

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

First National Bank of the South a/k/a)
First National Bank of the South d/b/a)
First National Bank of Spartanburg Div.)
of First National Bank of the South,)

**MASTER'S ORDER AND JUDGMENT OF
FORECLOSURE AND SALE
(Non-Jury) (Foreclosure)**

Plaintiff,

**(Deficiency Demanded against Defendant T.
Glenn Easler a/k/a Thomas Glenn Easler)**

v.

C.A. No.: 2010-CP-42-1624

T. Glenn Easler a/k/a Thomas Glenn)
Easler; G & F Care, LLC; The National)
Bank of South Carolina; Bank Meridian,)
N.A.; and The Palmetto Bank,)

Defendants.)

TO:

Kristin Burnett Barber, Esquire
Johnson, Smith, Hibbard and Wildman
Law Firm, L.L.P.
Post Office Drawer 5587
Spartanburg, South Carolina 29304
(864) 582-8121

Mr. T. Glenn Easler
Registered Agent for G & F Care, LLC
710 Casey Creek Road
Chesnee, South Carolina 29323

Ms. Emily Easler Handy
Attorney-in-Fact for Defendant
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Attorneys for Defendant The Palmetto Bank

Pursuant to Rule 53 SCRPC, the above-titled matter was referred to the Master-in-Equity for Spartanburg County to make appropriate findings of fact and conclusions of law with authority to enter a final judgment. Pursuant to said Order of Reference, a hearing was held on June 30, 2010 at 2:30 p.m., attended by Kristin Burnett Barber, attorney for Plaintiff First National Bank of the South a/k/a First National Bank of the South d/b/a First National Bank of Spartanburg Div. of First National Bank of the South (the "Bank"), and from the testimony, other evidence and stipulations, I report, find, conclude and order as follows:

On or about May 13, 2010, Emily Easler Handy, as Power-of-Attorney for Defendant T. Glenn Easler a/k/a Thomas Glenn Easler ("Easler") filed the following: (1) *Hearing Officer: Judge Gordon Cooper No Judicial Powers Eleventh Amendment Notice, Eleventh Amended Violation, and Demand for Administrative Hearing Against Plaintiff*; (2) *Administrative Notice and Demand: Writ of Error Coram Nobis Memorandum in Law*; and (3) *Judicial Notice; Notice to the Administrative Court, All Courts are Operating Under (1) Trading with the Enemy Act as Codified in Title 50 USC, (2) Title 28 USC, Chapter 176, Federal Debt Collection Procedure, and (3) Fed.R.Civ.P. 4(j) Under Title 28 USC §1608, Making the Courts "Foreign States" to the People by Congressional Mandate & In Violation of Administrative Procedure, Judicial Procedures, (4) Obligationally Contractually Violation by Parties Under Private Contract to We the People Pay* (hereinafter collectively referred to as the "Defendants' Filings").

On May 21, 2010, the Bank, by and through its attorneys of record, filed a Notice of Motion and Motion for Default Judgment or in the Alternative Motion to Strike (the "Motion"). Pursuant to Rule 55 of the South Carolina Rules of Civil Procedure, the Affidavit of Default and other documents filed with the Court, the Bank filed the Motion seeking an Order Granting Default Judgment for the Plaintiff and for the relief requested in the Complaint against Defendants T. Glenn Easler a/k/a Thomas Glenn Easler ("Easler") and G & F Care, LLC ("G &

F"). The Motion provides that the Defendants' Filings failed to respond to the allegations in the Complaint. In the Motion the Bank requested that in the alternative or in conjunction with the Motion for Judgment by Default that the Court issue an order striking the Defendants' Filings.

Rule 8(b) of the South Carolina Rules of Civil Procedure provides that "A party shall state in short and plain terms the facts constituting his defenses to each cause of action asserted and shall admit or deny the averments upon which the adverse party relies." The Defendants' filings fail to address the allegations of the complaint and, additionally, fail to state in short and plain terms the facts constituting the Defendants' defenses to each of the causes of action asserted in the Complaint.

Based on the foregoing the Defendants' Filings are hereby stricken from the record and the Bank's Motion for Default Judgment or in the Alternative Motion to Strike is granted.

FINDINGS OF FACT

1. The Lis Pendens was filed March 24, 2010.
2. The Summons and Complaint were filed on March 24, 2010.
3. Proper service of process was made upon the Defendants named in this action as is shown in the records by the filed Affidavits of Service, Acceptances of Service and Certificates of Service.
4. The Defendants, either personally or by and through their attorneys of record, were timely notified of the time, date and place of the hearing in this matter.
5. According to the record, no individual Defendant in default is in the military service of the United States of America, as contemplated under the Soldiers' and Sailors' Relief Act of 1940, as amended.

DEBT OBLIGATION

6. For value received, Easler, made, executed and delivered to the Bank a written

promissory note dated December 29, 2004 (hereinafter the "Note"). Pursuant to the terms of the Note, Easler promised to pay to the Bank the principal sum of Eight Hundred Thousand and 00/100ths (\$800,000.00) Dollars, together with interest on the outstanding principal balance from December 29, 2004 at the rate of five and three-quarters (5.750%) percent per year until the first change date; with the future rate being one-half (0.50%) percent over the Prime Rate as published in The Wall Street Journal. The Note further provides that during the term of the loan, the applicable interest rate will not be less than five and three-quarters (5.750%) percent. Easler agreed to pay interest on the unpaid balance of the Note owing after maturity and until paid in full at the same fixed or variable rate basis in effect before maturity. Pursuant to the terms of the Note, Easler agreed to repay the Note as follows: in twenty-four (24) consecutive monthly payments of interest only beginning on January 29, 2005 and continuing on the same day of each month thereafter, with remaining principal balance payable in thirty-five (35) monthly payments of Six Thousand Six Hundred Seventy-Eight and 63/100ths (\$6,678.63) Dollars, principal and interest beginning on January 29, 2007 and continuing on the same day of each month thereafter, with a final payment of principal and interest due at maturity December 29, 2009. A copy of the Note is attached to the Complaint as Exhibit "B" and incorporated herein by reference.

7. To induce the Bank to make the loan and to secure payment of the principal and interest on the Note, Easler executed and delivered to the Bank a Mortgage (With Future Advance Clause) dated December 29, 2004 and recorded December 31, 2004 in Mortgage Book 3364 at page 297 in the Office of the Register of Deeds for Spartanburg County, South Carolina, encumbering certain real property located on Highway 221 North, Spartanburg County, South Carolina, bearing Spartanburg County TMS# 3-08-00-005.00, and generally described as 4.56 acres, more or less, on a plat prepared for Peach Valley Plaza by Huskey & Huskey, Inc., dated December 30, 2003 and recorded in Plat Book 155 at page 379 in the Office of the Register of

Deeds for Spartanburg County, South Carolina (hereinafter the "Mortgaged Property"); said property more particularly described in said Mortgage (hereinafter the "Mortgage") and in **Exhibit "A"** legal description, attached hereto and incorporated herein by reference. A copy of the Mortgage is attached to the Complaint as Exhibit "C" and incorporated herein by reference.

8. The Mortgage constitutes a first priority lien on the Mortgaged Property.

9. The Bank is the present owner and holder of the aforesaid Note and Mortgage.

10. That Easler is now and has been in default in the payments of the Note and Mortgage since November 29, 2009. Additionally, the Note matured on December 29, 2009.

11. In and by the terms of the Note and Mortgage it is provided among other things, that upon failure to pay an installment of either principal or interest or any portion thereof when due, or if any of the conditions of the Note and Mortgage, are not complied with, then the whole principal sum and accrued interest shall, at the option of the legal holder thereof, become at once due and payable and collectible by legal action.

12. In and by the terms of the Note and Mortgage, should the debt secured thereby or any part thereof be placed in the hands of any attorney at law for collection by suit or otherwise, all costs and expenses incurred by the Bank and a reasonable attorney's fee, shall thereupon become due and payable, at the option of the Bank, as part of the debt secured thereby.

13. In and by the terms of the Note and Mortgage, if the payment of taxes and/or insurance is made by the Bank as Mortgagee, the amount of said taxes and/or insurance should thereupon become due and payable as part of the debt secured thereby.

14. Payments on the Note and Mortgage have not been made as provided for in the Note and Mortgage. Any required notice of the Defendants in default was timely given and any time for opportunity to cure has passed. The Bank, as holder thereof, has elected to require

immediate payment of the entire amount due thereon and has placed the Note and Mortgage in the hands of an attorney for collection.

15. After review of the Affidavits by the Bank's attorneys, the terms of the Note and Mortgage, and based on my knowledge of the contested nature of this foreclosure action, I find the sum of Five Thousand Six Hundred One and 79/100ths (\$5,601.79) Dollars as a reasonable fee to allow for the Bank's attorney for services performed and the costs advanced anticipated to be performed until final adjudication of the within action under the Note and Mortgage and until final sale of the Mortgaged Property.

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

| | | |
|----|---|---------------------|
| a. | Principal amount due as of June 30, 2010 on the Note and Mortgage: | \$697,293.94 |
| b. | Interest accrued as of June 30, 2010: | \$ 27,300.66 |
| c. | Late Charges accrued as of June 30, 2010: | \$ 500.00 |
| d. | Appraisal Fee paid by Bank: | \$ 2,500.00 |
| e. | Attorney's Fees, plus costs: | \$ 5,601.79 |
| f. | Total debt secured by the Note and Mortgage including interest to date shown: | \$733,196.39 |

The Plaintiff shall also be entitled to collect any and all amounts advanced to protect its collateral including but not limited to taxes and/or insurance.

Interest shall continue to accrue at the rate provided for in the Note and Mortgage from the date provided in paragraph (a) hereinabove through the date of final judgment, to be added to the above stated total debt provided in paragraph (f) hereinabove and secured by the Mortgage after this date of Judgment.

17. Bank is seeking foreclosure of the Mortgage and does not waive but specifically demands deficiency judgment against Defendant T. Glenn Easler a/k/a Thomas Glenn Easler.

18. Said information having been obtained from the public records of Spartanburg County Register of Deeds Office and the Office of the Clerk of Court for Spartanburg County, the Defendant(s) named below has or may claim to have some interest in or lien as described below upon the Mortgaged Property, which is the subject of this action, but that any such interest or lien is junior and subordinate to the Note and Mortgage as described hereinabove:

a. Defendant G & F Care, LLC by virtue of that certain instrument entitled Title to Real Estate given by T. Glenn Easler to G & F Care, LLC dated January 30, 2009 and recorded February 2, 2009 in Deed Book 93-D at page 519 in the Office of the Register of Deeds for Spartanburg County, South Carolina, purporting to convey the Mortgaged Property to G & F Care;

b. Defendant The National Bank of South Carolina by virtue of that certain instrument obtained against T. Glenn Easler filed August 10, 2009 in the Office of the Clerk of Court for Spartanburg County in judgment roll number 2009-CP-42-0077 in the original amount of One Hundred Ninety Thousand Seven Hundred Seventy-Three and 56/100ths (\$190,773.56) Dollars;

c. Defendant Bank Meridian, N.A. by virtue of that certain instrument obtained against Thomas Glenn Easler a/k/a T. Glenn Easler in the Office of the Clerk of Court for Spartanburg County in judgment roll number 2009-CP-42-0169 in the original amount of Thirty-Eight Thousand Four Hundred Twenty-One and 58/100ths (\$38,421.58) Dollars; and

d. Defendant The Palmetto Bank by virtue of that certain foreclosure action filed in Case Number 2010-CP-42-1559 on March 22, 2010 in the Office of the Clerk of Court for Spartanburg County, South Carolina against Thomas Glenn Easler, among others, in which

The Palmetto Banks seeks a deficiency judgment against Thomas Glenn Easler. Said action is still pending;

19. Pursuant to the Order of the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, dated May 4, 2009, in the matter identified as *In Re Federal National Mortgage Association ("Fannie Mae") Loans Subject to Foreclosure Sale*, and that certain *Administrative Order (re: Mortgage Foreclosures and the Home Affordable Modification Program (HMP))* issued by the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court dated May 22, 2009, the Mortgaged Property which is the subject of this action, is commercial property and the Homeowner Affordability and Stability Plan, The Home Affordable Modification Program and the United States Treasury Supplemental Directive 09-01 (hereinafter collectively as "HMP") is inapplicable.

20. Based on the Mortgaged Property being commercial property, the Bank is entitled to proceed with this foreclosure and is entitled to an order from the Court finding that this loan is not subject to modification under the HMP.

CONCLUSIONS

1. That the loan which is the subject of this action is not subject to the HMP;

2. That the Defendants' Filings are hereby stricken from the record, the Bank's Motion for Default Judgment or in the Alternative Motion to Strike is granted and an Entry of Default and Order for Judgment is hereby entered against Defendants T. Glenn Easler a/k/a Thomas Glenn Easler and G & F Care, LLC;

3. The Bank, whose Mortgage is a valid first mortgage lien on the Mortgaged Property, is granted a Judgment of Foreclosure of the Mortgage;

4. That there is due to the Bank, as is set forth in my findings, on the obligations of the Note and Mortgage the sum of Seven Hundred Thirty-Three Thousand One Hundred Ninety-

Six and 39/100ths (\$733,196.39) Dollars as of the 30th day of June, 2010, together with any amounts the Bank may be entitled to as stated in the findings of fact, together with interest on said amount at the interest rate provided in the Note and Mortgage from the date of this Order to the sale of the property; and the Bank shall have judgment therefore against Defendant T. Glenn Easler a/k/a Thomas Glenn Easler. The Clerk of Court for Spartanburg County is directed to forthwith enter and docket such judgment in the Clerk's Office pursuant to Section 29-3-650, Code of Laws of South Carolina (1976), as amended;

5. That Easler, before the date of the sale of the property described herein, pay to the Bank, or the Bank's attorney, the amount of the Bank's debt at the aforesaid, together with the cost and disbursement of this action;

6. That on default of the payment at or before the time herein indicated, the Mortgaged Property, be sold by the Master-in-Equity, at public auction, at the Spartanburg County Judicial Center, Spartanburg, South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then, in such event the sales day shall be on Tuesday next succeeding such holiday), on the following terms, that is to say for cash; the Master-in-Equity will require a deposit of 5% of the amount of the bid (in cash or equivalent), at the time of the sale, same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within twenty (20) days, same to be forfeited and applied to the cost and Plaintiff's debt. Interest on the balance of the bid shall be paid to the day of compliance at the rate of five and three-quarters (5.75%) percent per annum. The sale shall be subject to taxes and assessments, existing and restrictions of record, and any other senior encumbrances. The Purchaser shall pay for the deed preparation and costs of recording the Deed and Deed Stamps.

7. If the Bank is a successful bidder at said sale, for a sum not exceeding the amount of cost and the indebtedness of the Bank in full, the Bank may pay into the Master-in-Equity only the amount of the cost, crediting the balance of the bid on the Bank's indebtedness.

8. Since a deficiency judgment is demanded, the bidding at the sale will remain open for thirty (30) days following the sale as provided by law in such cases;

9. That, upon motion of the Bank's attorney at the merits hearing, I order the pleadings to be amended to conform to the evidence presented;

10. That this Master-in-Equity give notice by advertisement, according to the law, of the time and place of such sale, and the terms thereof; that this Master-in-Equity, do execute to the purchaser or purchasers, a deed to the premises sold; as a Bank or any other party to this action, may become a purchaser at such sale and that if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within twenty (20) days after the sale, then the Master-in-Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured. In the event the Bank is a successful bidder, at its option, or option of its assignee, the deed may be taken subject to the payment by grantee of any taxes or any assessments constituting a lien against the mortgaged property sold under this Order and hereinafter more fully described;

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

FIRST, to the payment of the amount of the cost and expenses of this action, the recommended attorney's fees and liens for taxes due and payable upon the mortgaged property so sold, and any taxable disbursements by the attorneys in this action.

NEXT, to the payment to the Bank or Bank's attorney of the amount of the Bank's debt and interest or so much thereof as the purchase money will pay the same;

NEXT, any surplus be held pending further Order of this Court; and

12. That if the proceeds of the sale be insufficient to pay the amounts herein before authorized to be paid out of said proceeds, with the interest, cost, expenses and taxes as aforesaid, the parties hereto are entitled to a judgment deficiency have judgment therefore against Defendant T. Glenn Easler a/k/a Thomas Glenn Easler.

13. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon making of the sale of such Mortgaged Property, as hereby ordered, and execution and delivery to the purchaser of a deed to the premises, the said purchaser or purchasers, be let into possession of the premises on the production of the deed; and the Sheriff of Spartanburg County shall put the holder of the deed into possession of the premises and shall eject and remove from the premises the occupants of the property sold, together with all personal property thereon in accordance with applicable law;

14. AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each Defendant named herein and all persons whosoever claiming under the Defendants, be forever barred and foreclosed of all right, title, interest and equity or redemption in the said mortgaged premises so sold, or any part thereof; and

15. The Mortgaged Property ordered to be sold is particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference;

16. AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the deed of conveyance made pursuant to this sale shall be indexed in the Grantor Index by the Register of Deeds in the name of the owner of record of mortgaged property immediately prior to the execution of the deed, as well as in the name of the undersigned Master-in-Equity, who executed such deed as grantor;

17. The undersigned Master-in-Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a writ of assistance and disposing of any surplus funds, pursuant to Rule 71(C) SCRPC; and

IT IS SO ORDERED by virtue of the powers granted me by the Order of Reference described herein and the laws of South Carolina.

Gary E. Clary,
Interim Master-in-Equity for Spartanburg County

June ____, 2010

Spartanburg, South Carolina

EXHIBIT "A"
(Legal Description)

All that certain piece, parcel or lot of land, with improvements thereon, lying, situate and being in the State of South Carolina, County of Spartanburg, being shown and designated as 4.56 acres, more or less, on a plat prepared for Peach Valley Plaza by Huskey & Huskey, Inc., dated December 30, 2003, recorded in Plat Book 155 at page 379 in the Office of the Register of Deeds for Spartanburg County, South Carolina.

This being a portion of the same property conveyed to T. Glenn Easler by deed of William S. Ramsey, Cecil E. Ramsey, Charles N. Ramsey and Robert G. Ramsey, dated March 29, 1987 and recorded February 27, 1968 in Deed Book 34-K at page 554 in the Office of the Register of Deeds for Spartanburg County, South Carolina, reference to which deed and the aforesaid plat is hereby specifically made for a more detailed description of the property covered hereby.

TMS No.: 3-08-00-005.00
Address: 2312 Chesnee Hwy.
Chesnee, SC 29323