

 ORIGINAL

At Part _____ of the Supreme Court held in
the County of Saratoga, at the Saratoga
Courthouse thereof, on the 20th day of
May, 2022.

A. III
PRESENT: Hon. James P. Murphy, U.S.C.
JUSTICE OF THE SUPREME COURT

Nationstar Mortgage LLC d/b/a Champion Mortgage
Company,

Plaintiff(s),

v.

Montgomery County Treasurer, as the Limited
Administrator of the Estate of Emily Califano a/k/a Emily
Jane Califano; The United States of America acting through
The Secretary of Housing and Urban Development; Richard
Hess; Jeffrey Hess; Mark Hess; Lawrence Hess; Elaine
Yaksta; Scott Hess; John Dence; James Dence; Dorothy
Scherenberger; Deborah Pietrantozzi; Kathleen James; John
Hess; Stephen Hess; Alfred Williams a/k/a Alfred Robert
Williams; New York State Department of Taxation and
Finance,

Defendant(s).

INDEX NO. 20157

**ORDER CONFIRMING
REFEREE REPORT AND
JUDGMENT OF
FORECLOSURE AND SALE**

MORTGAGED PROPERTY:
712 Swaggertown Road
Scotia, NY 12302

SBL #: Section 256. Block 1
Lot 66

Mortgage Servicer: PHH
Mortgage Corporation

Mortgage Servicer Phone #:
866-799-7724

UPON the Summons, Complaint, and Notice of Pendency filed in this action on the 5th day of January, 2015, the Additional Notice of Pendency filed on the 13th day of October, 2017 the Supplemental Summons and Amended Complaint filed on the 23rd day of January, 2020, the Additional Notice of Pendency filed on the 9th day of November, 2020, the Notice of Motion and affirmation by Nicole DiStasio, Esq. dated March 14, 2022, the affidavit of merit and amount due by Erin Naylor, who is an Assistant Secretary of Nationstar Mortgage LLC d/b/a Champion Mortgage Company, duly sworn to on May 20, 2021, together with the exhibits annexed thereto, all in support of Plaintiff's motion for a Judgment of Foreclosure and Sale; and

UPON proof that each of the defendants herein has been duly served with the Summons and Complaint and/or the Supplemental Summons and Amended Complaint in this action, and has not served any answer to the Complaint, nor had their time to do so extended; and it appearing that more than the legally required number of days has elapsed since defendants, Montgomery County Treasurer, as the Limited Administrator of the Estate of Emily Califano a/k/a Emily Jane Califano and The United States of America and Richard Hess and Mark Hess and Jeffrey Hess and Lawrence Hess and Elaine Yaksta and Scott Hess and John Dence and James Dence and Dorothy Scherenberger and Deborah Pietrantozzi and Sharon James and Kathleen James and John Hess and Stephen Hess and Alfred Williams a/k/a Alfred Robert Williams and New York State Department of Taxation and Finance, were so served and/or appeared; and Plaintiff having established to the court's satisfaction that a judgment against defendants is warranted; and

UPON the affidavit of mailing reflecting compliance with CPLR 3215(g)(3)(iii); and

UPON proof that non-appearing defendants, Montgomery County Treasurer, as the Limited Administrator of the Estate of Emily Califano a/k/a Emily Jane Califano and Richard Hess and Mark Hess and Jeffrey Hess and Lawrence Hess and Elaine Yaksta and Scott Hess and John Dence and James Dence and Dorothy Scherenberger and Deborah Pietrantozzi and Sharon James and Kathleen James and John Hess and Stephen Hess and Alfred Williams a/k/a Alfred Robert Williams and New York State Department of Taxation and Finance, are not absent, in accordance with RPAPL §1321(2); and

A Referee having been appointed to compute the amount due to Plaintiff upon the bond/note and Home Equity Conversion Mortgage set forth in the Complaint and to examine whether the mortgaged property can be sold in parcels; and

UPON reading and filing the Report of Elena De Fio Kean Esq. dated February 9, 2022, showing the sum of \$263,784.12 due as of the date of said Report and that the mortgaged property may not be sold in parcels; and

UPON proof of due notice of this motion upon all parties entitled to receive same, and upon all the prior proceedings and papers filed herein;

NOW, on motion by Nicole DiStasio, Esq., attorney for the Plaintiff, it is hereby

ORDERED, ADJUDGED AND DECREED, that the motion is granted; and it is further

ORDERED, ADJUDGED AND DECREED, that the Referee's Report be, and the same is, hereby in all respects ratified and confirmed; and it is further

ORDERED, ADJUDGED AND DECREED, that the mortgaged property described in the Complaint and as hereafter described, or such part thereof as may be sufficient to discharge the mortgage debt, the expenses of the sale, and the costs of this action as provided by the RPAPL be sold within 90 days of the date of this Judgment, in one parcel, at a public auction at the Saratoga County Courthouse, Ballston Spa, New York 12020, by and under the direction of Elena De Fio Kean, Esq., Hinman Straub, P.C., 121 State Street, Albany, NY 12207, (518)436-0751 who is hereby appointed Referee for that purpose; that said Referee give public notice of the time and place of sale in accordance with RPAPL §231 in *the Saratogian*; and it is further

ORDERED, ADJUDGED AND DECREED, that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to §36.2(c) ("Disqualifications from appointment") and §36.2 (d) ("Limitations on appointments based upon compensation"); and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED, ADJUDGED, AND DECREED that the Referee is prohibited from accepting or retaining any funds for him/herself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED, ADJUDGED, AND DECREED that the Referee shall conduct the foreclosure sale only if Plaintiff, its successors and/or assignees, or its representative is present at the sale or the Referee has received a written bid and Terms of Sale from Plaintiff, its successors and/or assigns, or its representative; and it is further

ORDERED, ADJUDGED, AND DECREED that if the Referee does not conduct the sale within 90 days of the date of the judgment, in accordance with CPLR 2004, the time fixed by RPAPL §1351(1) is extended for the Referee to conduct the sale as soon as reasonably practicable; and it is further

ORDERED, ADJUDGED, AND DECREED that at the time of sale the Referee shall accept a written bid from the Plaintiff or the Plaintiff's attorney, just as though Plaintiff were physically present to submit said bid; and it is further

ORDERED, ADJUDGED, AND DECREED that the Referee shall accept the highest bid offered by a bidder who shall be identified upon the court record, and shall require that the successful bidder immediately execute Terms of Sale for the purchase of the property, and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bid, unless the successful bidder is Plaintiff in which case no deposit against the purchase price shall be required; and it is further

ORDERED, ADJUDGED, AND DECREED that, in the event the first successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject property of

fails to immediately pay the ten percent (10%) deposit as required, the property shall immediately and on the same day be reoffered at auction; and it is further

ORDERED, ADJUDGED, AND DECREED that the Referee shall then deposit the down payment and proceeds of sale, as necessary, in the Referee's I.O.L.A. account maintained for legal clients, in his/her own name as Referee, in accordance with CPLR 2609; and it is further

ORDERED, ADJUDGED AND DECREED, that after the property is sold, the Referee shall execute a deed to the purchaser, in accordance with RPAPL §1353 and the terms of sale, which shall be deemed a binding contract; and it is further

ORDERED, ADJUDGED, AND DECREED that, in the event a party other than the Plaintiff becomes the purchaser at the sale, the closing of title shall be held no later than 30 days after the date of such sale unless otherwise stipulated by all parties to the sale; and it is further

ORDERED, ADJUDGED, AND DECREED that, if Plaintiff (or its affiliate, as defined in paragraph (a) of subdivision 1 of section six-1 of the Banking Law) is the purchaser, such party shall place the property back on the market for sale or other occupancy: (a) within 180 days of the execution of the deed of sale, or (b) within 90 days of completion of construction, renovation, or rehabilitation of the property, provided that such construction, renovation, or rehabilitation proceeded diligently to completion, whichever comes first, provided however, that a court of competent jurisdiction may grant an extension for good cause; and it is further

ORDERED, ADJUDGED, AND DECREED that the Referee, on receiving the proceeds of such sale, shall forthwith pay therefrom, in accordance with their priority according to law, all taxes, assessments, sewer rents or water rates, which are, or may become, liens on the property at the time of sale with such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further

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