

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Fifth Third Mortgage Company,

PLAINTIFF,

vs.

Gregory D. Blevins, Michele M. Blevins, Michael D.
Constance and Spartanburg Regional Medical Center,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

MASTER'S ORDER AND
JUDGMENT OF FORECLOSURE AND
SALE

(NON-JURY MORTGAGE
FORECLOSURE)

C/A NO:2008-CP-42-6986

DEFICIENCY WAIVED

FILED
CLERK OF COURT
2010 FEB -9 AM 11:30

F28-08390

TO:

Korn Law Firm, P.A.
Attorney for Plaintiff

Griffin Littlejohn Lynch, Esq.
attorney for Michele M. Blevins

Gregory D. Blevins, pro se

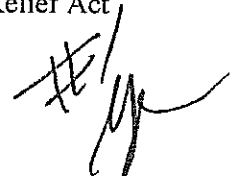
Edwin C. Haskell, III, Esq.
Attorney for Spartanburg Regional
Medical Center

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

Pursuant to the said Order of Reference filed May 27, 2009, a hearing was held, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find conclude and order as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on December 31, 2008 and an Amended Lis Pendens was filed on January 7, 2009.
2. The Summons and Complaint were filed on December 31, 2008, and amended Summons and Complaint were filed on January 7, 2009.
3. Service was made upon the Defendant(s) named in this Report as is shown by the Proof(s) of Service filed herein.
4. That the Defendants Gregory D. Blevins and Michael D. Constance are in default as shown by Affidavit on file herein. The Defendant Michele Blevins filed an answer on February 16, 2009.
5. The Defendants and/or all attorneys of record were notified of the time, date, and place of the hearing in this matter. According to the Affidavit filed herein, no Defendant in default is in the Military Service of the United States of America, as contemplated under the Soldiers' and Sailors' Civil Relief Act of 1940, and any amendments thereto.



6. The Plaintiff filed a motion for summary judgment on October 23, 2009. An affidavit of debt in support of the motion was filed on December 15, 2009. The affidavit provided an itemization of the current debt figures, the note, mortgage and a payment history for the account. The record reflects that the answer filed by the Defendant Michele Blevins did not dispute the account being in arrears. No opposing affidavits were filed and the court notes that the Defendant Gregory Blevins is in default. The court finds that there is no genuine issue as to any material fact and the Plaintiff is entitled to judgment as a matter of law. Therefore, Plaintiff's motion for summary judgment is granted.

7. For value received, Gregory D. Blevins made, executed and delivered a Note dated September 15, 2006, promising thereby to pay to the order of Fifth Third Mortgage Company the sum of Eighty-Eight Thousand And 00/100 Dollars (\$88,000.00), with interest at 6.875 percent per annum. Other terms and conditions are stated in the Note, which is of record herein.

8. To better secure the payment of the Note described above, the said Gregory D. Blevins and Michele M. Blevins made, executed and delivered to Fifth Third Mortgage Company a Mortgage in writing, dated September 15, 2006, covering real property in Spartanburg County, which is the same as that described in the Complaint. The mortgage was filed on September 26, 2006, and is of record in the Office of the Register of Deeds for Spartanburg County in Mortgage Book 3752 at page 19.

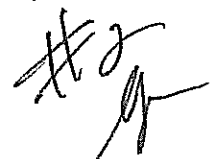
9. The above referenced instrument constitutes a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

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

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

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

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

A handwritten signature in black ink, appearing to be the initials 'HJ' followed by a stylized flourish.


had telephone conversations with the defendant(s), if requested. Future duties include forwarding copies of the Decree to the defendant(s), advising the defendant(s) of the date that the property will be sold, arranging and coordinating the amount to be bid by plaintiff, representation of plaintiff at sale and preparation of after sale documentation as required. Twenty hours have been spent on this file to date. Plaintiff's counsel anticipates spending approximately Six hours on the file after the hearing. In light of the potential liabilities inherent in a property matter, the attendant responsibilities and the size of the mortgage debt, I find that the attorney fees requested by the plaintiff in the amount of three thousand five hundred and 00/100 (\$3,500.00) are reasonable.

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

(a)	Principal due as of 08/01/2008	\$ 86,271.98
(b)	Interest from 07/01/2008 through 01/07/2010 at 6.875%	\$ 8,994.36
(c)	Escrow adjustments (debits or credits)	\$ 1,686.35
(d)	Late charges	\$ 664.70
(e)	Costs of Collections Prior to Hearing	\$ 2,265.56
(f)	Attorney Fees	\$ 3,500.00
	TOTAL DEBT secured by Note and Mortgage, including interest to date shown	\$103,382.95

Interest for the period from the date shown in (b) above, through the date of this Judgment at the above stated rate to be added to the above stated "Total Debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the rate of 6.875 percent per annum (pursuant to the terms of the Note and Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

13. That the Defendant Spartanburg Regional Medical Center was made a party by virtue of a Judgment against Michael Dennis Constance, dated April 19, 2001 and recorded April 24, 2001, in the amount of \$13,654.13 and identified as Case # 01-CP-42-460. Plaintiff alleges said judgment should not attach as a lien against the subject property because Michael Dennis Constance a/k/a Michael D. Constance had no interest in subject property when the judgment was filed. The public record for Spartanburg County reflects that the deed from Michael D. Constance to Michael S. Constance dated May 15, 1998 was recorded June 2, 1998 in Book 67-Y at Page 544 in the Office of the Register of Deeds for Spartanburg County. The deed contained a scrivener's error in the legal description that referenced Plat Book 102 at Page 22 instead of Plat Book 102 at Page 922. The court finds that the scrivener's error in

3


the deed was minor in nature and the subject deed conveyed the subject property from Michael D. Constance to Michael S. Constance prior to the subject judgment being entered. Therefore, the court finds that the judgment does not attach as a lien against the subject real property.

AS TO THE SECOND CAUSE OF ACTION
(REFORMATION OF DEED)

14. That it was the mutual intent of Michael D. Constance, Michael S. Constance and Carolyn R. Constance, that the legal description of Deed dated May 15, 1998 and recorded June 2, 1998, in Deed Book 67-Y at Page 544 make reference to Plat Book 102 at Page 922.

15. That the legal description of said Deed granting the interest in the subject property of Michael D. Constance to Michael S. Constance and Carolyn R. Constance incorrectly references the Plat as Plat Book 102 at Page 22 instead of Plat Book 102 at Page 922 to subject property by virtue of a scrivener's error.

16. Michael D. Constance is named as a Defendant due to Plaintiff seeking to have the Deed reformed to correct the legal description.

17. That Plaintiff has sought that the aforementioned Deed be reformed to correctly designate the property intended to be conveyed.

18. Plaintiff has shown that irreparable harm and prejudice will be suffered by Plaintiff if the aforementioned Deed is not reformed.

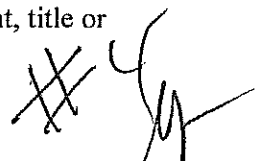
19. Wherefore Plaintiff has moved for a reformation of the aforementioned Deed at the hearing to correct the legal description to read as follows:

All that certain piece, parcel or lot of land, with any and all improvements thereon, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as Lot No. 5, containing 0.36 acre, more or less, as shown on a survey for Juliette C. Staggs, prepared by Wolfe & Huskey, Inc., Surveyors, dated November 25, 1987 and recorded in Plat Book 102 at Page 922, in the Register of Deeds Office for Spartanburg County, South Carolina. More recently shown on a survey for Michael D. Constance, prepared by W.R. Williams, Jr., Engr./Surveyor, Inc., dated May 15, 1992 and recorded in Plat Book 126, Page 738, in the Register of Deeds Office for Spartanburg County, South Carolina. For a more complete and particular description, reference is hereby made to the aforesaid plats and records thereof.

502 N. Trade Avenue, Landrum, SC 29356

TMS# 1-07-04-011.04

20. The court finds that the deed from Michael D. Constance to Michael S. Constance dated May 15, 1998 and recorded June 2, 1998 in Book 67-Y at Page 544 in the Office of the Register of Deeds for Spartanburg County divested Michael D. Constance of any ownership interest in the subject real property. The court finds that the subsequent deed from Michael S. Constance and Carolyn R. Constance to Gregory D. Blevins and Michelle M. Blevins filed September 26, 2006, in Book 86 U at Page 620 conveyed sole ownership interest in the subject property to Gregory D. Blevins and Michelle M. Blevins. The court further finds that Michael D. Constance and Michael S. Constance have no further right, title or



interest in the subject real property. The court further finds that the legal description contained in the subject deeds and mortgage is hereby reformed to correctly identify the relevant plat as being in Plat Book 102 at Page 922 in the Office of the Register of Deeds for Spartanburg County.

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

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

23. The mortgage loan is owned, securitized or guaranteed by FNMA or FHLMC, or the servicing agent has executed an agreement under the HMP, but the borrower did not respond to solicitation.

CONCLUSION OF LAW

I, therefore, conclude as follows:

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

2. That Plaintiff is entitled to the relief sought in its second cause of action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. There is due to the Plaintiff on the obligation and mortgage set forth in the Complaint the sum of One Hundred Three Thousand Three Hundred Eighty-Two And 95/100 Dollars (\$103,382.95) representing the "Total Debt" due Plaintiff as set forth supra, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the rate of 6.875% percent per annum.

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

4. That the Defendants liable for the aforesaid mortgage debt shall, on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

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

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

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 6.875 percent.

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

D. The above referenced instrument constitutes a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

E. Purchaser to pay for Deed Stamps and costs of recording the Deed and transfer taxes on the Deed. Purchaser will pay for any statutory commission on sale from the proceeds of the sale.

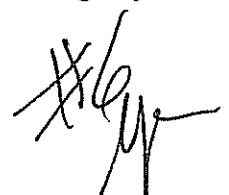
6. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of the Plaintiff in full, Plaintiff may pay to the undersigned Master in Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's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

7. Personal nor deficiency judgment having been waived, the bidding will not remain open after the date of sale and compliance with the bid may be made immediately.

8. That the Master in Equity will, by advertisement according to law, give notice of the time, and place of sale, and the terms thereof; and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within Twenty (20) days after date of sale, then the Master in Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

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

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

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

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

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

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

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

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

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


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

That Mortgage originally given to Fifth Third Mortgage Company by Gregory D. Blevins and Michele M. Blevins , dated 09/15/2006 and recorded 09/26/2006, in Mortgage Book 3752 at page 19.

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

LEGAL DESCRIPTION AND PROPERTY ADDRESS:

All that certain piece, parcel or lot of land, with any and all improvements thereon, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as Lot No. 5, containing 0.36 acre, more or less, as shown on a survey for Juliette C. Staggs, prepared by Wolfe & Huskey, Inc., Surveyors, dated November 25, 1987 and recorded December 21, 1987, in Plat Book 102 at Page 922, in the Register of Deeds Office for Spartanburg County, South Carolina. More recently shown on a survey for Michael D. Constance, prepared by W.R. Williams, Jr., Engr./Surveyor, Inc., dated May 15, 1992 and recorded September 12, 1994, in Plat Book 126, Page 738, in the Register of Deeds Office for



Spartanburg County, South Carolina. For a more complete and particular description, reference is hereby made to the aforesaid plats and records thereof.

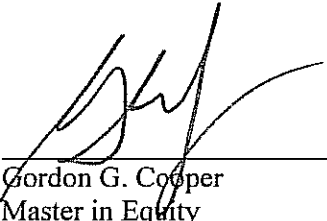
This being the same property conveyed to Gregory D. Blevins and Michele M. Blevins by virtue of a Deed from Michael S. Constance and Carolyn R. Constance, dated September 15, 2006 and recorded September 26, 2006, in Book 86 U at Page 620, in the Office of the Register of Deeds for Spartanburg County, South Carolina.

502 N. Trade Avenue, Landrum, SC 29356

TMS 1-07-04-011.04

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

18. IT IS FURTHER ORDERED that the mortgage loan is owned, securitized or guaranteed by FNMA or FHLMC, or the servicing agent has executed an agreement under the HMP, but the borrower did not respond to solicitation.



Gordon G. Cooper
Master in Equity
For Spartanburg County

Spartanburg, South Carolina
February 9, 2010.

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