

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY,
FLORIDA

OCEAN BANK, a Florida Banking
Institution,

GENERAL JURISDICTION DIVISION

Plaintiff,

CASE NO. 08-19022 CA 09

v.

WATERSIDE ACQUISITIONS, LLC.,
DANA BERMAN, THE DORIAN
CONDOMINIUM ASSOCIATION, INC.,
ACQUASTRADA CONDOMINIUM
ASSOCIATION, INC., TENANT (S) (IF
ANY), SPOUSES, ESTATE (S), HEIR
(S), DEVISEE (S), AND ASSIGNS (IF
ANY), and ALL PARTIES MAKING
ANY CLAIM AGAINST THE
PROPERTIES AND/OR THE RENTS
COLLATERAL AFTER THE FILING OF
THE LIS PENDENS IN THIS CASE,

**FINAL JUDGMENT OF
FORECLOSURE**

Defendants.

_____/

This ACTION was heard before the Court on the Court's Order to Show Cause, Pursuant to § 702.10, *Fla. Stat.* (2007), why a Final Judgment of Foreclosure should not be Entered, on August 20, 2008. On the evidence presented IT IS ADJUDGED that:

1. Pursuant to the aforementioned Order, a Final Judgment of Foreclosure is hereby GRANTED in favor of OCEAN BANK. Service of process has been duly and regularly obtained over WATERSIDE ACQUISITIONS, LLC., DANA BERMAN, THE DORIAN CONDOMINIUM ASSOCIATION, INC., ACQUASTRADA CONDOMINIUM ASSOCIATION, INC., TENANT (S) (IF ANY), SPOUSES, ESTATE (S), HEIR (S), DEVISEE (S), AND ASSIGNS (IF ANY), and ALL PARTIES MAKING ANY CLAIM AGAINST THE PROPERTIES AND/OR THE RENTS COLLATERAL AFTER THE FILING OF THE LIS PENDENS IN THIS CASE, defendants.

2. There is due and owing to the Plaintiff the following:

| | |
|---|--------------|
| Principal due on the note secured by the mortgage foreclosed: | \$138,750.00 |
| Interest on the note and mortgage from 07/01/07 to 08/11/08 | \$ 9,852.69 |
| Per diem interest at \$24.57 from 08/12/08 to 08/20/08 | \$ 221.13 |
| Late Charges | \$ 516.04 |

| | |
|--------------------------|-----------------|
| Court Costs: | |
| Filing Fee | \$ 270.00 |
| Service of Process | \$ 480.00 |
| Recording of Lis Pendens | \$ <u>27.00</u> |

SUBTOTAL \$160,116.86

| | |
|--------------------|-----------------|
| Additional Costs: | |
| Appraisal Report | \$ 250.00 |
| Foreclosure Report | \$ 250.00 |
| Investigative Fees | \$ <u>15.00</u> |

SUBTOTAL \$ 515.00

Attorney fees based upon 3 hours at \$225.00 per hour \$ 675.00

GRAND TOTAL \$151,306.86

- The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest.
- Plaintiff, whose address is 780 N.W. 42nd Avenue, Suite 400, Miami, Florida, 33126-5540, holds a lien for the grand total sum specified in Paragraph 2 herein. The lien of the Plaintiff's is superior in dignity to any right, title, interest, or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116. The Plaintiff's lien encumbers the subject property located in Miami-Dade County, Florida and described as:

Unit No. 133, Acquastrada, a Condominium, According to the Declaration of Condominium thereof, as recorded in Official Records Book 24262, at Page 1287, of the Public Records of Miami- Dade County, Florida; together with an undivided interest in the common elements appurtenant thereto.

Property Address: 1777 Venice Lane, #133, North Miami, Florida 33181.

5. If the grand total amount with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of the Court shall sell the subject property at public sale on October 23, 2008, at 11:00 a.m., to the highest bidder for cash, except as prescribed in Paragraph 6, at 140 West Flagler Street, 9th Floor, Miami, Florida, 33130, after having first given notice as required by Section 45.031, Florida Statutes. The Clerk shall not conduct the sale in the absence of the Plaintiff or its representative.
6. Plaintiff shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if Plaintiff is not the purchaser of the property of sale. If the Plaintiff is the purchaser, the Clerk shall credit Plaintiff's bid with the total sum with interest and costs accruing subsequent to this judgment, or such part of it, as necessary to pay the bid in full. The Clerk shall receive the service charge imposed in Section 45.031, Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.
7. On filing of the Certificate of Sale, Defendant's right of redemption as proscribed by Florida Statutes, Section 45.0315 shall be terminated.
8. On filing the Certificate of Title, the Clerk shall distribute the proceeds of the sale, so far as they are sufficient, by paying: first, all of the plaintiffs costs; second, documentary stamps affixed to the Certificate; third, plaintiff's attorney's fees; fourth, the total sum due to the plaintiff, less the item paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale. During the sixty (60) days after the Clerk issues the Certificate of Disbursements, the Clerk shall hold the surplus pending further Order of this Court.
9. Upon filing of the Certificate of Title, Defendant and all persons claiming under or against defendant since the filing of the Notice of Lis Pendens shall be foreclosed of all estate or claim in the Property and the Purchaser at sale shall be let into possession of the Property.
10. The Court finds, based upon the affidavits presented and upon inquiry of counsel for the Plaintiff, that 3 hours were reasonably expended by Plaintiff's counsel and that an hourly rate of \$675.00 is appropriate. PLAINTIFF'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida's Patient Compensation Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985).
11. NOTICE PURSUANT TO AMENDMENT TO SECTION, 45.031, FLA. ST. (2006)

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT.

IF YOU ARE SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO

LATER THAN SIXTY (60) DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH CLERK OF THE COURT, 140 WEST FLAGLER STREET, ROOM 908, MIAMI, FLORIDA (TELEPHONE (305) 375-5943), WITHIN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT THE LEGAL AID SOCIETY AT THE DADE COUNTY BAR ASSOCIATION, 123 N.W. 1ST AVENUE, SUITE 214, MIAMI, FLORIDA, (TELEPHONE (305) 371-2220), TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT THE DADE COUNTY BAR ASSOCIATION LEGAL AID SOCIETY, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ANY ADDITIONS, MODIFICATION OR CHANGES TO THE PROVISIONS ABOVE SHOULD BE SET FORTH IN BOLD TYPE AND CONSECUTIVELY NUMBERED PARAGRAPHS.

12. **As to the costs in ¶ 2, based upon the Affidavit(s) presented by the Plaintiff, the Court finds that the indicated amount is the regular amount paid for service of process, per Defendant, per address. Additional amounts have been paid, and the Plaintiff has incurred actual out of pocket costs, for service on the Defendants where the Defendants were either evading service of process; were particularly difficult to serve; required waiting time by the process server to effectuate service of process; or were out of town service.**
13. **¶ 10 is modified as follows: Additionally, the Court finds that the Plaintiff is represented by in-house counsel, and has considered the legal standards applicable to reimbursement of in-house counsel attorney's fees herein. Further, pursuant to § 702.10, *Fla. Stat.*, if the attorney's fees awarded herein are less than 3% of the principal amount owed on the note or mortgage at the time of filing, even if the note or mortgage**

does not specify the percentage of the original amount that would be paid as liquidated damages, it is unnecessary for the Court to hold a hearing or adjudge the attorney's fees to be reasonable.

14. In addition to the reservation of jurisdiction set forth below, jurisdiction is also reserved to consider all pending matters in this suit, including, without limitation, remaining issues in this litigation, modifications to this Judgment, foreclosure of any remaining Defendants and/or omitted parties in this lawsuit, hearings on additional fees and costs, and any other matters properly brought before this Court.

The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and deficiency judgments.

ORDERED at Miami, Florida, on August 20, 2008.

Conformed Copy
AUG 22 2008
Thomas S. Wilson, Jr.
Circuit Court Judge
Honorable Thomas Wilson Jr.
Circuit Court Judge

Copies furnished to all parties:

Francisco J. Escalante, Esq., Ocean Bank Legal Department, Attorney for Ocean Bank, 780 N.W. 42nd Avenue, Suite 400, Miami, Florida, 33126-5540; Waterside Acquisitions, LLC, c/o James D. Gassenheimer, Esq., Registered Agent, 200 S. Biscayne Blvd., Suite 1000, Miami, Florida 33131; Dana Berman, 1343 Castile Avenue, Coral Gables, Florida 33134; The Dorian Condominium Association, Inc., c/o James D. Gassenheimer, Esq., Registered Agent, 200 S. Biscayne Blvd., Suite 1000, Miami, Florida 33131; Acquastrada Condominium Association, Inc., c/o Innovative Property Management Services, Registered Agent, 27553 South Dixie Highway, Homestead, Florida 33032; and Tenant n/k/a Gerald Learnard, 1777 Venice Lane, #132, North Miami, Florida 33181.