

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
Case No. 2009-CP-42-6006

Regions Bank,

Plaintiff,

vs.

Fraley-Morgan Corporation, Inc. aka
Fraley Morgan Corporation, Inc., Fred R.
Fraley, and Charles David Morgan,

Defendants.

**MASTER IN EQUITY'S ORDER AND
JUDGMENT OF FORECLOSURE AND
SALE**
(Deficiency Demanded)

2010 FEB 17 PM 12:03

CLERK OF COURT
SOUTH CAROLINA
COUNTY OF SPARTANBURG

Spartanburg

I, the undersigned, Master in Equity for ~~Richland~~ Spartanburg County, hereby find that pursuant to the Order of Default and Order of Reference granted in the above entitled case, a hearing was held on February, 17, 2010, attended by Louise M. Johnson of Haynsworth Sinkler Boyd, P.A., attorneys for Regions Bank ("Plaintiff"). Testimony was proffered, which is herewith reported, and from the testimony and evidence, I find and conclude as follows:

FINDINGS OF FACT

1. The Lis Pendens was filed on October 8, 2009, the Second Lis Pendens was filed on October 29, 2009, and the Third Lis Pendens was filed on November 3, 2009..
2. The Civil Action Coversheet, Certificate of Exemption from ADR, Summons and Complaint with Exhibits were filed on November 3, 2009.
3. The Civil Action Coversheet, Certificate of Exemption from ADR, Summons, and Complaint with Exhibits will hereinafter be collectively referred to as "Pleadings".
4. Said Pleadings were served upon Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc., Fred R. Fraley, and Charles David Morgan as evidenced by the Affidavit of Service items that is of record herein.

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5. After a period of more than thirty (30) days, no notice, motion, or other pleading was filed by or on behalf of Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc., Fred R. Fraley, and Charles David Morgan. Consequently, on December 22, 2009, the Order of Default as to these defendants was entered by the Court.

6. Upon information and belief, Fred R. Fraley and Charles David Morgan are not individuals entitled to protection under the Servicemembers Civil Relief Act, 50 USCS Appx. §§ 501 *et seq.* (2004).

7. Defendants were notified of the time, date, and place of the hearing in this matter.

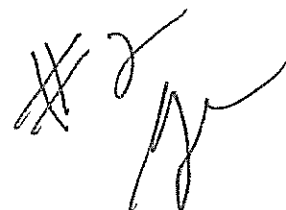
8. For value received, on or about July 8, 2008, Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc. made, executed, and delivered unto Plaintiff a Promissory Note in the original principal amount of One Hundred Nineteen Thousand Six Hundred and 00/100 (\$119,600.00) Dollars (“Note”).

9. To secure the repayment of the Note, and the debt evidenced thereby, Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc. made, executed, and delivered unto Plaintiff a certain Construction Mortgage dated December 8, 2004, (“Mortgage”), whereby Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc. mortgaged to Plaintiff the real property described in the Mortgage. The Mortgage was recorded on December 8, 2004, in the Spartanburg County Register of Deeds Office in Book 3351 at Page 603.

10. To further induce Plaintiff to enter into the Note, and as additional security for the Note and the debt evidenced thereby, and for valuable consideration given, Fred R. Fraley and Charles David Morgan made, executed and delivered unto Plaintiff those certain Commercial Guaranty agreements.

11. Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc. is the legal owner of the Mortgaged Property.

12. The Mortgage constitutes a first lien on the subject property.

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13. The titleholder of record in and to the subject property as of the filing of the Lis Pendens in this action is Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc.

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

15. The amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection, including an attorney's fee, secured by the Note and Mortgage, as of February 17, 2010, are as follows:

Original principal	\$119,600.00
(a) Principal Balance	\$ 119,600.00
(b) Accrued Interest Due	\$ 2,592.45
(c) Taxes Paid for 2008 and 2009	\$ 8,513.74
(d) Appraisal	\$ <u>650.00</u>
Total amount due on Note and Mortgage	\$ 131,356.17
(e) Filing, service, motion, and other fees	\$ 470.09
(f) Referral Fee	\$ <u>100.00</u>
Total Balance on Note and Mortgage	\$ 131,926.28
(g) Attorneys' Fees	\$ <u>3,500.00</u>
Total debt secured by the Note and Mortgage, including interest to date shown	\$ 135,426.28

Interest continues to accrue on the Note at the rate of 3.75% per annum (which is currently \$12.92318 *per diem*) from February, 17, 2010, until judgment and at the Note rate thereafter until paid.

16. Plaintiff is seeking foreclosure of its Mortgage and the right to a personal or deficiency judgment against Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation,

Inc., Fred R. Fraley, and Charles David Morgan, with a credit against the judgment to be given for the net proceeds received by Plaintiff for the sale. However, Plaintiff reserves the right to waive deficiency prior to the sale.

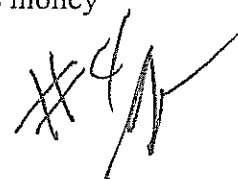
17. Since this foreclosure action involves a mortgage on commercial property, the Home Affordable Modification Program is inapplicable.

CONCLUSIONS OF LAW

I, therefore, conclude that the Plaintiff should have judgment of foreclosure of the Mortgage and the Mortgaged Property should be ordered sold at public auction after due advertisement, and a personal or deficiency judgment against Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc., Fred R. Fraley, and Charles David Morgan, with a credit against the judgment to be given for the net proceeds received by the Plaintiff for the sale, shall be entered upon the judgment rolls for Richland County.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the subject foreclosure action involves a mortgage on commercial property and the Home Affordable Modification Program is inapplicable.
2. That the Mortgage constitutes a first lien on the subject property
3. That there is due to the Plaintiff on its Note and Mortgage set forth in the Complaint the sum \$135,426.28 as of February 17, 2010, and Plaintiff is entitled to a personal judgment against Defendants Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc., Fred R. Fraley, and Charles David Morgan for said amount.
4. The amount due in the proceeding paragraph shall constitute the total judgment debt due to the Plaintiff and shall bear interest hereafter until paid on the Note at the current rate of 3.75% per annum (which is currently \$12.92318 *per diem*) from February 17, 2010, until the entry of judgment and at the Note rate thereafter. Further, to the extent Plaintiff advances money

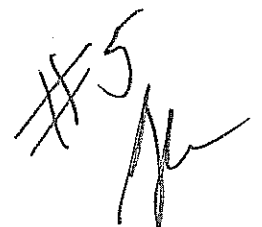


for insurance or other expenses to preserve the property after February 17, 2010, such advances may be added to the total judgment debt.

5. That Fraley-Morgan Corporation, Inc. aka Fraley Morgan Corporation, Inc., Fred R. Fraley, and Charles David Morgan are liable for the aforesaid debt, shall on or before the date of sale of the property hereinafter described, may pay to the Plaintiff's attorneys, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

6. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint and hereafter set forth, be sold by the Spartanburg Master in Equity or his agent, at public auction, at the Spartanburg County Courthouse, Spartanburg, South Carolina, County and State aforesaid, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the day designated by the selling officer succeeding such holiday), on the following terms, that is to say:

The sale shall be for cash, and the highest bidder shall be required to make a cash deposit of five (5%) percent on the bid as earnest money and as evidence of good faith. If the Plaintiff is the successful bidder at the sale, the Plaintiff may, after paying the costs of the sale, apply the debt due upon its Mortgage against its bid in lieu of cash. Should the person making the highest bid at the sale fail to comply with the terms of his bid by depositing the said five (5%) percent in cash, then the property shall be sold at the risk of such bidder on the same sales date or some subsequent date as the selling officer may find convenient and advantageous. Should the last and highest bidder fail to comply with the terms of his bid within thirty (30) days of the final acceptance of his bid, then the selling officer shall re-advertise and resell the property on the same terms on a subsequent date at the risk of such bidder. Persons submitting additional bids after the initial sale shall deposit five (5%) percent of their bids in cash as prescribed above. The Spartanburg Master in Equity or his designated representative, shall promptly return all deposits except the deposit securing the highest bid. The sale shall be subject to taxes, to existing easements and restrictions, and to homeowners association assessments accruing subsequent to the date of the deed/title issued to the purchaser. Purchaser shall pay all costs of recording the deed.

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7. Plaintiff is seeking foreclosure of the Mortgage and does not waive the right to a personal or deficiency judgment. However, Plaintiff reserves the right to waive deficiency prior to the sale.

8. That after advertisement according to law, give notice of the time and place of such sale, and the terms thereof, that the Spartanburg Master in Equity convey to the purchaser, or purchasers, a deed to the premises sold; and that the Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the purchaser or purchasers should fail to comply with the terms thereof, the Court may advertise the said premises of sale on the next, or some other subsequent Sales Day, at the risk of the former highest bidder, and so from time to time thereafter until a compliance shall be secured. The deed will be taken subject to payment by grantee of any taxes or special assessments constituting a lien against the property sold under this Report and hereinafter more fully described. Pursuant to S.C. Code §12-24-40(13), the successful bidder other than Plaintiff shall pay the cost of deed stamps on said deed.

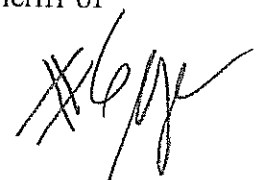
9. That the proceeds of the sale be applied as follows:

FIRST, to payment of the amount of the costs and expenses of this action, including the Master in Equity fee and the costs of advertising the Notice of Sale, and any taxable disbursements by the attorneys in the action;

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

THIRD, any surplus proceeds to be held subject to further order of this Court.

10. That upon the making of the sale of said mortgaged premises, as hereby ordered, and the 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 production of the deed; and the Sheriff of Spartanburg County shall put the holder of the deed into possession of the premises.

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11. That each Defendant named herein and all persons whosoever claiming under him, them or it, be forever barred and foreclosed of all right, title and interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

12. 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.

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

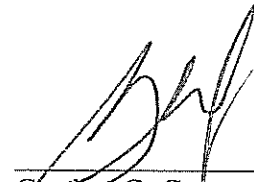
All that certain piece, parcel or lot of land, with improvements thereon, lying, situate and being in the State and County aforesaid, being shown and designated as Lot No. 21, Southfork, Section II, on a plat prepared by James V. Gregory, PLS, dated April 3, 1984, recorded in Plat Book 93 at page 417, Register of Deeds for Spartanburg County, South Carolina.

This is the same property conveyed to the mortgagor herein by deed of Fred R. Fraley of even dated to be recorded herewith in the Register of Deeds for Spartanburg County, South Carolina.

Block Map #6-30-03-013.00

Property Address: Lot 21 Southfork S/D, Spartanburg, SC 29306

14. If the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-referenced property, then the sale of the property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales day.



Gordon G. Cobper
Spartanburg County Master in Equity

2010 FEB 17 PM 12:03

CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

