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IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA

CASE NO.: 2019-CA-000089 312019CA000089XXXXXX

THE BANK OF NEW YORK MELLON FKA THE
BANK OF NEW YORK, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF THE CWABS, INC.,
ASSET-BACKED CERTIFICATES, SERIES 2005-IM1,

Plaintiff(s),

v.

WINDWARD CONDOMINIUM ASSOCIATION OF
VERO BEACH, INC.; MARK S. FIORILLO A/K/A
MARK FIORILLO; PATRICIA A. FIORILLO; VERO
GLASS & MIRROR; ALL UNKNOWN PARTIES
CLAIMING INTERESTS BY, THROUGH, UNDER OR
AGAINST A NAMED DEFENDANT TO THIS
ACTION, OR HAVING OR CLAIMING TO HAVE
ANY RIGHT, TITLE OR INTEREST IN THE
PROPERTY HEREIN DESCRIBED; UNKNOWN
TENANT #1; UNKNOWN TENANT #2,

Defendant(s).

/

FINAL JUDGMENT OF FORECLOSURE

This action was heard before the court on January 7, 2020 and on the evidence presented and being otherwise duly advised in the premises,

IT IS ORDERED AND ADJUDGED that:

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

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 \$219,833.37. In accordance with section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be \$339,858.18, 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 FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2005-IM1, 55 Beattie Place, Greenville, SC 29601, is due:

Principal	\$219,833.37
Interest on the note and mortgage to 11/14/2019	\$61,300.22
Per diem interest at 3.875 % from 11/15/2019 to 1/7/2020	\$1,992.06
Pre-accelerated Late Charges	\$1,667.70
Initial Escrow Balance	\$13,316.54
Title Cost	\$840.00
Tax Disbursements	\$17,950.81
Insurance Disbursements	\$13,935.90
Filing Cost	\$401.90
Property Inspection	\$923.00
Recording Cost	\$30.60
BPO/Aprsl Cost	\$95.00
Securing	\$135.00
Winterization	\$80.00
Property Preservation	\$465.00
Attorneys' fees	
Finding as to reasonable number of hours	26.5/1.6
Finding as to reasonable hourly rate	275/95
Attorneys' fees total	\$7,439.50
Attorneys' Flat Foreclosure Rate	\$2,415.00
Court costs	
Court Costs	\$2,559.59
Service of Process	\$405.00

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Subtotal (if applicable)	\$345,786.19
LESS: Credits	\$(5,928.01)
TOTAL	\$339,858.18

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), WINDWARD CONDOMINIUM ASSOCIATION OF VERO BEACH, INC.; MARK S. FIORILLO A/K/A MARK FIORILLO; VERO GLASS & MIRROR; ALL UNKNOWN PARTIES CLAIMING INTERESTS BY, THROUGH, UNDER OR AGAINST A NAMED DEFENDANT TO THIS ACTION, OR HAVING OR CLAIMING TO HAVE ANY RIGHT, TITLE OR INTEREST IN THE PROPERTY HEREIN DESCRIBED; UNKNOWN TENANT #1 N/K/A LINDA CLARK, (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:

APARTMENT UNIT F-2, BUILDING F, WINDWARD CONDOMINIUM, TOGETHER WITH AN UNDIVIDED INTEREST IN THE COMMON ELEMENTS, ACCORDING TO THE DECLARATION OF CONDOMINIUM THEREOF RECORDED IN OFFICIAL RECORD BOOK 888, PAGE 739, AS AMENDED FROM TIME TO TIME, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA. TOGETHER WITH PARKING FACILITY F-2 ACCORDING TO SAID DECLARATION OF CONDOMINIUM.

a/k/a 2155 Galleon Drive, #F2, Vero Beach, Florida 32963

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 **FEBRUARY 17, 2020**, to the highest bidder for cash, except as prescribed in Paragraph 7, by electronic sale at Indian River www.indian-river.realforeclose.com beginning at 10:00 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**

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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, writs of possession and such supplemental relief or judgments as may be appropriate.

12. **Lost note.** The Court finds that the Plaintiff has re-established the terms of the lost note and its right to enforce the instrument as required under Section 673.3091, Florida Statutes. Plaintiff shall hold the Defendant(s) maker of the note harmless and shall indemnify Defendant(s) from any loss they may incur by reason of a claim by any other person to enforce the lost note. Adequate protection is provided as required by Section 673.3091, Florida Statutes, by the following means: **Plaintiff agreed to indemnify Defendants.** Judgment is hereby entered in favor of Plaintiff as to its request to enforce the lost note.

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, INDIAN RIVER COUNTY COURTHOUSE, 2000 16TH AVENUE, COURTOOM 6, 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 MONDAY THROUGH FRIDAY AT 1-888-582-3410 TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU,

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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 AT 1-888-582-3410 FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED on _____ at Vero Beach, Florida.

3:40 pm, Jan 07 2020



JANET C. CROMM, CIRCUIT JUDGE

Copies furnished by e-portal to:

Mark S. Fiorillo, c/o Frank Heston, Esq., 8050 N. University Drive, Suite 210, Tamarac, FL 33321;
fhaston@frankhestonlaw.com, dcolp@frankhestonlaw.com

Windward Condominium Association of Vero Beach, Inc., c/o Charles W. McKinnon, Esq., 3055
Cardinal Drive, Suite 302, Vero Beach, FL 32963; sjcwmlaw@bellsouth.net

Plaintiff's counsel shall serve paper copies on all defendants not otherwise served by U.S. Mail to:

Vero Glass & Mirror, c/o Tilton, C.N., Registered Agent, 1935 NE Ricou Terrace, Jensen Beach,
FL 34957

Unknown Tenant #1 NKA Linda Clark, 2155 Galleon Drive #F2, Vero Beach, FL 32963

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