

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA

TD BANK, N.A., as successor in interest to
RIVERSIDE NATIONAL BANK OF
FLORIDA, by and through FDIC as Receiver,

CASE NO.:312012CA000334

JUDGE: CYNTHIA COX

Plaintiff,

v.

PHILIP G. LANGLEY; UNKNOWN
TENANT(S) IN POSSESSION OF THE
SUBJECT PROPERTY #1(n/k/a SAMANTHA
HARDY), #2 (n/k/a KEVIN'S AUTOMOTIVE)
and #3; AIDAN GRACE CAPITAL, INC.,
INDIVIDUALLY and AS TRUSTEE UNDER
TRUST AGREEMENT DATED MARCH 14,
2011; SEAN MCGREGOR, INDIVIDUALLY,
and AS TRUSTEE OF 17th PLACE 1140
HOLDINGS and AS TRUSTEE OF
BLACKPINE HOLDINGS; WILLIAM T.
BRESSETT; OLIVER'S PLUMBING, INC.;
and SUNSHINE AUTO OF VERO, INC.,

Defendants,

BY: [Signature] D.C.
Clerk of Circuit Court
Indian River County, FL
19 MAY 23 PM 3:49
RECORDED
INDEXED
COURT

Consent **FINAL JUDGMENT OF FORECLOSURE**
(Form Approved by 19th Circuit Administrative Order 2011-01)

Note: This final judgment format many only be modified by adding language in sequentially numbered paragraphs beginning with paragraph 11. Attorneys may be sanctioned for submitting a final judgment which improperly varies the approved format.

This action was heard before the court on the plaintiff's Motion for Summary Final Judgment on 5/21/13. On the evidence presented; *and agreement of the parties "mediation settlement agreement"*

IT IS ADJUDGED that:

1. **Motion Granted.** There is no dispute of material facts and plaintiff's motion for summary judgment is granted.

2. **Amounts Due.** Plaintiff, TD BANK, N.A., as Successor in Interest to Riverside

National Bank of Florida by and through FDIC as Receiver, is due:

AS TO LOAN ENDING IN 9255:

PRINCIPAL:	\$98,951.23
INTEREST:	\$32,495.87
From 3/28/2011 To 4/16/2013	
LATE CHARGE:	\$ <u>285.63</u>
 TOTAL:	 <u>\$131,732.73</u>

AS TO LOAN ENDING IN 2655:

PRINCIPAL:	\$199,623.13
INTEREST:	\$ 22,026.21
From 3/5/2011 To 4/16/2013	
LATE CHARGE:	\$ 2,150.26
APPRAISAL:	\$ 5,035.00
FORCED PLACE INS:	<u>\$10,016.12</u>
 TOTAL:	 <u>\$238,850.72</u>

TOTAL BOTH LOANS: **\$370,583.45**

Attorneys' Fees of \$8,619.50. Finding as to reasonable number of hours and hourly rate:

Attorney	Time	Total Fees
Robert A. Goldman	23.50 hours @ \$225.00/hour	\$5,287.50
David P. Ginzer	17.20 hours @ \$175.00/hour	3,010.00
Richard J. Dungey	1.20 hours @ \$225.00/hour	270.00
Michael E. Blum	0.10 hours @ \$200.00/hour	20.00
Debbie A. Sigafoose	0.40 hours @ 80.00/hour	<u>32.00</u>

Court costs of \$3,782.50, These costs were reasonably and necessarily incurred in the prosecution of this matter:

Attorneys Title Fund Services - Foreclosure Report:	\$250.00
Duces Tecum Process Serving Fees	1,390.00
Indian River Clerk of Court Filing and Recording Fees	<u>\$2,142.50</u>

GRAND TOTAL

\$382,985.45

3. **Interest.** The total amount in paragraph 2 shall bear interest from this date forward at the prevailing rate.

4. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), on the following described property in Indian River County, Florida:

Parcel 1:

Lots 4 and 5, Block 1, J.A. FRERE'S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 4, Page 30, Public Records of St. Lucie (now Indian River) County, Florida.

1140 17th Place, Vero Beach, FL 32960
Tax I.D. #33-39-01-00046-0010-00004/0

Parcel 2:

Lot 4, Block 2, J.A. FRERE'S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 4, Page 30, Public Records of St. Lucie (now Indian River) County, Florida.

1145 17th Place, Vero Beach, FL 32960
Tax I.D. #33-39-01-00046-0020-00004/0

Parcel 3:

Lots 6, 7, 8, 9 and 10, Block 1, J.A. FRERE'S SUBDIVISION, according to the Plat thereof, recorded in Plat Book 4, Page 30, Public Records of St. Lucie (now Indian River) County, Florida.

1176 17th Place, Vero Beach, FL 32960
Tax I.D. #33-39-01-00046-0010-00006/0

5. **Sale of Property.** If the total sum with interest at the rate described in paragraph 2 and all costs accrued subsequent to this judgment are not paid, the clerk of this court shall sell the property to the highest bidder for cash, except as prescribed in paragraph 6 at public sale on September 23, 2013 at 10:00 AM, Eastern Time, via the online auction via the internet, at www.indian-river.realforeclose.com, in accordance with section 45.031, Florida Statutes.

The public sale shall not be postponed or canceled without a court order, and shall proceed regardless of whether plaintiff, a plaintiff's representative, or plaintiff's counsel is present. All orders postponing or canceling the sale must be filed with the clerk of court no later than 5:00 p.m. two business days before the sale date. Counsel for plaintiff must be certain that the clerk has the original proof of publication of the notice of sale on file no less than three business days before the sale date. Failure to file the original proof of publication of the notice of sale will not stop the sale, however the certificate of sale will not issue until the original proof of publication of notice of sale is filed. The failure of plaintiff's counsel to properly and timely publish the notice of sale may result in sanctions against the plaintiff, plaintiff's counsel individually, and the law firm representing the plaintiff. If the original proof of publication of the notice of sale is not filed with the clerk within ten calendar days after the sale, an order will be entered directing the plaintiff to show cause why the sale should not be vacated and the case dismissed with or without prejudice. The fact that an attorney has a high volume practice will not be a showing of good cause.

Any electronic sale by the clerk shall be in accordance with the written administrative policy for electronic sales published by the clerk at the official website for the clerk and posted in the public areas of the clerk's office.

6. **Costs.** 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 for sale, provided, however, that the purchaser of the property for sale shall be responsible for the documentary stamps payable on the certificate of title. If 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 is necessary to pay the bid in full. The clerk shall receive the service charge imposed in Section 45.031, Florida Statutes.

7. **Distribution of Proceeds.** 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 plaintiff's costs; second, documentary stamps affixed to the certificate; third, plaintiff's attorneys' fees; fourth, the total sum due to plaintiff, less the items paid, plus interest at the rate prescribed in paragraph 2 from this date to the date of the sale; and by retaining any remaining amount pending the further order of this

court.

8. **Right of Redemption.** On filing the certificate of sale, defendant(s) and all persons claiming under or against defendant(s) since the filing of the notice of lis pendens shall be foreclosed of all estate or claim in the property, except as to the claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

9. **Right of Possession.** Upon the filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property, subject to the provisions of the "Protecting Tenant At Foreclosure Act of 2009.". If any defendant remains in possession of the property, the clerk shall without further order of the court issue forthwith a writ of possession upon request of the person named on the certificate of title.

10. **Jurisdiction Retained.** The Court reserves jurisdiction to enter deficiency judgment, a monetary judgment on the note against the borrower and a monetary judgment against each guarantor on the actions on the guaranty agreements.

(Subject to the parties' mediation settlement agreement)

11. This judgment and Plaintiff's bid at sale is assignable without further order of Court.

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 TH SALE PROCEEDS PURSUANT TO THE FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE 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 YOUR TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, (772) 770-5185) 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 FLORIDA RURAL LEGAL SERVICES, 200 S. INDIAN RIVER DRIVE, SUITE 101, FORT PIERCE, FLORIDA 34950 (TELEPHONE: 772-466-4766) 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 FLORIDA RURAL LEGAL SERVICES, 200 S. INDIAN RIVER DRIVE, SUITE 101, FORT PIERCE, FLORIDA 34950 (TELEPHONE: 772-466-4766) FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

ORDERED ON May 23, 2013

CYNTHIA L. COX
Circuit Judge

SERVICE LIST

ROBERT A. GOLDMAN, ESQUIRE
Primary: kboyle@foxwackeen.com
Secondary: rgoldman@foxwackeen.com

Philip G. Langley
phil.sunshineautotrim@gmail.com
Philip G. Langley, R.A. Sunshine Auto Service of Vero, Inc.

Unknown Tenant #1 n/k/a Samantha Hardy
Unknown Tenant #2 n/k/a Kevin's Automotive
Unknown Tenant #3

Aidan Grace Capital, Inc., Individually c/o Sean McGregor, R.A.
Aidan Grace Capital, Inc., as Trustee Under Trust Agreement Dated March 14, 2011
c/o Sean McGregor, R.A.
Sean McGregor, Individually
Sean McGregor, as Trustee of 17 Place 1140 Holdings
Sean McGregor, as Trustee of Blackpine Holdings

John A. Oliver, R.A. Oliver's Plumbing, Inc.

Courtesy Copy to:

Tonya McCormick

Law Offices of Tonya McCormick, P.A.

mccormicklegal@gmail.com