

Filing # 98176350 E-Filed 10/31/2019 12:37:26 PM

**IN THE CIRCUIT COURT FOR THE  
NINETEENTH JUDICIAL CIRCUIT IN AND  
FOR INDIAN RIVER COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION**

**1900 CAPITAL TRUST II, BY U.S. BANK  
TRUST NATIONAL ASSOCIATION, NOT IN  
ITS INDIVIDUAL CAPACITY BUT SOLELY  
AS CERTIFICATE TRUSTEE**

**Plaintiff(s),**

**vs.**

**KATHERINE MCGHEE; IVAN MCGHEE;  
BARBARA MILLER; DEBRA SWEATT; THE  
UNKNOWN HEIRS, BENEFICIARIES,  
DEVISEES, GRANTEES, ASSIGNEES,  
LIENORS, CREDITORS, TRUSTEES AND ALL  
OTHERS WHO MAY CLAIM AN INTEREST  
IN THE ESTATE OF BERNARD MCGHEE,  
DECEASED; CLERK OF COURTS OF INDIAN  
RIVER COUNTY; MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC., AS  
NOMINEE FOR GB HOME EQUITY, LLC;  
NAVY FEDERAL CREDIT UNION;  
STATE OF FLORIDA, DEPARTMENT OF  
REVENUE; ANY AND ALL UNKNOWN  
PARTIES CLAIMING BY, THROUGH, UNDER,  
OR AGAINST THE HEREIN NAMED  
INDIVIDUAL DEFENDANT(S) WHO ARE NOT  
KNOWN TO BE DEAD OR ALIVE, WHETHER  
SAID INTEREST AS SPOUSES, HEIRS,  
DEVISEES, GRANTEES, OR OTHER  
CLAIMANTS;**

**CASE NO.: 2018CA000784**

**312018CA000784XXXXXX**

**Defendant(s).**

**FINAL JUDGMENT OF FORECLOSURE**

This action was heard before the Court on **October 31, 2019** and on the evidence presented and being otherwise duly advised in the premises,

**IT IS ORDERED AND ADJUDGED that:**

1. **Final Judgment.** There is no dispute of material facts and Plaintiff's Motion for Summary Judgment is Granted [or] Plaintiff is entitled to entry of final judgment [or] The parties have consented to entry of this 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 \$150,031.24. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be \$173,896.13, 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 (5) 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, **1900 Capital Trust II, BY U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS CERTIFICATE TRUSTEE**, whose address is PO Box 10826, Greenville, SC 29603-0826, is due:

Principal:	\$98,660.20
Interest on the note and mortgage from 03/01/2017	
to 08/30/2019:	\$12,153.47
Per diem rate of \$13.16 from 08/30/2017 to 10/31/2019:	\$815.92

Property Inspection:		\$290.70
Property Preservation:		\$2,210.00
Winterization:		\$370.00
BPO/Appraisal:		\$145.00
Prior Attorneys Fees and Cost:		\$5,860.48
Escrow Advance:		
Hazard Insurance:	\$3,423.56	
Taxes:	\$1,621.43	
Beginning Balance:	\$(61.45)	
Total Escrow Advance:		\$4,983.54
Deferred P&I:		\$44,099.92

**Attorneys' Fees:**

Finding as to reasonable number of hours	1.66	
Finding as to reasonable hourly rate	\$215.00	\$356.90
Foreclosure Flat Fee:		\$3,450.00

**Court Costs,:**

Guardian Ad Litem:	\$500.00	
Court Costs Total:		\$500.00

**TOTAL** **\$173,896.13**

4. **Interest.** The total amount in paragraph 3 shall bear interest at the legal rate, which was 6.89% per annum as of October 1st, 2019.
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, FL:

Lots 6 and 7, Block 1, Rose Park, according to the map or plat thereof as recorded in Plat Book 1, Page 22, of the Public Records of Indian River County, Florida.

A/K/A 2209 17th Street, Vero Beach, FL 32960

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 this Court shall sell the subject property at public sale on December 16, 2019, to the highest bidder for cash, except as prescribed in paragraph 7,:

\_\_\_\_\_ at the courthouse located at 2000 16th Avenue, Vero Beach, FL 32960 in Indian River County in Vero Beach, Florida, beginning at 10:00 AM

\_\_\_\_\_ by electronic sale at [www.indianriver.realforeclose.com](http://www.indianriver.realforeclose.com) beginning at 10:00 AM 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 not 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 the 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 sale; and by retaining any remaining amount pending the 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 the 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, writs of possession and such supplemental relief or judgments as may be appropriate.
12. If Proceeds are to be distributed to Plaintiff or Plaintiff's Counsel, the Clerk is authorized to issue a single check made payable to counsel for Plaintiff.
13. **If the Plaintiff is the purchaser at the sale, the Plaintiff may assign its bid to a third party assignee by recording and filing an Assignment of Bid and the Clerk of Court is hereby directed to issue a Certificate of Title to the assignee named therein.**
14. Notwithstanding the foregoing, the rights of any condominium or homeowners' association to collect unpaid assessments from any subsequent title holder, including the first mortgage holder, shall be preserved and shall be governed as provided in Section 718.116 and 720.3085, Florida Statutes, subject to limitations as set-forth in *Coral Lakes Community Association, Inc. v. Busey Bank, N.A.*, 30 So. 3d 579 (Fla. 2d DCA 2010).
15. The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession, deficiency judgments, re-foreclosure or a supplemental complaint to add an omitted party post-judgment.

**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, IF ANY, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE THAT THE CLERK REPORTS THE FUNDS AS**

**UNCLAIMED. IF YOU FAIL TO FILE A TIMELY 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 FOR INDIAN RIVER COUNTY, TELEPHONE: (772) 770-5185, 2000 16TH AVENUE, 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 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, 510 SOUTH US HIGHWAY 1, SUITE 1, FORT PIERCE, FL 34950, 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, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.**

**DONE and ORDERED** on 10-31-19, 2019 at Vero Beach, Florida.

  
\_\_\_\_\_  
Circuit Court Judge

Copies furnished by e-portal to: See Attached Service List

Plaintiff's counsel shall serve paper copies on all Defendants not otherwise served by U.S. Mail  
to: See Attached Service List

**SERVICE LIST FOR FINAL JUDGMENT OF FORECLOSURE**  
**(Indian River County Case No.: 2018CA000784)**

Padgett Law Group, Attorney for Plaintiff  
6267 Old Water Oak Road, Suite 203  
Tallahassee, FL 32312  
attorney@padgettlawgroup.com

Ivan McGhee  
530 N. Live Oak Street  
Clewiston, FL 33440

Barbara Miller  
320 Ainsley Street SE  
Palm Bay, FL 32909

Mortgage Electronic Registration Systems, Inc., as nominee for GB Home Equity, LLC  
c/o CT Corporation System  
1200 S. Pine Island Road  
Plantation, FL 33324

Navy Federal Credit Union  
820 Follin Lane SE  
Vienna, VA 22180

State of Florida, Department of Revenue  
2450 Shumard Oak Blvd.  
Tallahassee, FL 32399

Debra Sweatt  
217 View Point Dr  
Richmond, KY 40475

Clerk of Courts of Indian River County  
c/o Jeffrey R. Smith, CPA  
2000 16th Avenue  
P.O. Box 1028  
Vero Beach, FL 32961

Any and all unknown parties claiming by, through, under, or against the herein named individual defendant(s) who are not known to be dead or alive, whether said interest as spouses, heirs, devisees, grantees, or other claimants  
2209 17th Street  
Vero Beach, FL 32960

Sean T. Desmond, Esq. (Guardian Ad Litem for The Unknown Heirs, Beneficiaries, Devisees, Grantees, Assignees, Lienors, Creditors, Trustees and all others who may claim an interest in The Estate of Bernard McGhee, Deceased)

P.O. Box 14174

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