR, RPR, Notary Public,
do hereby certify that said proceedings were taken by
me to the best of my ability and transcribed under my
supervision and direction; that the parties were
present as stated; and that I am not of counsel for,
related to, in the employment of any of the parties to
this action, nor am I financially or otherwise
interested in the outcome of this action.

I do further certify that the foregoing pages
constitute a true and accurate transcript of the
proceedings.

This the 28th day of February 2020.



TAURA J. VULCANO, CSR, RPR

My Commssion Expires 9/25/24

LANCASTER COUNTY ASSESSOR
Tax Map:
0102E 0E 001 00

2017015082

RECORDED THIS 11th DAY
OF OCTOBER, 2017
IN BOOK 0 PAGE 0

James D. Hester, Jr.
Auditor, Lancaster County, SC

DEED
RECORDING FEE \$10.00
STATE TAX 9630.50
COUNTY TAX \$266.75
PRESENTED & RECORDED:
10-10-2017 12:10 PM
JOHN LANE
REGISTER OF DEEDS
LANCASTER COUNTY, SC
By: JENNIFER REESS ROD
BX: DEED 1088
PG: 141-142

PREPARED BY Trinnal & Myers, LLC

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

DEED TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT Loyd L. Adams, Jr. and Jennifer H. Adams (hereinafter called "Grantors") in the State aforesaid, for and in consideration of the sum of Two Hundred Forty Two Thousand Five Hundred and no 00/100 (\$ 242,500.00) Dollars, to it paid by Stephen H. Pettus (hereinafter called "Grantee/s") in the State aforesaid (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these Presents (do(es) grant, bargain, sell and release, unto the said:

Stephen H. Pettus, his/her/their Heirs and/or Assigns Forever:

ALL that certain piece, parcel or lot of land, together with improvements thereon, lying, being and situate in Gills Creek Township, Lancaster County, South Carolina, fronting on the west side of Cane Mill Road, being designated as Lot 1 on plat of Providence Crossing-Phase I, more particularly described on plat of survey entitled 'Plat of Surveyed for Jerry Wayne Boone & Laura Faye Boone' dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina.

TMS# 102E-E-1.00

Derivation This being the same property conveyed to Loyd L. Adams, Jr. and Jennifer H. Adams by Deed recorded September 1, 2016 in the Register of Deeds/Clerk of Court for Lancaster County, South Carolina in Deed Book 993 at Page 127.

Grantee's Address: 2818 Cane Mill Rd, Lancaster SC 29720

This conveyance is made subject to all existing easements, restrictions, rights of way and/or encroachments.

TOGETHER will all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said GRANTEE/S, Their Heirs and/or Assigns forever.

AND the said GRANTOR/S do hereby bind themselves and their heirs and/or assigns to warrant and forever defend all and singular the said premises unto the said GRANTEE/S, Their

DEFENDANT'S
EXHIBIT

1-22-2020 TV

Heirs and/or Assigns, against Themselves and Their Heirs and/or Assigns and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS our Hand(s) and Seal(s) this 9 day of Oct, in the year of our Lord 2017.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
Witness #1

[Signature]
Lloyd L. Adams, Jr.

[Signature]
Witness #2

[Signature]
Jennifer H. Adams

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

ACKNOWLEDGEMENT

I, Bo Trimm, Notary Public for the State of South Carolina, do hereby certify that GRANTOR/S personally appeared before me this day and acknowledged the due execution of the foregoing deed.

Sworn before me this 9 day
of Oct, 2017

[Signature]
Notary Public for the State of SC

My Commission Expires: 9/20/20

LANCASTER COUNTY ASSESSOR

Tax Map:

0102E 0E 001 00

RECORDED THIS 18th DAY
OF NOVEMBER, 2019
IN BOOK 00 PAGE 00

James D. Hester, Auditor
Auditor, Lancaster County, SC

2019017440



DEED
RECORDING FEES \$15.00
STATE TAX \$205.40
COUNTY TAX \$86.90
PRESENTED & RECORDED:
11-15-2019 01:47:24 PM
BRITTANY GRANT
REGISTER OF DEEDS
LANCASTER COUNTY, SC
BY: TERRY PARKMAN ROD
BK: DEED 1284
PG: 162 - 164

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

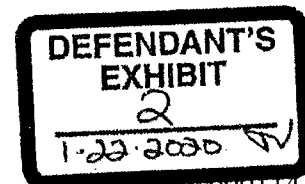
TITLE UNDER ORDER OF COURT

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Robert W. Davis, Special Referee, in and for the County aforesaid, SEND
GREETINGS:

WHEREAS, Buffalo Creek Investments, Inc., exhibited its Complaint in the Court of
Common Pleas, for the County aforesaid against Stephen H. Pettus a/k/a Stephen Pettus and
Christopher Gravley, Case No. 2019-CP-29-00617, demanding judgment in relation to the real
estate hereinafter mentioned and described; and the cause being at issue came on to be heard on
September 11, 2019, and such proceedings were had therein as resulted in a Decree of
Foreclosure of the said Court, whereby it was adjudged and decreed that the said premises
hereinafter mentioned and described be sold by Robert W. Davis, Special Referee, after having
duly advertised the said real estate for sale by public outcry on the 4th day of November, in the
year of our Lord two thousand nineteen, did then openly and publicly and according to the
custom of auctions, sell and dispose of the same unto Edwin G. Young (6/10 interest) and Barrett
M. Maners (4/10 interest), for the sum of Seventy-Eight Thousand Seven Hundred Fifty and
No/100 Dollars (\$78,750.00), being at that price the highest bidder therefor, NOW:
THEREFORE, Know all men by these presents that I, Philip E. Wright, Special Referee, in
consideration of the sum of Seventy-Eight Thousand Seven Hundred Fifty and No/100 Dollars

DEED BK 1284 PG 162



(\$78,750.00), to me paid by the said Edwin G. Young (6/10 interest) and Barrett M. Maners (4/10 interest), the receipt of whereof is hereby acknowledged, HAVE GRANTED, bargained, sold and released by these Presents DO GRANT, bargain, sell and release unto the said Edwin G. Young and Barrett M. Maners, their heirs, successors and assigns:

ALL that certain piece, parcel or lot of land, together with improvements thereon, lying, being and situate in Gills Creek Township, Lancaster County, South Carolina, fronting on the west side of Cane Mill Road, being designated as Lot 1 on plat of Providence Crossing-Phase I, more particularly described on plat of survey entitled 'Plat of Surveyed for Jerry Wayne Boone & Laura Faye Boone' dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Being the identical property conveyed to Stephen H. Pettus by deed recorded October 10, 2017 in Book 1088 at page 141 with the Register of Deeds for Lancaster County, South Carolina.

2818 Cane Mill Road, Lancaster, SC 29720
TAM# 0102E-0E-001.00

Grantee's Address: Post Office Box 10387
Rock Hill, SC 29731

TOGETHER with all and singular the Rights, members, Hereditaments and Appurtenances to the said premises belonging; or in anywise incident or appertaining; and all the estate, right, title, claim, and interest whatsoever of the parties to the cause aforesaid, and of each of them, in and to the same; and of all other persons rightfully claiming, from, under, or by these or any of them.

TO HAVE AND TO HOLD, all and singular, the premises, before mentioned unto the said Edwin G. Young and Barrett M. Maners, their heirs, successors and assigns.

IN WITNESS WHEREOF, I, the said Robert W. Davis, Special Referee, under and by virtue of the aforesaid Decree, have hereunto set my Hand and Seal this 14 day of November,

in the year of our Lord two thousand nineteen and in the two hundred and forty-fourth year of the
Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Spencer C. Frost
Laura N. Silance

Robert W. Davis
ROBERT W. DAVIS
SPECIAL REFEREE

STATE OF SOUTH CAROLINA)

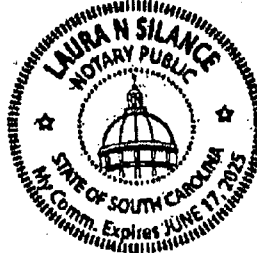
COUNTY OF LANCASTER)

PERSONALLY appeared before me, the undersigned witness, and made oath that (s)he
saw the within-named Robert W. Davis, Special Referee, sign, seal, and as his act and deed,
deliver the within Title Under Order of Court; and that (s)he with the other witness above,
witnessed the execution thereof.

Spencer C. Frost

SWORN to before me this
14th day of November, 2019.

Laura N. Silance
Notary Public for South Carolina
My Commission Expires: 06-17-2025



STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

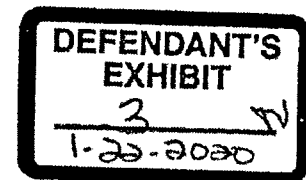
FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

AFFIDAVIT OF STEPHEN PETTUS

PERSONALLY APPEARED before me, Stephen Pettus, who being first duly sworn,
testifies that:

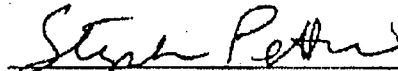
1. My name is Stephen Pettus. I am a resident of Lancaster, South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. Attached as **Exhibit 1** is a true and accurate copy of the Settlement Statement prepared by Trimnal & Myers, LLC.
5. The settlement date and disbursement dates were both May 11, 2018.
6. The initial draw amount of the loan to me and Christopher Gravley by Buffalo Creek Investments, Inc. on May 11, 2018, was only \$40,000.00.
7. Of the \$40,000.00, \$7,500.00 was to be made payable to Buffalo Creek Investments, Inc. from Buffalo Creek Investments, Inc.
8. In addition, \$1,657.57 was directed to the payment of property taxes for our home at 2818 Cane Mill Road.



9. Per the terms of the Promissory Note, the balance of available funds, \$10,000.00, were to be drawn at a later date.
10. We did draw that \$10,000.00 at a later date.
11. It was my understanding that our monthly loan payments would be interest only payments of \$500.00.
12. In October 2017, Christopher Gravley and I began renting the property located at 1118 Camp Creek Road, Lancaster, South Carolina.
13. According to information publicly available from the Lancaster County website, 1118 Camp Creek Road is owned by Chad Whitley not Buffalo Creek Investments, Inc.
14. Therefore, it was my understanding that Chad Whitley was our landlord at 1118 Camp Creek Road and not Buffalo Creek Investments, Inc.
15. Contrary to the Summary of Debt, I did not agree that the rent for 1118 Camp Creek Road would increase to \$2,500.00.
16. In fact, for March, April, and May 2018, we did not pay \$7,500 in money to Chad Whitley for rent.
17. Instead, it was our understanding that repairs we made to the property were credited toward the rent for those three months and that was satisfactory to Chad Whitley.
18. Contrary to the Summary of Debt, I did not agree to add \$10,000.00 for rent to the amount due on the principal in the Promissory Note or mortgage.

19. I have never received any monthly statements of account from Buffalo Creek Investments, Inc. showing the amount of principal or interest paid or owed on the Promissory Note.
20. The above is information that I would have presented to the Special Referee if I had been permitted to speak to the Special Referee on September 11, 2019.
21. It is my understanding that Barrett Maners, a third party, purchased the 2818 Cane Mill Road property at foreclosure sale.
22. However, contrary to Mr. Maners' Petition, he never demanded that I vacate the property.

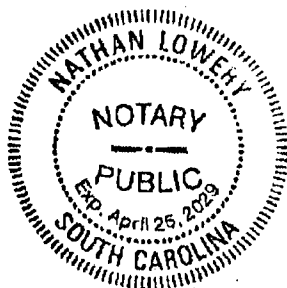
FURTHER AFFIANT SAYETH NOT.


Stephen Pettus

SWORN to before me this 21st day of November, 2019


Notary Public For South Carolina

My Commission Expires: 4-25-29



STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

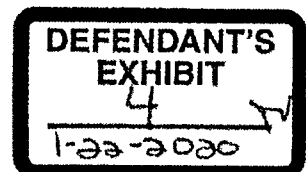
FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

AFFIDAVIT OF CHRISTOPHER GRAVLEY

PERSONALLY APPEARED before me, Christopher Gravley, who being first duly sworn, testifies that:

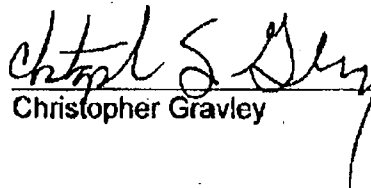
1. My name is Christopher Gravley. I am a resident of Lancaster, South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. Attached as **Exhibit 1** is a true and accurate copy of the Settlement Statement prepared by Trimnal & Myers, LLC.
5. The settlement date and disbursement dates were both May 11, 2018.
6. The initial draw amount of the loan to me and Stephen H. Pettus by Buffalo Creek Investments, Inc. on May 11, 2018, was only \$40,000.00.
7. Of the \$40,000.00, \$7,500.00 was to be made payable to Buffalo Creek Investments, Inc. from Buffalo Creek Investments, Inc.
8. In addition, \$1,657.57 was directed to the payment of property taxes for our home at 2818 Cane Mill Road.



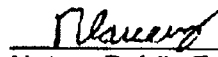
9. Per the terms of the Promissory Note, the balance of available funds, \$10,000.00, were to be drawn at a later date.
10. We did draw that \$10,000.00 at a later date.
11. It was my understanding that our monthly loan payments would be interest only payments of \$500.00.
12. In October 2017, Stephen Pettus and I began renting the property located at 1118 Camp Creek Road, Lancaster, South Carolina.
13. According to information publicly available from the Lancaster County website, 1118 Camp Creek Road is owned by Chad Whitley not Buffalo Creek Investments, Inc.
14. Therefore, it was my understanding that Chad Whitley was our landlord at 1118 Camp Creek Road and not Buffalo Creek Investments, Inc.
15. Contrary to the Summary of Debt, Chad Whitley and I never reached an agreement that the rent for 1118 Camp Creek Road would increase to \$2,500.00.
16. In fact, for March, April, and May 2018, we did not pay \$7,500.00 in money to Chad Whitley for rent.
17. Instead, it was our understanding that repairs we made to the property were credited toward the rent for those three months and that was satisfactory to Chad Whitley.
18. Contrary to the Summary of Debt, I did not agree to add \$10,000.00 for rent to the amount due on the principal in the Promissory Note or mortgage.

19. I have never received any monthly statements of account from Buffalo Creek Investments, Inc. showing the amount of principal or interest paid or owed on the Promissory Note.
20. The above is information that I would have presented to the Special Referee if I had been permitted to speak to the Special Referee on September 11, 2019.
21. It is my understanding that Barrett Maners, a third party, purchased the 2818 Cane Mill Road property at foreclosure sale.
22. However, contrary to Mr. Maners' Petition, he never demanded that I vacate the property.

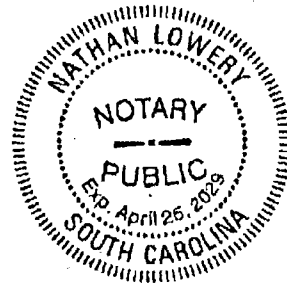
FURTHER AFFIANT SAYETH NOT.


Christopher Gravley

SWORN to before me this 21st day of November, 2019


Notary Public For South Carolina

My Commission Expires: 4-25-29



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LANCASTER) SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,)

Plaintiff,)

vs.)

AFFIDAVIT OF SERVICE

Stephen H. Pettus a/k/a Stephen
Pettus and Christopher Gravley,)

Defendants.)

The undersigned LANNY PENNINGTON being sworn says that (s)he

served the **Lis Pendens, Summons and Complaint** by delivering same to:

(X) THE DEFENDANT, STEPHEN H. PETTUS, personally;

() _____, a person of discretion residing at the
Defendant's residence; (note relation to Defendant)

() _____, (person served if corporate Defendant), the
_____, (Title) at its place of business.

and leaving copy of same at 2818 LANE MILL RD LANCASTER SC, at
9:11 o'clock A.M. on the 20 day of MAY, 2019, and that
(s)he knows the person so served to be the Defendant mentioned and described in the pleadings
served, and that the Deponent is not a party to nor interested in the action.

SWORN to before me this
20th day of May, 2019.

James A. Bland (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 07/21/2028

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LANCASTER) SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,)

Plaintiff,)

vs.)

AFFIDAVIT OF SERVICE

Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)

Defendants.)

The undersigned Lanny Pennington being sworn says that (s)he

served the **Lis Pendens, Summons and Complaint** by delivering same to:

() THE DEFENDANT, _____, personally;

☒ Stephen H. Pettus - Partner, a person of discretion residing at the
Defendant's residence; (note relation to Defendant)

() _____, (person served if corporate Defendant), the
_____, (Title) at its place of business.

and leaving copy of same at 2818 CANAMILL, LANCASTER SC, at
9:44 o'clock A.M. on the 20 day of MAY, 2019, and that
(s)he knows the person so served to be the Defendant mentioned and described in the pleadings
served, and that the Deponent is not a party to nor interested in the action.

SWORN to before me this

20th day of May, 2019.

Jane A. Bond (L.S.)

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 07/21/2028

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,
Plaintiff,

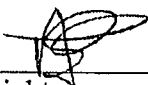
vs.

Stephen H. Pettus a/k/a Stephen
Pettus and Christopher Gravley,
Defendants.

AFFIDAVIT OF DEFAULT

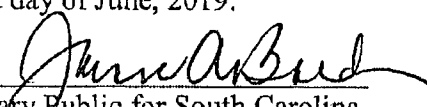
PERSONALLY appears Philip E. Wright, who on oath says that he is the Attorney for the Plaintiff in the above-entitled action and that Defendants were served the Lis Pendens, Summons and Complaint as will appear by the Affidavits of Service filed herein.

That more than thirty (30) days have passed since the making and completion of said service and that no Demurrer, Notice of Appearance or Answer has been served as required by the Summons, and that, therefore, these Defendants are in default in this action for want to appear therein. Upon information and belief, the Defendants are not in the military service.


Philip E. Wright
408 North Main Street
Lancaster, SC 29720
(803) 286-4343

ATTORNEY FOR PLAINTIFF

SWORN to before me this
21st day of June, 2019.


Notary Public for South Carolina
Commission expires: 09/21/2028

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT
CASE NO. 2019-CP-29-00617

Buffalo Creek Investments, Inc.,)

Plaintiff,)

vs.)

AFFIDAVIT OF SERVICE

Stephen H. Pettus a/k/a Stephen
Pettus and Christopher Gravley,)

Defendants.)

Personally appeared before me the undersigned deponent who, after being first duly sworn, states:

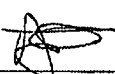
1. That she is the secretary to the attorney for the Plaintiff in the above-entitled action.
2. That regular communication by mail exists between deponents' address and the address listed below, and that this is a proper circumstance for service by mail.
3. That a copy of the **Amended Notice of Reference Hearing** in the above-entitled action was served upon the Defendants on August 12, 2019, as evidenced by the attached return receipts:

Mr. Stephen H. Pettus
2818 Cane Mill Road
Lancaster, SC 29720

Mr. Christopher Gravley
2818 Cane Mill Road
Lancaster, SC 29720


JEANNE A. BARTON

SWORN to before me this
15th day of August, 2019.


Notary Public for South Carolina
My Commission Expires: 04/26/2026

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Stephen H. Pettur</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: Mr. Stephen H. Pettur 2818 Kane Mill Rd Lancaster, SC 29720		B. Received by (Printed Name)	C. Date of Delivery 8/12/19
2. Article Number (Transfer from service label) 9590 9402 4282 8121 3114 61		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
7019 0140 0000 7255 8496		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Registered Mail ☐ Registered Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt			

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>Christopher Grayley</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: Mr. Christopher Grayley 2818 Kane Mill Rd Lancaster SC 29720		B. Received by (Printed Name)	C. Date of Delivery 8/12/19
2. Article Number (Transfer from service label) 9590 9402 4282 8121 3114 78		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
7019 0140 0000 7255 8502		3. Service Type ☐ Adult Signature ☐ Priority Mail Express® ☐ Adult Signature Restricted Delivery ☐ Registered Mail™ ☒ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Certified Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Collect on Delivery ☐ Signature Confirmation™ ☐ Collect on Delivery Restricted Delivery ☐ Signature Confirmation Restricted Delivery ☐ Registered Mail ☐ Registered Mail Restricted Delivery (over \$500)	
PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt			

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF LANCASTER	)	CASE NO. 2019-CP-29-00617
Buffalo Creek Investments, Inc.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF SERVICE
	)	
Stephen H. Pettus a/k/a Stephen	)	
Pettus and Christopher Gravley,	)	
	)	
Defendants.	)	

Personally appeared before me the undersigned deponent who, after being first duly sworn, states:

1. That she is the secretary to the attorney for the Plaintiff in the above-entitled action.
2. That regular communication by mail exists between deponents' address and the address listed below, and that this is a proper circumstance for service by mail.
3. That a copy of the **Decree of Foreclosure, Notice of Sale, Affidavit of Debt, Waiver of Deficiency Judgment and Record of Hearing** in the above-entitled action was served upon the Defendants, as evidenced by the attached return receipts:

Mr. Stephen H. Pettus
2818 Cane Mill Road
Lancaster, SC 29720

Mr. Christopher Gravley
2818 Cane Mill Road
Lancaster, SC 29720


 JEANNE A. BARTON

SWORN to before me this
 4th day of October, 2019.


 Notary Public for South Carolina
 My Commission Expires: 04/26/2026

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ Agent ☒ Addressee	
1. Article Addressed to: Mr. Stephen H. Pettus 2818 Cane Mill Road Lancaster, SC 29720		B. Received by (Printed Name) C. Date of Delivery	
2. Article Number (Transfer from service label) 7019 0140 0000 7252 1032		D. Is delivery address different from Item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Registered Mail ☐ Registered Mail Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ Agent ☒ Addressee	
1. Article Addressed to: Mr. Christopher Grayley 2818 Cane Mill Road Lancaster SC 29720		B. Received by (Printed Name) C. Date of Delivery	
2. Article Number (Transfer from service label) 7019 0140 0000 7252 1049		D. Is delivery address different from Item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Registered Mail ☐ Registered Mail Restricted Delivery		☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☒ Return Receipt for Merchandise ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	
PS Form 3811, July 2015 PSN 7530-02-000-9053		Domestic Return Receipt	

The Lancaster News

701 North White Street
PO Box 640
Lancaster, SC 29721
803-283-1133

NOTICE OF SALE
Case No. 2019-CP-26-00617
By virtue of a Decree of the Court of Common Pleas for Lancaster County, South Carolina, in the case of Buffalo Creek Investments, Inc., Plaintiff, against Stephen H. Pettus, a/k/a Stephen Pettus and Christopher Grayley, Defendants, I, Robert W. Davis, Special Referee, at my designee, will sell at public outcry to the highest bidder at the Lancaster County Courthouse, 194 North Main Street, Lancaster, South Carolina, on Sales Day in November, the same being Monday, November 4, 2019, at 11:00 a.m., the real estate described below:
ALL that certain parcel of land, to wit: Parcel 1030 and 1030A, with all improvements thereon, including a single lot in the City of Lancaster, South Carolina, fronting on the west side of Carter Mill Road, being designated as Lot 1 on plat of Providence Crossing Phase I, more particularly described on plat of survey entitled "Plat of Survey for Jerry Wayne Boone & Laura Faye Boone dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina, being the identical property conveyed to Stephen H. Pettus by deed recorded October 10, 2017 in Book 1098 at page 1411 with the Registrar of Deeds for Lancaster County, South Carolina, 2818 Carter Mill Road, Lancaster, SC 29720, TAM# 0102E-0E-001,00.
TERMS OF SALE: The successful bidder, other than the Plaintiff, will deposit with the Special Referee, at conclusion of the bidding, five percent (5%) of his bid in cash or equivalent, as evidence of good faith, same to be applied to the purchase price, in case of compliance, but to be forfeited and applied first to costs and then to the Plaintiff's debt in the case of non-compliance.

The bidding will not remain open but will close at the termination of sale. Should the last and highest bidder fail to comply with the other terms of the bid within thirty (30) days, then the Special Referee may re-sell the property on the same terms and conditions on some subsequent Sales Day (at the risk of the said highest bidder). Purchaser to pay for documentary stamps on the Deed. The successful bidder will be required to pay interest on the amount of the balance of the bid from date of sale to date of compliance with the bid at the rate of 12% per annum. The sale shall be subject to taxes and assessments, existing easements and restrictions, easements and restrictions of record and any other senior and junior branches.
In the event an agent of Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales date upon the terms and conditions as set forth in the Judgment of Foreclosure and Sale or such terms as may be set forth in a supplemental order.
ROBERT W. DAVIS
SPECIAL REFEREE
September 16, 2019
Lancaster, South Carolina
316-100-104-3W-Wright-Bl

ELECTRONICALLY FILED - 2019 Nov 04 3:57 PM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

This is to certify that the attached Legal Notice was published in The Lancaster News in the issue of *October 16, 23 and 30, 2019*.

Beverly G. Gumbly
Notary Public of South Carolina

My Commission Expires
January 13, 2021

ROA 000130



Lancaster County
Sheriff's Office

BARRY S. FAILE

SHERIFF

In the Courts of Lancaster County

State of South Carolina

Civil Action No: 2019-CP-29-00617

☐ Family

Date Filed: _____

☒ Common Pleas

Attorney's Address:

PHILIP E. WRIGHT

408 N MAIN STREET

LANCASTER, SC 29720

AFFIDAVIT OF SERVICE OR NON SERVICE
BUFFALO CREEK INVESTMENTS, INC.

Plaintiff (s)

NAME AND ADDRESS OF PARTY TO BE
SERVED:

STEPHEN H. PETTUS

2818 CANE MILL ROAD

LANCASTER, SC 29720

VS

STEPHEN H. PETTUS

Defendant(s)

Sheriff's Entry of Service

Personally appeared before me, the undersigned deponent who, being duly sworn says that he/she served
the ORDER FOR WRIT OF ASSISTANCE

in this action on the defendant: STEPHEN H. PETTUS

this 19 day of NOV 2019 Time 1:00 PM

☒ Served the defendant, Stephen Pettus personally with a copy of the within action or summons.

☐ Served the defendant, _____ by delivering to his/her
_____ a person of discretion residing at the resident of the defendant and being at the
said resident at the time of service.

☐ Served the defendant, _____ a corporation by leaving a copy of the
within action and summons with: _____ in charge of office and place of
doing business of said corporation in this county.

☐ Diligent search made and defendant, _____ not to be found in the jurisdiction
of this court.

Sworn to Before me,
this 19
day of NOV 2019

John m Bwana
Notary for South Carolina

mfw-Cy
Deputy Sheriff

P.O. BOX 908 1941 PAGELAND HWY., LANCASTER, SOUTH CAROLINA 29721

Lancaster 283-4136 Kershaw/Heath Springs 273-2666

Indian Land 547-5933 Fax 803-286-9823

ROA 000131

11/18

1961

ELECTRONICALLY FILED - 2019 Nov 27 9:56 AM - LANCASTER - COMMON PLEAS - CASE#2019CP2900617

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

AFFIDAVIT OF STEPHEN PETTUS

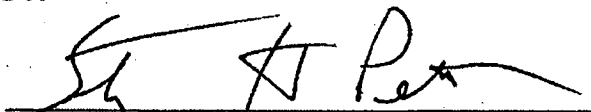
PERSONALLY APPEARED before me, Stephen Pettus, who being first duly sworn,
testifies that:

1. My name is Stephen Pettus. I am a resident of Lancaster, South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. My place of abode and residence is 2818 Cane Mill Road, Lancaster, South Carolina 29720.
5. I purchased 2818 Cane Mill Road in October 2017.
6. I have lived in this home since October 2017.
7. During that time, Christopher Gravley has also lived here.
8. If a process server had served papers for me at my home at 2818 Cane Mill Road, that process server would have come to the front door.
9. Our home has a camera at the front of the house which is activated whenever someone approaches the front door.

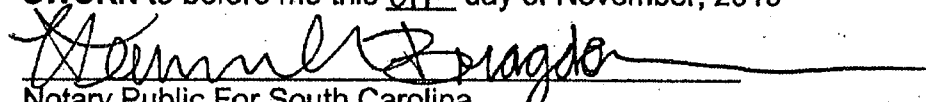
10. Christopher Gravley searched the video history for our front door camera and there is no record of anyone approaching the front door on May 20, 2019.
11. I do not have any recollection of anyone serving any papers at my home at 2818 Cane Mill Road in May 2019.
12. Christopher Gravley and I appeared at the reference hearing that was scheduled for July 3, 2019.
13. The Plaintiff did not appear at the July 3, 2019 reference hearing and had not provided supporting documentation to his attorney, so the Special Referee rescheduled the reference hearing for September 11, 2019.
14. The rescheduled reference hearing was set to be held at the office of Philip Wright, attorney for the Plaintiff, located at 408 North Main Street, Lancaster, South Carolina.
15. Christopher Gravley and I intended to attend that reference hearing.
16. However, we were delayed by approximately 10 minutes by traffic on our way to the hearing.
17. When we arrived at the office for the hearing, Philip Wright's secretary told Philip Wright that we had arrived.
18. Philip Wright came out and told us that the hearing had been conducted and concluded in our absence.
19. He directed us to leave his office immediately.
20. After we left his office, we parked in the nearby bank parking lot with a view of Philip Wright's office.

21. After about 15 minutes, Chad Whitley and a woman with him came out of the office.
22. A few minutes later, the Special Referee, Robert Davis, left the office.
23. Philip Wright left the office shortly thereafter.
24. Based upon the fact that all of the parties and Special Referee were still available in the building, I did not understand why the reference hearing could not have been held open or reconvened to accommodate us, particularly since the result of the reference hearing was the foreclosure on our home without our ability to participate in the hearing whatsoever.

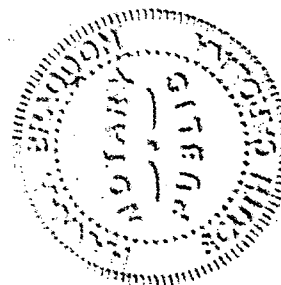
FURTHER AFFIANT SAYETH NOT.


Stephen Pettus

SWORN to before me this 27th day of November, 2019


Notary Public For South Carolina

My Commission Expires: 09/26/2028



STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Buffalo Creek Investments, Inc.,

Plaintiff,

v.

Stephen H. Pettus a/k/a Stephen Pettus
and Christopher Gravley,

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE SIXTH JUDICIAL CIRCUIT

Case No. 2019-CP-29-00617

AFFIDAVIT OF CHRISTOPHER GRAVLEY

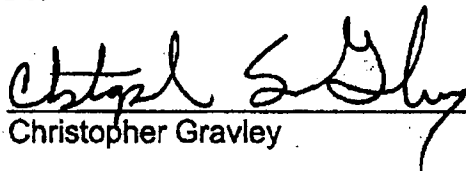
PERSONALLY APPEARED before me, Christopher Gravley, who being first duly sworn, testifies that:

1. My name is Christopher Gravley. I am a resident of Lancaster, South Carolina.
2. I am over 18 years old.
3. I have personal knowledge of the truth of the facts stated herein.
4. My place of abode and residence is 2818 Cane Mill Road, Lancaster, South Carolina 29720.
5. I have lived at this address since October 2017.
6. During that time, Stephen Pettus has also lived here.
7. If a process server had served papers for me at my home at 2818 Cane Mill Road, that process server would have come to the front door.
8. Our home has a camera at the front of the house which is activated whenever someone approaches the front door.

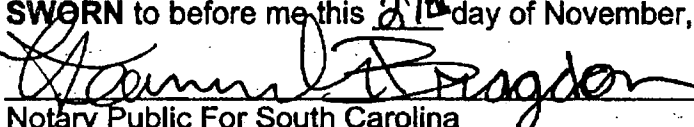
9. I have searched the video history for our front door camera and there is no record of anyone approaching the front door on May 20, 2019.
10. I do not have any recollection of anyone serving any papers at my home at 2818 Cane Mill Road in May 2019.
11. Stephen Pettus and I appeared at the reference hearing that was scheduled for July 3, 2019.
12. The Plaintiff did not appear at the July 3, 2019 reference hearing and had not provided supporting documentation to his attorney, so the Special Referee rescheduled the reference hearing for September 11, 2019.
13. The rescheduled reference hearing was set to be held at the office of Philip Wright, attorney for the Plaintiff, located at 408 North Main Street, Lancaster, South Carolina.
14. Stephen Pettus and I intended to attend that reference hearing.
15. However, we were delayed by approximately 10 minutes by traffic on our way to the hearing.
16. When we arrived at the office for the hearing, Philip Wright's secretary told Philip Wright that we had arrived.
17. Philip Wright came out and told us that the hearing had been conducted and concluded in our absence.
18. He directed us to leave his office immediately.
19. After we left his office, we parked in the nearby bank parking lot with a view of Philip Wright's office.

20. After about 15 minutes, Chad Whitley and a woman with him came out of the office.
21. A few minutes later, the Special Referee, Robert Davis, left the office.
22. Philip Wright left the office shortly thereafter.
23. Based upon the fact that all of the parties and Special Referee were still available in the building, I did not understand why the reference hearing could not have been held open or reconvened to accommodate us, particularly since the result of the reference hearing was the foreclosure on our home without our ability to participate in the hearing whatsoever.

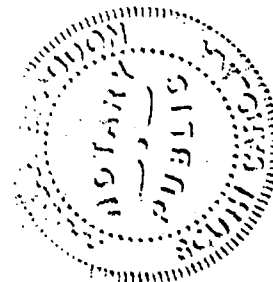
FURTHER AFFIANT SAYETH NOT.


Christopher Gravley

SWORN to before me this 27th day of November, 2019


Notary Public For South Carolina

My Commission Expires: 09/26/2028



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SIXTH JUDICIAL CIRCUIT
COUNTY OF LANCASTER	)	

Buffalo Creek Investments, Inc.,	)	C/A No. 2019-CP-29-00617
	)	

Plaintiff,

v.

AFFIDAVIT OF BARRETT M. MANERS

Stephen H. Pettus a/k/a Stephen
Pettus and Christopher Gravley,

Defendants.

Personally appeared before me, Barrett M. Maners, who first being duly sworn, deposes and says:

1. I am a citizen and resident of York County, South Carolina. I am over the age of eighteen and I am legally competent to give this affidavit. The matters set forth in this affidavit are based upon my personal knowledge.

2. Edwin G. Young and I are partners in a business in which we buy and sell real estate. As part of our business activity, we regularly monitor pending judicial and foreclosure sales to identify properties that may suit our objectives.

3. In October 2019, I identified a property in Lancaster County, South Carolina that was being advertised for foreclosure sale in November 2019. That property was Defendants' property, at 2818 Cane Mill Road, Lancaster, South Carolina ("2818 Cane Mill Road"). Mr. Young and I decided that we would bid on the property at the November 2019 Lancaster County foreclosure sale.

4. Neither Mr. Young nor I had any business or personal relationship with the Plaintiffs or the Defendants in the underlying foreclosure lawsuit (the "Lawsuit"), and neither of us was involved in that Lawsuit in any capacity.

5. Prior to the November sale date, I conducted some due diligence concerning 2818 Cane Mill Road, including a review of the online filings for the Lawsuit. With regard to the Lawsuit, my investigation revealed, among other things:

a. Plaintiff had filed affidavits of service in the Lawsuit, indicating that both Defendants were served with Plaintiff's Lis Pendens, Summons and Complaint;

b. Neither Defendant had answered the Lawsuit;

c. Plaintiff had filed affidavits of default and affidavits of non-military service as to each Defendant;

d. The case had been referred to Robert W. Davis, as Special Referee and Mr. Davis had conducted a hearing in the case;

e. Mr. Davis' order reflected that both Defendants had been served; that neither was in the military; and that both Defendants were in default. Mr. Davis' order also included a finding that "the real property which is the subject of this foreclosure is not subject to the terms of the Administrative Order of the Supreme Court of South Carolina dated May 2, 2011."

In short, there was nothing in the case file that gave me any concern about the manner in which the Lawsuit had been conducted.

6. I attended the November 4, 2019 foreclosure sale and bid on 2818 Cane Mill Road. Mr. Young and I submitted the highest bid, and we were declared the winning bidders. Our bid for 2818 Cane Mill Road was \$78,750.00.

7. Mr. Young and I paid the deposit of our bid on November 4 and the balance of the purchase price on November 15, 2019. True and accurate copies of our receipts for payment are attached as Exhibit A.

8. On November 15, 2019, the Special Referee issued a deed to Mr. Young and me, which we immediately recorded with the Lancaster County Register of Deeds. A true and accurate copy of our recorded deed is attached as Exhibit B.

9. On November 15, 2019, Mr. Young and I also applied for a writ of assistance, in order to have Defendants removed from 2818 Cane Mill Road. The Special Referee issued that writ on November 15, 2019 and I took it to the Lancaster County Sheriff that same afternoon.

10. I had no notice of any alleged irregularity in the underlying Lawsuit until I received a phone call from Kathleen McDaniel on November 27, 2019. Ms. McDaniel informed me, for the first time, that Defendants alleged there was some problem with the underlying foreclosure action. By then, Mr. Young and I had already paid for 2818 Cane Mill Road and had recorded our deed to that property.

11. Mr. Young and I purchased 2818 Cane Mill Road in good faith, and without any knowledge or belief concerning any alleged irregularity in the Lawsuit. We paid the full amount of our bid and our deed is recorded in the Office of the Register of Deeds for Lancaster County in Deed Book 1284 at Page 162.

[NOTARIZED SIGNATURE ON FOLLOWING PAGE]

Barrett M. Maners
Barrett M. Maners

Sworn to before me this

16 day of January 2020

[Signature] (Notary's Signature)

L. melia Sweatt (Notary's Printed Name)

Notary Public for South Carolina

My commission expires: 7-9-22

4826-3651-9601, v. 1

CASH RECEIPT Date 11/15/19 001423

Received From Edwin Young & Bennett Menner

Address Quarter - five Thousand Twenty eight
2818 Lane Mill Rd
Lancaster

Account 2818 Lane Mill Rd How Paid 75,628.99 Dollars \$ 75,628.99

By Benton

PHILIP E. WRIGHT
ATTORNEY AT LAW
TRUST ACCOUNT
408 N. MAIN STREET
LANCASTER, SC 29720

CASH RECEIPT Date 11/4/19 001421

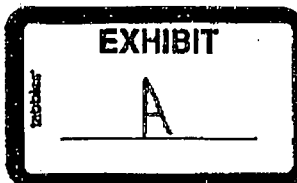
Received From Bennett Menner

Address Three Thousand Nine Hundred
For 60% - Edwin Young
40% - Bennett Menner

Account Three Thousand Nine Hundred How Paid 3937.50 Dollars \$ 3937.50

By Benton

PHILIP E. WRIGHT
ATTORNEY AT LAW
TRUST ACCOUNT
408 N. MAIN STREET
LANCASTER, SC 29720



LANCASTER COUNTY ASSESSOR

Tax Map:

0102E 0E 001 00

RECORDED THIS 18th DAY
OF NOVEMBER, 2019
IN BOOK 00 PAGE 00



Auditor, Lancaster County, SC

2019017440

DEED

RECORDING FEES

\$15.00

STATE TAX

\$205.40

COUNTY TAX

\$86.90

PRESENTED & RECORDED:

11-15-2019 01:47:24 PM

BRITTANY GRANT

REGISTER OF DEEDS

LANCASTER COUNTY, SC

BY: TERRY PARKMAN ROD

BK: DEED 1284

PG: 162 - 164

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

TITLE UNDER ORDER OF COURT

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Robert W. Davis, Special Referee, in and for the County aforesaid, SEND
GREETINGS:

WHEREAS, Buffalo Creek Investments, Inc., exhibited its Complaint in the Court of Common Pleas, for the County aforesaid against Stephen H. Pettus a/k/a Stephen Pettus and Christopher Gravley, Case No. 2019-CP-29-00617, demanding judgment in relation to the real estate hereinafter mentioned and described; and the cause being at issue came on to be heard on September 11, 2019, and such proceedings were had therein as resulted in a Decree of Foreclosure of the said Court, whereby it was adjudged and decreed that the said premises hereinafter mentioned and described be sold by Robert W. Davis, Special Referee, after having duly advertised the said real estate for sale by public outcry on the 4th day of November, in the year of our Lord two thousand nineteen, did then openly and publicly and according to the custom of auctions, sell and dispose of the same unto Edwin G. Young (6/10 interest) and Barrett M. Maners (4/10 interest), for the sum of Seventy-Eight Thousand Seven Hundred Fifty and No/100 Dollars (\$78,750.00), being at that price the highest bidder therefor, NOW: THEREFORE, Know all men by these presents that I, Philip E. Wright, Special Referee, in consideration of the sum of Seventy-Eight Thousand Seven Hundred Fifty and No/100 Dollars

DEED BK 1284 PG 162

EXHIBIT

B

ROA 000143

(\$78,750.00), to me paid by the said Edwin G. Young (6/10 interest) and Barrett M. Maners (4/10 interest), the receipt of whereof is hereby acknowledged, HAVE GRANTED, bargained, sold and released by these Presents DO GRANT, bargain, sell and release unto the said Edwin G. Young and Barrett M. Maners, their heirs, successors and assigns:

ALL that certain piece, parcel or lot of land, together with improvements thereon, lying, being and situate in Gills Creek Township, Lancaster County, South Carolina, fronting on the west side of Cane Mill Road, being designated as Lot 1 on plat of Providence Crossing-Phase I, more particularly described on plat of survey entitled 'Plat of Surveyed for Jerry Wayne Boone & Laura Faye Boone' dated March 9, 1998 made by Precision Surveying, Inc. and recorded as Plat No. 98-155 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Being the identical property conveyed to Stephen H. Pettus by deed recorded October 10, 2017 in Book 1088 at page 141 with the Register of Deeds for Lancaster County, South Carolina.

2818 Cane Mill Road, Lancaster, SC 29720
TAM# 0102E-0E-001.00

Grantee's Address: Post Office Box 10387
Rock Hill, SC 29731

TOGETHER with all and singular the Rights, members, Hereditaments and Appurtenances to the said premises belonging; or in anywise incident or appertaining; and all the estate, right, title, claim, and interest whatsoever of the parties to the cause aforesaid, and of each of them, in and to the same; and of all other persons rightfully claiming, from, under, or by these or any of them.

TO HAVE AND TO HOLD, all and singular, the premises, before mentioned unto the said Edwin G. Young and Barrett M. Maners, their heirs, successors and assigns.

IN WITNESS WHEREOF, I, the said Robert W. Davis, Special Referee, under and by virtue of the aforesaid Decree, have hereunto set my Hand and Seal this 14 day of November,

in the year of our Lord two thousand nineteen and in the two hundred and forty-fourth year of the
Independence of the United States of America.

Signed, Sealed and Delivered
in the Presence of:

Erncene C. Frost
Laura N. Silance

Robert W. Davis
ROBERT W. DAVIS
SPECIAL REFEREE

STATE OF SOUTH CAROLINA)

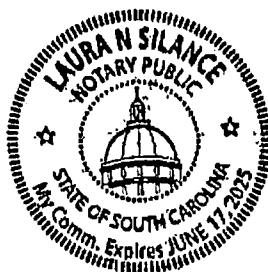
COUNTY OF LANCASTER)

PERSONALLY appeared before me, the undersigned witness, and made oath that (s)he
saw the within-named Robert W. Davis, Special Referee, sign, seal, and as his act and deed,
deliver the within Title Under Order of Court; and that (s)he with the other witness above,
witnessed the execution thereof.

Erncene C. Frost

SWORN to before me this
14th day of November, 2019.

Laura N. Silance
Notary Public for South Carolina
My Commission Expires: 06-17-2025



STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

Buffalo Creek Investments, Inc.,)

C/A No. 2019-CP-29-00617

Plaintiff,)

v.)

AFFIDAVIT OF EDWIN G. YOUNG

Stephen H. Pettus a/k/a Stephen)
Pettus and Christopher Gravley,)

Defendants.)

Personally appeared before me, Edwin G. Young, who first being duly sworn, deposes and says:

1. I am a citizen and resident of York County, South Carolina. I am over the age of eighteen and I am legally competent to give this affidavit. The matters set forth in this affidavit are based upon my personal knowledge.

2. Barrett M. Maners and I are partners in a business in which we buy and sell real estate.

3. Mr. Maners and I purchased 2818 Cane Mill Road at a foreclosure sale on November 4, 2019. Mr. Maners attended that sale and submitted our bid. We bid in good faith, and without any knowledge of an alleged defect or irregularity in the underlying foreclosure proceedings. We were the successful bidder, with a bid of \$78,750.00. We paid deposit toward our purchase on the date of the sale and the balance of the purchase price on November 15, 2019.

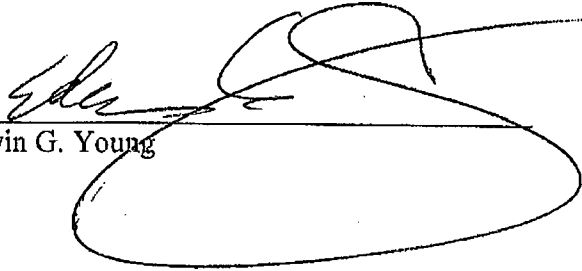
4. Neither Mr. Maners nor I have any business or personal connection to the Plaintiff or Defendants in the underlying foreclosure Lawsuit. We had no knowledge or suspicion of any

alleged irregularity in the underlying foreclosure action at the time we purchased 2818 Cane Mill Road at auction.

5. Mr. Maners and I hold title to 2818 Cane Mill Road. Our deed was recorded in the Office of the Register of Deeds for Lancaster County, South Carolina on November 15, 2019.

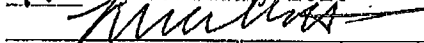
6. I was not made aware of any alleged irregularity with the foreclosure proceedings until November 27, 2019, several days after Mr. Maners and I had fully paid for the property and recorded our deed.

7. I have reviewed Barrett Maners' affidavit. Based upon the information known to me, I believe his statements in that affidavit are accurate and truthful.


Edwin G. Young

Sworn to before me this

16th day of January, 2020

 (Notary's Signature)

L. melia Sweatt (Notary's Printed Name)

Notary Public for South Carolina

My commission expires: 7-9-22.

RECEIVED

MAY 26 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

The Honorable Robert W. Davis
Special Referee

Appellate Case No.: 2020-000952
Case No.: 2019-CP-29-00617

Buffalo Creek Investments, Inc., ... Plaintiff,

v.

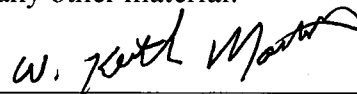
Stephen H. Pettus a/k/a Stephen Pettus and Christopher Gravley, Respondents,
and Edwin Young and Barrett Maners, ... Intervenors,

Of whom, Edwin Young and Barrett Maners are the Appellants.

CERTIFICATE OF COUNSEL

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

May 18, 2021



W. Keith Martens
Hamilton Martens, LLC
Post Office Box 10940
Rock Hill, SC 29731
(803) 329-7672
keith.martens@hamiltonmartens.com
ATTORNEYS FOR APPELLANTS