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| STATE OF SOUTH CAROLINA,<br>COUNTY OF GREENVILLE | IN THE COURT OF COMMON PLEAS |
|---|---|
| **US BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR VRMTG ASSET TRUST**<br><br>Plaintiff,<br><br>v.<br><br>**ESTATE OF ARNOLD R. EMETICO, DECEASED, ET AL.**<br>4 MOUNTAIN CREST DR.<br>TAYLORS, SC 29687<br><br>Defendants. | Case No. 2023CP2303573<br><br>**ORDER AND JUDGMENT OF FORECLOSURE AND SALE** |

TO: Kelly Agee
BARHAM & MAUCERE, LLC
Attorneys for Plaintiff

Pursuant to Rule 53 SCRCP, 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 this case without further order of court. Any appeal from this Order shall be directly to the South Carolina Court of Appeals.

Pursuant to said Order of Reference a hearing was held on June 24, 2024, attended by attorneys for the Plaintiff. Exhibits were identified, offered and received into evidence. Based upon the proof made of the facts and circumstances alleged in the pleadings, I find, conclude and order as follows:

## FINDINGS OF FACT

1. The Complaint concerns real property in Greenville County, South Carolina at 4 Mountain Crest Dr, Taylors, SC 2967 (the "Property"), and the title owner of record, Arnold R. Emetico, is deceased, survived by known and unknown heirs, including daughters Victoria Palmer and Suzanne Emetico, who are named defendants herein. A copy of the obituary of Arnold Robert Emetico has been e-filed with the clerk of court.

2. The Lis Pendens was filed on July 13, 2023.

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3. The Summons and Complaint were filed on July 13, 2023.

4. Service was made upon the Defendants as shown by the proofs of service filed herein.

5. The defendants are in default as shown by Affidavit, Notice, or Order filed herein.

6. The Defendant and all attorneys of record were notified of the time, date, and place of the hearing in this matter. Attorney Kelly Agee appeared for Plaintiff, and the following additional Person(s)/Defendant(s) attended the hearing: NONE.

7. According to the affidavit filed herein, a good faith investigation did not determine that any of the defaulting defendants are in the military service and therefore entitled to protection under the Servicemembers' Civil Relief Act, 50 U.S.C. §3901 et seq., or any amendments thereto.

8. Pursuant to the terms of a home equity conversion loan agreement (the "Reverse Mortgage Loan"), on or about 07/02/2013, Arnold R. Emetico, deceased ("Borrower"), made, executed, and delivered to Reverse Mortgage Solutions, Inc. DBA Security 1 Lending ("Lender") a Fixed-Rate Home Equity Conversion Closed End Note (the "Note") wherein and whereby Borrower promised to repay to Lender, its successors and assigns, amounts that Lender advanced to Borrower pursuant to the terms of the Reverse Mortgage Loan. Other terms and conditions are stated in the Note, which is of record herein.

9. To better secure the payment of the Note described above, Borrower made, executed, and delivered to Lender, a certain real estate mortgage (the "Mortgage") in writing, dated 07/02/2013, and covering real property in Greenville County, which is the same as that described in the Complaint. The Mortgage was filed in the Register's Office for Greenville County, South Carolina (the "Register's Office") in Book 5222, Page 23.

10. Thereafter, by Assignment of Mortgage dated 12/24/2019, of record in the Register's Office at Book 5525, Page 5056, Reverse Mortgage Solutions, Inc., assigned the Mortgage to the Secretary of Housing and Urban Development; and by Assignment of Mortgage dated 01/24/2023, of record in the Register's Office at Book 5729, Page 746, the Secretary of Housing and Urban Development assigned the Mortgage to Plaintiff.

11. The Mortgage evidences and secures the repayment of money advanced by the mortgagee to, or on behalf of, the Mortgagor and constitutes a valid and subsisting mortgage lien on the mortgaged premises.

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12. The Plaintiff is the real party in interest pursuant to SCRCP 17(a) and is entitled to enforce the terms of the subject Note and Mortgage.

13. The titleholder of record of the subject property as of the filing of the Lis Pendens in this action is Arnold R. Emetico, deceased, who is the original Mortgagor.

14. Any notice required by the terms of the Note and/or Mortgage or by state or federal statutes has been given to the applicable Defendants prior to the commencement of this action.

15. With the formal discontinuance of the Home Affordable Modification Program (HAMP) on December 31, 2016, South Carolina Administrative Order 2009-05-22-01 has expired by operation of law and is no longer applicable.

16. An Attorney Certification having been filed in this matter pursuant to Administrative Order 2011-05-02-01, the Court finds that the foreclosure action may proceed to Judgment and Sale.

17. The Note payments 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 for collection by foreclosure.

18. The sum of $5,768.10 is a reasonable fee to allow as attorney's fees for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of this action, under the terms of the Note and Mortgage. The inclusion of 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.

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

| | | | |
|---|---|---|---|
| a. | Principal Balance | $ | 294,834.47 |
| b. | Interest Total (due through 06/04/2024 at 5.362% ) | $ | 1,472.62 |
| c. | Escrow Advance Amount | $ | 12,766.24 |
| d. | Res Corp Advance Balance (including $5,768.10 attorney's fees) | $ | 15,378.56 |
| **e.** | **TOTAL DEBT:** | **$** | **324,451.89** |

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Interest from the date shown in (b) above (06/04/2024) at the rate of 5.362% per annum ($43.31 per diem) shall be added to the above stated "Total Debt" to comprise the total amount of Plaintiff's debt secured by the Mortgage through the date to which such interest is computed.

20. The Plaintiff is seeking the usual foreclosure of the mortgage and has in the Complaint, or subsequently thereto in writing, expressly waived the right to a personal or deficiency judgment pursuant to Rule 71(b) SCRCP.

## CONCLUSIONS OF LAW

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The Plaintiff's Mortgage should be declared a valid and subsisting mortgage lien and Plaintiff should have judgment of foreclosure of the mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

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

3. The Court also finds that Plaintiff filed a Certificate of Compliance with Administrative Order 2011-05-02-01 and that the foreclosure action may proceed to Judgment and Sale.

4. The Defendants named herein, and all persons whosoever claiming under Defendants, are forever barred and foreclosed of all right, title, interest, equity of redemption or lien in the said mortgaged premises so sold, or any part thereof.

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

6. There is due to the Plaintiff on the Note and Mortgage set forth in the Complaint the sum of **$324,451.89**, plus interest from 06/04/2024 at 5.362% per annum ($43.31 per diem) as set out in the Findings of Fact supra.

7. The amount due in the preceding paragraph (the "Total Debt" as set out in the Findings of Fact supra, and later accrued interest on the principal), shall constitute the total judgment debt due Plaintiff and shall bear interest hereafter at the rate of 5.362% per annum ($43.31 per diem). 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 judgment figures set forth herein. It may also increase to include supplemental compensation for attorney's services not contemplated by the initial fee awarded. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs and/or supplemental compensation.

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Such additional costs, commissions and expenses may be established by statement and shall be adjudicated by the Court without further finding.

8. The Defendants liable for the aforesaid judgment debt including interest at the rate of 5.362% per annum ($43.31 per diem) 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.

9. On default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity at public auction at the County Courthouse in Greenville County, South Carolina, 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 some other day appointed by the Court), on the following terms, that is to say:

10. For cash: The Master in Equity will require, at the time of the bid, a deposit of 5% of the amount of the bid (in cash or equivalent) same to be applied to purchase price if compliance is made, but in the event of non-compliance, the deposit may be forfeited without further hearing and applied first to the costs of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to make the required deposit at time of bid or comply with the other terms of the bid within twenty (20) days, then the property may be re-sold on the same terms and conditions on some subsequent Sales Day, but at the risk of the defaulting bidder(s).

11. Interest on the balance of the bid shall be paid through the day of compliance at the rate of 5.362% per annum ($43.31 per diem).

12. Purchaser shall pay from the proceeds of sale for any statutory commission on sale, deed preparation, costs of recording the deed, and deed stamps.

13. A personal or 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.

14. The sale is subject to assessments, county taxes, existing easements, easements and restrictions of record, and other senior encumbrances.

15. 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

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at such sale, and if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within twenty (20) days after the conclusion of the bidding, 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 on from time to time thereafter until a full compliance shall be secured.

16. In the event an agent of the Plaintiff does not appear at the time of sale, the within property shall be withdrawn from sale and sold at the next available sales day upon the terms and conditions as set forth in this Judgment of Foreclosure and Sale on such terms as may be set forth in a supplemental order.

17. If Plaintiff is the successful bidder at the 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.

18. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the 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 attorney of the amount of Plaintiff's debt and interest (including attorney fees) or so much thereof as the purchase money will pay on the same;

NEXT: Any surplus should be held pending further Order of this court.

19. In the event the successful bidder is other than the Person(s) in possession of the subject property, upon full compliance and title by deed from the Court vested into such purchaser, the Sheriff of Greenville County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful purchaser 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 pursuant to the Protecting Tenants at Foreclosure Act of 2009.

20. In the event the successful purchaser is someone other than the Person(s) in possession of the subject property, and the occupants have voluntarily vacated the property or have been ejected from the property leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage in said property, and title by deed from the Court is vested into such purchaser, the

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Purchaser is authorized to remove from the property all furnishings, fixtures and items not subject to the lien of Plaintiff's Mortgage. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the subject property by placing said property on the public street or highway or by any other means.

21. In accordance with S.C. Code Ann. §30-9-31, the deed of conveyance made pursuant to said sale shall be indexed by the Register's Office in the name of the owner of record of subject property immediately prior to execution of the deed, as well as in the name of the Master in Equity who executes such deed as grantor.

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

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

Commonly known 4 Mountain Crest, Taylors, SC 29687
Parcel ID#: 0640090100100
and more particularly described as follows, to-wit:

ALL that certain piece, parcel or lot of land together with all improvements located thereon, situate, lying and being in the County of Greenville, State of South Carolina, on the northwestern side of Mountain Crest Drive and being shown and designated as Lot No. 1 on plat of OAK GLEN Subdivision, Section One, recorded in the RMC Office for Greenville County in Plat Book 12-B at Page 60; also being shown on a plat entitled "Property of C. O. Albertson" recorded in said RMC Office in Plat Book 16-B at Page 44; and also being shown on a more recent plat entitled "Property of Steve E. Rollins & Jan Rollins", prepared by Carolina Surveying Co., dated September 13, 1988, and recorded in said RMC Office in Plat Book 16-F at Page 65 and having such metes and bounds as shown on the more recent plat, reference to which is hereby made for a more complete description.

Being the same property conveyed to Arnold R. Emetico by instrument of record in the Register's Office for Greenville County, South Carolina, at Book 2034, Page 1599..

AND IT IS SO ORDERED.

SIGNATURE PAGE TO FOLLOW

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**FORM 4**

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

**JUDGMENT IN A CIVIL CASE**

**CASE NO. 2023CP2303573**

US BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR VRMTG ASSET TRUST

PLAINTIFF

ESTATE OF ARNOLD R. EMETICO, DECEASED, ET AL.

DEFENDANTS

| | |
|---|---|
| **Submitted by:** Kelly L. Agee (SC Bar # 68328) | **Attorney for :** X 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.

X **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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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:** X See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

**ORDER INFORMATION**

This order X ends ☐ does not end the case.
Additional Information for the Clerk : FORECLOSURE ACTION

**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) |
|---|---|---|
| US BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR VRMTG ASSET TRUST | ESTATE OF ARNOLD R. EMETICO, DECEASED, ET AL. | $ N/A |
| If applicable, describe the property, including tax map information and address, referenced in the order: 4 Mountain Crest, Taylors, SC 29687, Parcel ID#: 0640090100100 | | |

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.**

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**Charles B. Simmons, Jr., Master in Equity** | **Judge Code** | **Date**

## 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:

**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 judgement to parties who are not E-Filers 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.

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Greenville Common Pleas

**Case Caption:** US Bank Trust National Association , plaintiff, et al vs. Arnold R Emetico , defendant, et al

**Case Number:** 2023CP2303573

**Type:** Master/Order/Foreclosure & Sale and Form 4

And It Is So Ordered!

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