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

HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS
SEPARATE TRUSTEE OF CAM XI TRUST,
Plaintiff,

CIRCUIT CIVIL DIVISION

CASE NO.: 2020 CA 000648

312020CA000648XXXXXX

v.

NOEK'S NOEL INVESTMENTS LLC., A FLORIDA
LIMITED LIABILITY COMPANY, *et al.*,
Defendants.

**FINAL JUDGMENT OF MORTGAGE FORECLOSURE, FOR ASSIGNMENT OF LEASES
AND RENTS, AND FOR EQUITABLE SUBROGATION**

THIS ACTION was heard before this Honorable Court on June 28, 2021 upon Plaintiff, HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS SEPARATE TRUSTEE OF CAM XI TRUST's ("Plaintiff") Motion for Summary Final Judgment of Mortgage Foreclosure and for Assignment of Rents and Leases, Equitable Lien, Equitable Subrogation and Unjust Enrichment (the "Motion"). On the evidence presented, it is hereby **ORDERED AND ADJUDGED** as follows:

1. **Motion Granted.** There is no dispute of material facts and, as further detailed below, Plaintiff's Motion is hereby **GRANTED** as to Count I (Mortgage Foreclosure), Count II (Assignment of Leases and Rents), Count V (Equitable Subrogation) and Count VI (Equitable Subrogation) of Plaintiff's Complaint. Count III (Equitable Lien), Count IV (Equitable Lien), Count VII (Unjust Enrichment) and Count VIII (Unjust Enrichment) of Plaintiff's Complaint are hereby voluntarily **DISMISSED WITHOUT PREJUDICE**.

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 **\$117,146.36**. In accordance with Section 28.241(1)(a)2.c., Florida Statutes, the Court identifies the actual value of the claim to be **\$138,564.43**, 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, HMC ASSETS, LLC SOLELY IN ITS CAPACITY AS SEPARATE TRUSTEE OF CAM XI TRUST, whose address is c/o Fay Servicing, LLC, 425 S. Financial Place, Suite 2000, Chicago, IL 60605, is due:

(a)	Unpaid Principal Balance on Note and Mortgage	\$105,000.00
(b)	Accrued Interest from April 1, 2020 through March 18, 2021	\$10,133.52
(c)	Default Interest Accrued through March 18, 2021	\$6,721.92
(d)	Additional Accrued Interest (including Default Interest) at <u>18.00%</u> from March 19, 2021 through June 28, 2021 (per diem: <u>\$52.50</u>)	\$5,355.00
(e)	Unpaid Late Charges	\$1,207.24
(f)	Recoverable Corporate Advances	\$164.25
(g)	Attorneys' Fees	
	Finding as to reasonable agreed flat fee	\$4,100.00
	Finding as to reasonable number of hours	10.30 hours
	Finding as to reasonable hourly rate	\$275.00/hours
	Attorneys' Fees Total	\$6,932.50
(h)	Attorney Costs	
	Filing Fee	\$1,105.00
	Service of Process	\$290.00
	Title Search	\$155.00
	Attorney Costs Total	\$1,550.00
	GRAND TOTAL DUE	\$137,064.43

4. **Interest.** The Grand Total Due 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 Grand Total Due 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:

THE NORTH ONE-HALF (N 1/2) OF LOT 37 AND ALL OF LOT 38, BLOCK 1, RIVENBARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 28, PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA.

including the buildings, appurtenances, and fixtures located thereon.

Property Address: 1391 14th St., Vero Beach, FL 32960 (the "Property").

6. **Sale of Property.** If the Grand Total Due with interest at the rate described in Paragraph 4 and all costs accrued subsequent to this judgment are not paid, the Clerk of this Court shall sell the

Property at public sale on **August 2, 2021**, 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 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 Grand Total Due 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 Grand Total Due to Plaintiff, less the items paid, plus interest at the rate prescribed in Paragraph 4 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.** The Court specifically reserves jurisdiction to enter further orders the Court deems just and proper to include, without limitation, the following: (1) orders granting additional attorney's fees and costs; (2) writs of possession; (3) orders determining the amount and responsibility for assessments that may be due a condominium or homeowner's association pursuant to Sections 718.116 or 720.3085 of the Florida Statutes; (4) orders arising out of re-foreclosure, to include permitting a supplemental complaint to add an interest-holder; (5) orders involving reformation of the mortgage instrument or deed to perfect title; (6) entry of a deficiency judgment; and/or (7) orders to enforce the

assignment of leases and rents and/or equitable subrogation as set forth herein.

12. Service of process has been duly and regularly obtained over Defendants, NOEK'S NOEL INVESTMENTS LLC, A FLORIDA LIMITED LIABILITY COMPANY, ADMCA SANCHEZ FAMILY LIMITED LIABILITY PARTNERSHIP, UNKNOWN TENANT #1 N/K/A THOR HUFF, and UNKNOWN TENANT #2 N/K/A NICOLE BOLLEMANN and the proof thereof is in the Court file. and this Final Judgment is hereby entered in favor of Plaintiff and against the following Defendants:

13. Plaintiff is the owner and holder of the subject Note and entitled to enforce same.

14. The Plaintiff may assign the judgment and credit bid by the filing of an assignment without further Order of the Court.

15. As to Count I of Plaintiff's Complaint for Mortgage Foreclosure, this Final Judgment is explicitly entered against the following Defendants: NOEK'S NOEL INVESTMENTS LLC, A FLORIDA LIMITED LIABILITY COMPANY; ADMCA SANCHEZ FAMILY LIMITED LIABILITY PARTNERSHIP; UNKNOWN TENANT #1 N/K/A THOR HUFF; and UNKNOWN TENANT #2 N/K/A NICOLE BOLLEMANN.

16. As to Count II of Plaintiff's Complaint for Assignment of Leases and Rents, based on Defendant, NOEK'S NOEL INVESTMENTS LLC., A FLORIDA LIMITED LIABILITY COMPANY's (the "Borrower"), breach of the Note and Mortgage and the relevant terms of the Mortgage regarding assignment of leases and rents, it is hereby ordered that:

a. *Within ten (10) days from the entry of this judgment*, the Borrower shall provide to Plaintiff, through its counsel, with copies of any and all current leases given by the Borrower and/or any of its agents with regard to the Property and formally assign any and all such leases to the Plaintiff;

b. *Within ten (10) days from the entry of this judgment*, the Borrower shall transfer any and all security deposits currently held by the Borrower and/or any of its agents with regard to the aforementioned leases to Plaintiff in a check made payable to "Fay Servicing, LLC," mailing same to Fay Servicing, LLC at 425 S. Financial Plaza, Suite 2000, Chicago, IL 60605 (The check should reference the Property address);

c. *Within ten (10) days from the entry of this judgment*, the Borrower shall provide Plaintiff, through its counsel, with a complete accounting of all revenues and/or rents received by the Borrower and/or any of its agents with regard to the Property since the default date on May 1, 2020;

d. *Within ten (10) days from the entry of this judgment*, the Borrower shall turnover all revenues and/or rents received by the Borrower and/or any of its agents with regard to the Property since the default date on May 1, 2020 in a check made payable to "Fay Servicing, LLC," mailing same to Fay Servicing, LLC at 425 S. Financial Plaza, Suite 2000, Chicago, IL 60605 (The check should reference the Property address);

e. The Borrower shall continue to turnover all revenues and/or rents hereinafter received by the Borrower and/or any of its agents with regard to the Property through the issuance of the Certificate of Sale after the Property is sold pursuant to this judgment in a check made payable to "Fay Servicing, LLC," mailing same to Fay Servicing, LLC at 425 S. Financial Plaza, Suite 2000, Chicago, IL 60605 (The check should reference the Property address);

f. From the date of entry of this judgment through the issuance of the Certificate of Sale after the Property is sold pursuant to this judgment, Defendants, UNKNOWN TENANT #1 N/K/A THOR HUFF and UNKNOWN TENANT #2 N/K/A NICOLE BOLLEMANN, and any other tenants residing in the Property, shall make all future rent payments directly to Plaintiff, through its agent, with checks made payable to "Fay Servicing, LLC" and mailed to Fay Servicing, LLC at 425 S. Financial Plaza, Suite 2000, Chicago, IL 60605 (The check should reference the Property address);

g. Any monies received by Plaintiff in accordance herewith, with the exception of any security deposits transferred, shall be applied to the Grand Total Due and credited accordingly prior to the public sale of the Property.

17. As to Count V of Plaintiff's Complaint for Equitable Subrogation, the lien of Plaintiff's Mortgage is hereby equitably subrogated to a lien position superior to the lien of the mortgage held by Defendant, ADMCA SANCHEZ FAMILY LIMITED LIABILITY PARTNERSHIP and recorded on April 5, 2018 in Official Records Book 3105, at Page 95 of the Public Records of Indian River County, Florida, as the loan proceeds from Plaintiff's Mortgage were used to satisfy Defendant's said mortgage, but said mortgage was not satisfied of record. Accordingly, Defendant's said mortgage lien is inferior to the lien of Plaintiff's Mortgage and Defendant's interest in the Property by virtue of said mortgage is hereby foreclosed by this judgment.

18. As to Count VI of Plaintiff's Complaint for Equitable Subrogation, the lien of Plaintiff's Mortgage is hereby equitably subrogated to a lien position superior to the lien of the mortgage held by Defendant, ADMCA SANCHEZ FAMILY LIMITED LIABILITY PARTNERSHIP and recorded on November 8, 2018 in Official Records Book 3161, at Page 2467 of the Public Records of Indian River County, Florida, as the loan proceeds from Plaintiff's Mortgage was used to satisfy Defendant's said mortgage, but said mortgage was not satisfied of record. Accordingly, Defendant's said mortgage lien is inferior to the lien of Plaintiff's Mortgage and Defendant's interest in the Property by virtue of said mortgage is hereby foreclosed by this 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, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN THE DATE 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 AT (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, INC., 200 S INDIAN RIVER DRIVE, SUITE 101, FT. PIERCE, FL 34948, PHONE: (561) 466-4766, OR FLORIDA IMMIGRANT ADVOCACY CENTER, 131B N. SECOND STREET, FORT PIERCE, FL 34950, PHONE: (561) 489-4660 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, INC., 200 S INDIAN RIVER DRIVE, SUITE 101, FT. PIERCE, FL 34948, PHONE: (561) 466-4766, OR FLORIDA IMMIGRANT ADVOCACY CENTER, 131B N. SECOND STREET, FORT PIERCE, FL 34950, PHONE: (561) 489-4660, FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

DONE AND ORDERED in Indian River County, Florida, this 6th day of July, 2021.

07/06/2021 08:03:30

eSigned by JANET CARNEY CROOM (NOT) 07/06/2021 08:03:30 WoRJ2MIU
 THE HONORABLE JANET CARNEY CROOM
 CIRCUIT COURT JUDGE

Copies furnished to all parties on the attached Service List.

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