

Filing # 81197920 E-Filed 11/26/2018 02:46:41 PM

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

THE BANK OF NEW YORK MELLON
CORPORATION, AS TRUSTEE FOR
CWABS, INC. ASSET-BACKED
CERTIFICATES, SERIES 2003-2,
Plaintiff,

CASE NO. 2014-CA-001041

312014CA001041XXXXXX

vs.

BEVERLY ANNE SMITH A/K/A
BEVERLY A. SMITH A/K/A BEVERLY A.
LOPRESTI A/K/A BEVERLY LOPRESTI;
NICHOLAS LOPRESTI; STUART
LOPRESTI; KINGSWAY PROPERTY
OWNERS ASSOCIATION, INC; BANK OF
AMERICA; UNITED STATES OF
AMERICA ON BEHALF OF THE SMALL
BUSINESS ADMINISTRATION; INDIAN
RIVER COUNTY, FLORIDA;
NATIONSTAR MORTGAGE LLC, A
FOREIGN LIMITED LIABILITY
COMPANY AUTHORIZED TO DO
BUSINESS IN FLORIDA D/B/A MR.
COOPER, AND ANY AND ALL
UNKNOWN PARTIES CLAIMING BY,
THROUGH, UNDER, AND AGAINST THE
HEREIN NAMED INDIVIDUAL
DEFENDANT(S) WHO ARE NOT KNOWN
TO BE DEAD OR ALIVE, WHETHER
SAID UNKNOWN PARTIES MAY CLAIM
AN INTEREST AS SPOUSES, HEIRS,
DEVEISEES, GRANTEES, OR OTHER
CLAIMANTS,
Defendant(s).

FINAL JUDGMENT OF FORECLOSURE, EQUITABLE SUBROGATION, AND
EQUITABLE LIEN

This action was heard before the court on November 26, 2018 and on the evidence presented and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

1. **Final Judgment.** Plaintiff is entitled to entry of final judgment.

2. **Value of Claim.** At the initiation of this action, in accordance with section 28.241(1)(a)2.b., Florida Statutes, plaintiff estimated the amount in controversy of the claim to be **\$114,865.62**. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be **\$ \$286,039.71**, as set forth below. For any difference between the estimated amount in controversy and the actual value of the claim that requires the filing fee to be adjusted, the Clerk shall adjust the filing fee. In determining whether the filing fee needs to be adjusted, the graduated filing fee scale in section 28.241(1)(a)2.d., Florida Statutes, controls. If an excess filing fee was paid, the Clerk shall provide a refund of the excess fee. If an additional filing fee is owed, the plaintiff shall pay the additional fee at least five business days prior to the judicial sale. If any additional filing fee owed is not paid prior to the judicial sale, the Clerk shall cancel the judicial sale without further order of the Court.

3. **Amounts Due.** Plaintiff, THE BANK OF NEW YORK MELLON CORPORATION, AS TRUSTEE FOR CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2003-2 8950 Cypress Waters Blvd., Coppel, TX 75019, is due:

Principal:	\$114,865.62
Interest on the note and mortgage from April 1, 2010 to November 26, 2018	\$64,612.73
Escrow Advances	\$69,745.85
Corporate Advances	\$35,458.06
Attorneys' Fees	
Flat Fee: \$1,035.00	
Attendance at Court: \$250.00	
Attorneys' Fee Total:	\$1,285.00
Additional Costs	
Sale Cost:	\$72.45
SUBTOTAL	\$286,039.71
GRAND TOTAL	\$286,039.71

4. **Interest.** The total amount in Paragraph 3 shall bear interest from this date forward at the prevailing statutory rate of interest.

5. **Lien on Property.** Plaintiff holds a lien for the total sum superior to all claims or estates of defendant(s), (with the exception of any assessments that are superior pursuant to Section 718.116, or 720.3085, Florida Statutes) on the following described property in Indian River County, Florida:

**LOT 18, KINGSWAY SUBDIVISION, ACCORDING TO THE
PLAT THEREOF RECORDED IN PLAT BOOK 10, PAGE 59, OF
THE PUBLIC RECORDS OF INDIAN RIVER COUNTY,**

FLORIDA. ; Property Address: 5760 36TH LANE, VERO BEACH, FL
32966-0000

6. **Sale of Property.** If the total sum 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 property at public sale on Sept 10, 2019, to the highest bidder for cash, except as prescribed in Paragraph 7, by electronic sale at www.indian-river.realforeclose.com beginning at 10:00 AM a.m. in accordance with section 45.031, Florida Statutes. The public sale shall not be postponed or canceled without a court order. All orders postponing or canceling the sale must be filed with the Clerk of court no later than 5:00 p.m. five (5) business days before the sale date. Counsel for plaintiff must be certain that all sale and Clerk fees are paid and that the original proof of publication is filed no less than five (5) business days before the sale date. Failure to timely file the original proof of publication of the notice of sale and pay the sale and Clerk fees will stop the sale. Additionally, the failure of plaintiff's counsel to pay the sale fee and 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. 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 offices.

7. **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, plaintiff shall file an affidavit within 5 business days and the Clerk shall credit plaintiff's bid with the total sum with post-judgment 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.

8. **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 3 from this date to the date of the sale; and by retaining any remaining amount pending further order of this court.

9. **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 claims or rights under chapter 718 or chapter 720, Florida Statutes, if any.

10. **Right of Possession.** Upon filing of the certificate of title, the person named on the certificate of title shall be let into possession of the property. If any defendant or tenant

remains in possession of the property, an Order Granting the Motion for Writ of Possession shall be entered without further notice or hearing, subject to the purchaser's compliance with Section 83.561, Florida Statutes.

11. **Jurisdiction Retained.** Jurisdiction of this action is retained to enter further orders that are proper including, without limitation, a deficiency judgment (**if sought and if appropriate**), writs of possession and such supplemental relief or judgments as may be appropriate, **including orders granting leave to file supplemental and/or amended pleadings to add additional parties, and orders resolving any disputes with respect to assessments and/or other amounts allegedly due associations.**

12. The United States of America shall have the right of redemption provided by 28 U.S.C. §2410(c) and, if it is the successful bidder at the foreclosure sale, it shall be allowed thirty (30) days to deliver a Treasury check to the Clerk of Court in payment of the amount of its bid. Further, the deposit required by Florida Statutes 45.021(2) shall be waived.

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 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 YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, 2000 16TH AVENUE, CIVIL DEPARTMENT, ROOM 136, VERO BEACH, FL 32960 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 HELP TO 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

CONTACT FLORIDA RURAL LEGAL SERVICES - FORT PIERCE OFFICE, 510 SOUTH US HIGHWAY 1, SUITE 1, FORT PIERCE, FL 34948, (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 OPTION. IF YOU CHOOSE TO CONTACT FLORIDA RURAL LEGAL SERVICE - FORT PIERCE OFFICE, (772) 466-4776, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED ON March 26, 2018 at Vero Beach, Florida


PAUL B. KANAREK CIRCUIT JUDGE

Copies furnished to:

ROBERTSON, ANSCHUTZ & SCHNEID, P.L.
ATTORNEYS FOR PLAINTIFF
6409 CONGRESS AVE., SUITE 100
BOCA RATON, FL 33487
PRIMARY EMAIL: MAIL@RASFLAW.COM

BEVERLY ANNE SMITH A/K/A BEVERLY A. SMITH A/K/A BEVERLY A. LOPRESTI
A/K/A BEVERLY LOPRESTI
1651 28TH AVE
VERO BEACH, FL 32960

KINGSWAY PROPERTY OWNERS ASSOCIATION, INC
C/O DEBRA WALKER, R.A. 5745 35TH ST
VERO BEACH, FL 32966

NICHOLAS LOPRESTI
1150 19TH AVE., SW
VERO BEACH, FL 32962

STUART LOPRESTI
5760 36TH LN
VERO BEACH, FL 32966

BARBARA POWER, ESQ.
BARBARA POWER, ESQ.
ATTORNEY FOR BANK OF AMERICA
C/O BARBARA POWER, ESQ.

2060 15TH AVE
VERO BEACH, FL 32960-3403
PRIMARY EMAIL: BARBARAPOWER@VEROBEACHLAW.COM

UNITED STATES OF AMERICA ON BEHALF OF THE SMALL BUSINESS
ADMINISTRATION
C/O US ATTORNEY, SOUTHERN DISTRICT OF FLORIDA 99 NE 4 STREET, 13TH
FLOOR
MIAMI, FL 33132

DEPUTY COUNTY ATTORNEY
WILLIAM K. DEBRAAL, ESQ
ATTORNEY FOR INDIAN RIVER COUNTY, FLORIDA
C/O DEPUTY COUNTY ATTORNEY
1801 27TH STREET
VERO BEACH , FL 32960
PRIMARY EMAIL: E-SERVICE@IRCGOV.COM
SECONDARY EMAIL: BDEBRAAL@IRCGOV.COM

FIDELITY NATIONAL LAW GROUP
BARRY JAY WARSCH, ESQ
ATTORNEY FOR CO-COUNSEL FOR PLAINTIFF
C/O FIDELITY NATIONAL LAW GROUP
200 WEST CYPRESS CREEK RD. STE. 210
FORT LAUDERDALE, FL 33309
PRIMARY EMAIL: BARRY.WARSCH@FNF.COM
SECONDARY EMAIL: ELIZABETH.SCHECHTER@FNF.COM

NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER
C/O CORPORATION SERVICE COMPANY, REGISTERED AGENT
1201 HAYS STREET
TALLAHASSEE, FL 32301-2525