

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
Case No. 2023-CP-23-00617

Melmoth S. Patterson and Dianne A. Patterson,)
Co-Trustees of the Melmoth S. Patterson)
Revocable Trust U/A Dated March 23, 1999,)

Plaintiff(s),)

vs.)

Jason Michael Walker; Sarah E. Walker; First)
National Bank of Omaha; Midland Funding,)
LLC; Barclays Bank Delaware; TD Bank USA,)
N.A.,)

Defendant(s).)

**MASTER IN EQUITY’S ORDER AND
JUDGMENT OF FORECLOSURE AND
SALE (Deficiency Waived)**

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, the above-entitled matter was referred to the undersigned to make appropriate findings of facts and conclusions of law with authority to enter a final judgment in the cause. Any appeal from any order or judgment issued by the Master-in-Equity shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

Pursuant to the said Order of Reference a hearing was held on August 23, 2023, at 10:00 AM. 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 February 8, 2023.
2. The Summons and Complaint were filed on February 8, 2023.
3. Service was made upon the Defendant(s) named in this Report as is shown by the proof(s) of service filed herein.

4. All named Defendants are in default as shown by Affidavits on file herein.
5. All Defendants in default and all attorneys of record and Defendants pro se were notified of the time, date, place and manner of hearing in this matter.
6. According to the affidavit filed herein, a good faith investigation determined that the defaulting Defendants are not in the military service and therefore not entitled to protection under the Servicemembers' Civil Relief Act, 50 U.S.C. 3901 et seq., or any amendments thereto.
7. No Defendant raised any issues related to Plaintiff's standing to prosecute this action.
8. To the extent still applicable, Attorney for the Plaintiff has fully complied with the S.C. Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011 and with S.C. Supreme Court Administrative Orders 2020-04-30-02, 2020-05-06-01, and 2020-05-12-01.
9. On September 18, 2020, for value received, Defendants, Jason Michael Walker and Sarah E. Walker, executed and delivered to the Plaintiffs a certain promissory note in writing, according to the terms and conditions set out therein, wherein the said Jason Michael Walker and Sarah E. Walker promised to pay to Plaintiffs the sum of Forty Thousand and 00/100 (\$40,000.00) Dollars.
10. In order to better secure the payment of the said debt, Defendants, Jason Michael Walker and Sarah E. Walker, executed and delivered to Plaintiffs a mortgage covering the subject real property which is the same as that described in the Complaint herein (and also described below in this Order), which mortgage was dated September 18, 2020.
11. The said mortgage was recorded on September 18, 2020 in the Office of the Register of Deeds for Greenville County in Mortgage Book 5563, at Page 1934.
12. This mortgage constitutes a first lien on the subject real property.

13. The Plaintiff in this action is the owner and holder of the note and mortgage it is seeking to foreclose, has the legal right to enforce the negotiable instrument secured by the mortgage, and is the real party in interest as defined by Rule 17(a) of the South Carolina Rules of Civil Procedure.

14. The titleholders of record of the subject real property as of the filing of the Lis Pendens in this action are Defendants, Jason Michael Walker and Sarah E. Walker, who are also the original mortgagors.

15. Pursuant to Section 37-3-105 of the South Carolina Code of Laws, 1976, as amended, the mortgage lien, which is the subject of this action, is a first lien on real estate and is not a *>consumer loan=* for the purposes of the South Carolina Consumer Protection Code. The right-to-cure notice provided in Sections 37-5-110 and 37-5-111 of the South Carolina Code of Laws, 1976, as amended, either has been given or is not required, and all conditions precedent to the acceleration of the debt and foreclosure of the mortgage have been performed or have occurred.

16. The loan evidenced by the Note and Mortgage is not owned, securitized or guaranteed by Fannie Mae or Freddie Mac, and is not serviced by a servicer participating in the Home Affordable Modification Program (HAMP). Therefore, the Court finds that there are no HAMP issues to be resolved before foreclosure is ordered or the sale is commenced.

17. As provided in the Certification of Exemption from and/or Compliance with Administrative Order 2011-05-02-01 filed herein, the real property which is the subject of this action is not an Aowner occupied dwelling@ as defined in the Order. An Attorney Certification having been filed in this matter pursuant to the aforesaid Administrative Order, the Court finds that the foreclosure action may proceed to Judgment and Sale.

18. The payments due on the promissory note described above have 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 its attorney herein for collection.

19. The sum of \$3,000.00 is a reasonable fee to allow for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the within action, under the terms of the note and mortgage. This fee is likewise reasonable based on the time necessarily devoted to representation of Plaintiff during the several month course of these proceedings. The services of counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable considering the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time.

20. According to Plaintiff's accounting, the amount due and owing on the note to the Plaintiff, with interest at the rates provided in the note, and other costs and expenses of collection, including attorney's fees, secured by the note and mortgage, is as follows:

As to the first mortgage:

a. Principal Balance	31,600.00
b. Interest accrued to 08/23/2023 at note rate	0.00

a. Principal Balance	31,600.00
c. Funds advanced for Property Taxes	793.42
d. Funds advanced for Property Owners Assoc. Dues	1,775.00
e. Late Fees pursuant to note	1,850.00
d. Costs of Collection prior to hearing	581.01
e. Attorney=s fees	3,000.00
Total Debt secured by Note and Mortgage	\$39,599.43

Interest for the period from the date shown in b. above through the date of this Judgment at above stated rate and any post-hearing costs incurred by Plaintiff, including but not limited to newspaper advertisement of the sale, shall 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 legal rate 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.

21. The Plaintiff is seeking the usual foreclosure of the mortgage and has in the Complaint, or by amendment thereto, or by motion at the reference, expressly waived the right to a personal or deficiency judgment.

22. The Defendants, First National Bank of Omaha, Midland Funding, LLC, Barclays Bank Delaware, and TD Bank USA, N.A., claim or may claim a lien upon or interest in the subject property and in the event there is a surplus from the sale, the validity, priority, and amount of any such lien claim will be determined at a hearing subsequent to the sale, in accordance with Rule 71(c) SCRCP. The said Defendants and such claims or liens are as follows:

A. The Defendant First National Bank of Omaha has or may claim an interest in the subject property by virtue of a Judgment dated August 16, 2021, recorded October 20, 2020, in Judgment Roll # 2021CP2305028.

B. The Defendant Midland Funding LLC has or may claim an interest in the subject property by virtue of a Judgment dated February 8, 2018, recorded April 5, 2018, in Judgment Roll # 2018CP2302157.

C. The Defendant Barclays Bank Delaware has or may claim an interest in the subject property by virtue of a Judgment dated January 2, 2018, recorded March 13, 2019, in Judgment Roll # 2019CP2301302.

D. The Defendant TD Bank USA, N.A. has or may claim an interest in the subject property by virtue of a Judgment dated March 7, 2017, recorded March 14, 2017, in Judgment Roll # 2017CP2301711.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

1. The Plaintiff=s mortgage should be declared a first mortgage lien and Plaintiff should have judgment of foreclosure of its mortgage.

2. The mortgaged property should be ordered sold subject to all outstanding taxes and assessments which are not past due, if any, at public auction after due advertisement. That after making the required deposit, the successful bidder at the sale should be required to pay interest at the rate set forth in the obligation described in the Complaint, or if none specified after default, at the legal rate, from the date of sale to the date of compliance.

3. The proceeds arising from such sale should be applied, first, to the costs and disbursements of this action, and next, to the payment and discharge of the amount of Plaintiff's debt and interest, or so much thereof as the proceeds will pay, and any surplus should be held pending further order of the Court.

4. The Court finds that there are no HAMP issues to be resolved before foreclosure is ordered or the sale is commenced.

5. The Court also finds the real property is not an Aowner-occupied dwelling@ as defined in Administrative Order 2011-05-02-01 and is therefore exempt from said Order.

6. The Court also finds that Plaintiff filed a Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act as required by the May 6, 2020 Administrative Order, and is therefore in compliance with said Order.

7. Pursuant to Rule 53, SCRCP, this Order shall constitute a final judgment.

Now, on motion of Plaintiff's attorney, Allen M. Wham:

IT IS ORDERED, ADJUDGED AND DECREED:

1. That there is due to the Plaintiff on the obligation and mortgage set forth in the Complaint the sum of \$39,599.43, representing the "Total Debt" due Plaintiff as set out above, infra, with respect to its mortgage, together with interest at the rate provided in said obligation, or if none specified after foreclosure, at the legal rate, on the balance of principal from the aforesaid date to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth in Paragraph 24, infra, and later accrued interest on the principal and post-hearing costs of Plaintiff) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the legal rate.

3. There shall also be due to Plaintiff the amount of any advances made by the Plaintiff hereafter and prior to sale pursuant to the note and mortgage being foreclosed for the protection of the property or the interest of the Plaintiff therein.

4. That the Defendant or Defendants liable for the aforesaid mortgage debt do, on or

before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorneys, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

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 subject to all outstanding taxes by the Master-in-Equity, at public auction, at the County Court House, in the City of Greenville, County and State aforesaid, on the next Salesday according to statute first after the advertisement of said sale once a week for three (3) successive weeks in a newspaper of general circulation published in the County in which the subject property is located, (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the Salesday shall be on Tuesday next succeeding such holiday), on the following terms, that is to say:

a. FOR CASH: There will be required a deposit of 5% of the amount of the bid (in cash or equivalent), 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 legal rate.

c. Purchaser to pay for the preparation of the deed, deed stamps and costs of recording the deed.

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

7. No personal or deficiency judgment being demanded, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately.

8. That the Master-in-Equity will by advertisement according to law, give notice of the time, and place of such 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 shall advertise the said premises for sale on the next, or some subsequent Salesday, at the risk of the former highest bidder, and so from time to time thereafter until a full compliance shall be secured. At the hearing on this matter, the undersigned directed that the property be advertised for sale. In the event an advertisement is published prior to the entry of this written Order, such advertisement is hereby ratified and approved nunc pro tunc as if the same were published after the entry of this Order.

9. That the undersigned Master-in-Equity do apply the proceeds of the sale as follows:

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

Next: To the payment to the Plaintiff or Plaintiff's attorneys, of the amount of Plaintiff's debt and interest on its mortgage, or so much thereof as the purchase money will pay on the same;

Next: Pending further order of the Court.

10. It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder is other than the Defendant in possession herein, the Sheriff of Greenville County is ordered and directed to eject and remove from the premises the occupant or occupants of the

property sold, together with all personal property located thereon, and to put the successful bidder 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 possession.

11. And it is further ORDERED, ADJUDGED AND DECREED that each Defendant named herein, and all persons whosoever claiming under him, them or it, 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. 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 is the titleholder of the mortgaged property at the time of the filing of the Lis Pendens of the within action, and the name of the grantee, and the Office of the CCCP/ROD/RMC for Greenville County should be authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

13. IT IS FURTHER ORDERED that upon completion of a successful sale and full compliance, the Office of the CCCP/ROD/RMC for Greenville County shall mark the mortgage to Plaintiff being foreclosed herein satisfied of record by foreclosure.

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

All that certain piece, parcel or lot of land lying and being situate in the State of South Carolina, County of Greenville, and being shown and designated as Lot No. 38, containing 2.44 acres, more or less, Glassy Mountain I, according to plat of C. E. Shehan Surveying, of record in the Office of the Register of Deeds for Greenville County, SC in Plat Book 17-Y at Page 90, reference to which is hereby made for a more complete and accurate description.

This is the same property conveyed to Jason Michael Walker and Sarah E. Walker by deed of Melmoth S. Patterson and Dianne A. Patterson, Co-Trustees of the Melmoth S Patterson Revocable Trust U/A Dated March 23, 1999, recorded September 18, 2020 in Deed Book 2604, page 44, in the Office of the Register of Deeds for Greenville County.

This property is conveyed subject to any and all existing rights-of-way for roads, utilities and other easements that may appear of record and/or on the premises, including Restrictions governing this property of record in Deed Book 1399, page 637 in the office of the RMC for Greenville County, SC.

Tax Map Number: 0645.04-01-019.00

15. AND IT IS FURTHER ORDERED that if a representative of the Plaintiff or its attorney is not present at the time and place of the sale as advertised by the undersigned, without explanation or without prior notification to the Court of its planned absence, the sale shall not be held, the property shall be withdrawn, and the same shall be sold on the next subsequent scheduled sales day without prejudice to the rights of any parties or prospective purchasers.

IT IS SO ORDERED.

[JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW]

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2023-CP-23-00617

Melmoth S. Patterson and Dianne A. Patterson, Co-Trustees of the Melmoth S. Patterson Revocable Trust U/A Dated March 23, 1999

Jason Michael Walker, Sarah E. Walker, Et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Allen M. Wham	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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.



Greenville Common Pleas

Case Caption: Melmoth S Patterson Trustee , plaintiff, et al vs. Jason Michael Walker
, defendant, et al
Case Number: 2023CP2300617
Type: Master/Order/Foreclosure & Sale and Form 4

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)