

05-373-CD

Wells Fargo vs. Mark Powell et al

2005-373-CD

Wells Fargo Bank v. Mark Powell et al

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff

V.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

COURT OF COMMON PLEAS
CIVIL DIVISION
TERM
NO. 05-373-CD
CLEARFIELD COUNTY

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
800-692-7375

Notice to Defend:
David S. Meholick, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

⑫
FILED 4ce Sheriff
m/10/50301 MAR 17 2005 *July 9d. 85.00*
William A. Shaw
Prothonotary/Clerk of Courts

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME
MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

2. The name(s) and last known address(es) of the Defendant(s) are:

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 03/24/2003 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to ATLANTIC BAY MORTGAGE GROUP, LLC which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200305044. By Assignment of Mortgage recorded 3/31/03 the mortgage was Assigned To PLAINTIFF which Assignment is recorded in Assignment Of Mortgage Instrument # 200205045.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 05/01/2004 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$73,032.01
Interest	4,770.50
04/01/2004 through 03/16/2005 (Per Diem \$13.63)	
Attorney's Fees	1,225.00
Cumulative Late Charges 03/24/2003 to 03/16/2005	24.24
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 79,601.75
Escrow	
Credit	0.00
Deficit	1,725.62
Subtotal	<u>\$ 1,725.62</u>
TOTAL	\$ 81,327.37

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.

8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.

9. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 81,327.37, together with interest from 03/16/2005 at the rate of \$13.63 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By: /s/Francis S. Hallinan
LAWRENCE T. PHELAN, ESQUIRE
FRANCIS S. HALLINAN, ESQUIRE
Attorneys for Plaintiff

ALL THAT CERTAIN AREA OR TRACT OF LAND, situate in Wallacetown, Clearfield County, Pennsylvania, bounded and described as follows: Beginning at a point at the right of way of Pennsylvania Railroad Company, thence south eighty-four (84) degrees thirty (30) minutes west across a street and along line of Lot now or formerly of Elizabeth S. Ogden, one hundred seventy-four (174) feet, more or less, to a post at the corner of Lot now or formerly as Mrs. Minnie B. Good; thence along Lot of Mrs. Minnie B. Good in a northerly direction fifty (50) feet to a point; thence north eight-four (84) degrees thirty (30) minutes east along other lands of a prior grantor for a distance of eighty (80) feet, more or less, to a point on the right of way of the Pennsylvania Railroad Company, which point is fifty (50) feet north from the place of beginning; thence along said right of way in a southerly direction fifty (50) feet to a post and place of beginning. Excepting and reserving, however, the prior grantor, its successors and assigns, the right to use for road purposes a strip of land 20 feet breadth and extending along the eastern side of the above described land adjoining the right of way of the Pennsylvania Railroad Company.

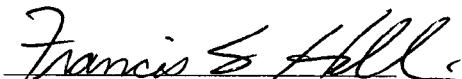
BEING the same premises conveyed to grantor by deed recorded in the Clearfield County Recorder of Deeds on May 8, 2000 instrument number 200006258.

PREMISES BEING: 71 ERIE STREET.

VERIFICATION

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the court and or the verification could not be obtained within the time allowed for the filing of the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of its knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel.

The undersigned understands that this statement is made subject to the penalties of 18 Pa. C. S. Sec. 4904 relating to unsworn falsifications to authorities.


Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 3/6/05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICE # 1 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
vs.
DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

SHERIFF RETURN

NOW, March 21, 2005 AT 11:25 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MARK E. POWELL DEFENDANT AT 71 ERIE ST., WALLACETON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBIN POWELL, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

FILED

APR 27 2005
6/3/05
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICE # 2 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
vs.
DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

SHERIFF RETURN

NOW, March 21, 2005 AT 11:25 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBIN L. POWELL DEFENDANT AT 71 ERIE ST., WALLACETON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBIN L. POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICE # 3 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
vs.
DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

SHERIFF RETURN

NOW, March 18, 2005, SHERIFF OF MIFFLIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MARK E. POWELL.

NOW, April 21, 2005 ATTEMPTED TO SERVE THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MARK E. POWELL, DEFENDANT. THE RETURN OF MIFFLIN COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN MARKED "NOT FOUND".

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICE # 4 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
vs.
DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

SHERIFF RETURN

NOW, March 18, 2005, SHERIFF OF MIFFLIN COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBIN L. POWELL.

NOW, April 21, 2005 ATTEMPTED TO SERVE THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBIN L. POWELL, DEFENDANT. THE RETURN OF MIFFLIN COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN MARKED "NOT FOUND".

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICES 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.

vs.

DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

SHERIFF RETURN

RETURN COSTS

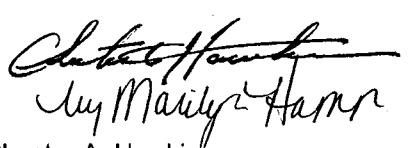
Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	414564	20.00
SURCHARGE	PHELAN	414563	20.00
SHERIFF HAWKINS	PHELAN	414563	54.10
MIFFLIN CO.	PHELAN	414577	36.94

13 \$0.04

Sworn to Before Me This

So Answers,

Day of _____ 2005


Chester A. Hawkins
Sheriff

Joseph A. Bradley, Sheriff
 Baron K. Lewis, Chief Deputy
 Laurie J. Kozak, Deputy
 Christopher S. Shade, Deputy
 Charles L. Angney, Deputy



David W. Molek, Solicitor
 (717) 248-9656

SHERIFF'S OFFICE

MIFFLIN COUNTY

20 North Wayne Street
 Lewistown, PA 17044

(717) 242-1105 ** (717) 242-1808
 Fax: (717) 248-2907

Plaintiff: Wells Fargo Bank NA		Court Number: 373-05
		County: Clearfield Co
Defendant: Mark E Powell and Robin L Powell		Type of Writ or Complaint: Complaint
Serve At	Name: Mark E Powell and Robin L Powell	Address: 62 Chestnut Ridge Rd McVeytown Pa 17051
	Name:	Address:

Indicate Unusual Service: Comm. of Pa. Deputization Other

Now _____, 20_____, I, SHERIFF OF MIFFLIN COUNTY, PA. do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation is made at the request and risk of plaintiff. X

Sheriff of Mifflin Co.

Special Instructions or other information that will assist in expediting service:

Attorney or other Organization requesting service: Phelan, Hallinan and Schmeig	Telephone No: (215) 563-7000	Date Filed: 3/17/2005
I acknowledge receipt of the Writ or Complaint as indicated above: <i>X</i> <i>Joseph A. Bradley</i>	Date Received: 3/21/2005	Exp. Date: 4/17/2005

I hereby CERTIFY and RETURN that I have personally served. have legal evidence of service as shown in "Remarks", have executed as shown in "Remarks", the Writ or Complaint described on the individual, company, corporation, etc. at the address shown above or on the individual, company, corporation, etc., at the address inserted below, handing a TRUE and ATTESTED copy thereof.

I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., name above. (See Remarks below.)

Name and Title of individual served: (Not Found) Defendants moved, forwarding address is the same as on the Complaint, 71 Erie St Wallacetown Pa	<input type="checkbox"/> A person of suitable age and discretion then residing at the defendant's usual place of abode.
---	---

Address where served (complete only if different than shown above) Date of Service: Time:

Attempts	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.
3	3/21/2005	24	BKL	3/24/2005	12	BKL	4/12/2005	12	BKL
Advance Costs	Service Costs	Mileage	Postage	Surcharge	Notary	Total	Refund		
\$90.00	\$19.00	\$15.94	\$0.00	\$0.00	\$2.00	\$36.94	\$53.06		

Remarks: (See other side)

Sworn to and subscribed before me this *21st day of April, 2005*

X *Patricia A. Wilson*

Notary Public

NOTARIAL SEAL
 PATRICIA A. WILSON, Notary Public
 Lewistown Boro, Mifflin County
 My Commission Expires March 31, 2007

Notarial Seal

So Answers:

Deputy Sheriff <i>X</i> <i>Baron K. Lewis</i>	Baron K Lewis 4/21/2005
Sheriff <i>X</i> <i>Joseph A. Bradley</i>	Joseph A. Bradley 4/21/2005



Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 100313

TERM & NO. 05-373-CD

WELLS FARGO BANK, N.A.

COMPLAINT IN MORTGAGE FORECLOSURE

VS.

MARK E. POWELL and ROBIN L. POWELL

SERVE BY: 04/16/05

MAKE REFUND PAYABLE TO PHELAN, HALLINAN & SCHMIEG, LLP

SERVE: MARK E. POWELL

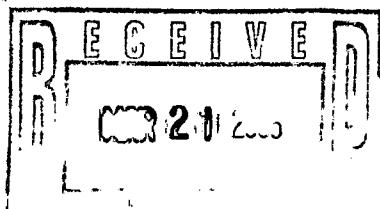
ADDRESS: 62 CHESTNUT RIDGE ROAD, MCVEYTOWN, PA 17051

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF MIFFLIN COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, March 18, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA





Sheriff's Office Clearfield County

CHESTER A. HAWKINS
SHERIFF

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 100313

TERM & NO. 05-373-CD

WELLS FARGO BANK, N.A.

COMPLAINT IN MORTGAGE FORECLOSURE

VS.

MARK E. POWELL and ROBIN L. POWELL

SERVE BY: 04/16/05

MAKE REFUND PAYABLE TO PHELAN, HALLINAN & SCHMIEG, LLP

SERVE: ROBIN L. POWELL

ADDRESS: 62 CHESTNUT RIDGE ROAD, MCVEYTOWN, PA 17051

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF MIFFLIN COUNTY, Pennsylvania to execute this writ. This Deputation being made at the request and risk of the Plaintiff this day, March 18, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

SHERIFF'S RETURN OF SERVICE

MIFFLIN COUNTY

Plaintiff(s)

WELLS FARGO BANK, N.A., ET AL...

CIVIL ACTION NUMBER

SHERIFF'S NUMBER

Defendant(s)

MARK E. POWELL
ROBIN L. POWELL

COST

MILEAGE

Serve At MARK E. POWELL

DISTRICT

62 CHESTNUT RIDGE ROAD
MCVEYTOWN, PA 17051

Summons xx Complaint
 Other

Special Instructions

TYPE OF ACTION

Mortgage Foreclosure

TO BE COMPLETED BY SHERIFF

Served and made known to _____, Defendant, on the ___ day of _____, 20___, at ___ o'clock, ___ .m., at _____, County of _____, Commonwealth of Pennsylvania, in the manner described below:

Defendant(s) personally served.

Adult family member with whom said Defendant(s) reside(s).

Relationship is _____.

Adult in charge of Defendant's residence who refused to give name or relationship.

Manager/Clerk of place of lodging in which Defendant(s) reside(s).

Agent or person in charge of Defendant's office or usual place of business.

_____ and officer of said Defendant company.

Other:

SHERIFF

By: _____, Deputy Sheriff

On the ___ day of _____, 20___, at ___ o'clock, ___ .m., Defendant not found because:

Moved Unknown No Answer Vacant Other

SHERIFF

By: _____, Deputy Sheriff

DEPUTIZED SERVICE

Now, this ___ day of _____, 20___, I, Sheriff of _____ County, Pennsylvania do hereby deputize the Sheriff of _____ County to serve this Complaint and make return thereof and according to law.

SHERIFF

By: _____, Deputy Sheriff

ATTORNEY FOR PLAINTIFF:

Name Francis S. Hallinan, Esquire

Id. No. 62695

Address One Penn Center at Suburban Station,
1617 John F. Kennedy Boulevard, Suite 1400
Philadelphia, PA 19103

**TO BE COMPLETED BY
PROTHONOTARY**

ATTEST _____
Pro Prothy

Date

SHERIFF'S RETURN OF SERVICE**MIFFLIN COUNTY****Plaintiff(s)**

WELLS FARGO BANK, N.A., ET AL...

CIVIL ACTION NUMBER**SHERIFF'S NUMBER****Defendant(s)**MARK E. POWELL
ROBIN L. POWELL**COST****MILEAGE****DISTRICT**

Serve At ROBIN L. POWELL

 Summons xx Complaint
 Other62 CHESTNUT RIDGE ROAD
MCVEYTOWN, PA 17051**TYPE OF ACTION**

Mortgage Foreclosure

Special Instructions**TO BE COMPLETED BY SHERIFF**

Served and made known to _____, Defendant, on the ___ day of _____, 20___, at ___ o'clock, ___a.m., at ___ , County of _____, Commonwealth of Pennsylvania, in the manner described below:

Defendant(s) personally served.

Adult family member with whom said Defendant(s) reside(s).

Relationship is _____.

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Manager/Clerk of place of lodging in which Defendant(s) reside(s).

Agent or person in charge of Defendant's office or usual place of business.

_____ and officer of said Defendant company.

Other: _____

SHERIFF

By: _____, Deputy Sheriff

On the ___ day of _____, 20___, at ___ o'clock, ___a.m., Defendant not found because:
Moved Unknown No Answer Vacant Other

SHERIFF

By: _____, Deputy Sheriff

DEPUTIZED SERVICE

Now, this ___ day of _____, 20___, I, Sheriff of _____ County, Pennsylvania do hereby deputize the Sheriff of County to serve this Complaint and make return thereof and according to law.

SHERIFF

By: _____, Deputy Sheriff

ATTORNEY FOR PLAINTIFF:Name Francis S. Hallinan, EsquireId. No. 62695Address One Penn Center at Suburban Station,
1617 John F. Kennedy Boulevard, Suite 1400
Philadelphia, PA 19103**TO BE COMPLETED BY
PROTHONOTARY**ATTEST _____
Pro Prothy

Date _____

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff

v.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

COURT OF COMMON PLEAS
CIVIL DIVISION
TERM
NO. 05-373-CD
CLEARFIELD COUNTY

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

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YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
800-692-7375

Notice to Defend:
David S. Meholic, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

We hereby certify the
within to the Court and
ccrred
original
FEDERMAN AND PHELAN

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAR 17 2005

Attest.

William L. Ober
Prothonotary/
Clerk of Courts

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

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IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME
MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

2. The name(s) and last known address(es) of the Defendant(s) are:

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 03/24/2003 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to ATLANTIC BAY MORTGAGE GROUP, LLC which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200305044. By Assignment of Mortgage recorded 3/31/03 the mortgage was Assigned To PLAINTIFF which Assignment is recorded in Assignment Of Mortgage Instrument # 200205045.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 05/01/2004 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$73,032.01
Interest	4,770.50
04/01/2004 through 03/16/2005	
(Per Diem \$13.63)	
Attorney's Fees	1,225.00
Cumulative Late Charges	24.24
03/24/2003 to 03/16/2005	
Cost of Suit and Title Search	\$ 550.00
Subtotal	\$ 79,601.75
Escrow	
Credit	0.00
Deficit	1,725.62
Subtotal	<u>\$ 1,725.62</u>
TOTAL	\$ 81,327.37

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.

8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.

9. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 81,327.37, together with interest from 03/16/2005 at the rate of \$13.63 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By: /s/Francis S. Hallinan
 LAWRENCE T. PHELAN, ESQUIRE
 FRANCIS S. HALLINAN, ESQUIRE
 Attorneys for Plaintiff

ALL THAT CERTAIN AREA OR TRACT OF LAND, situate in Wallacetown, Clearfield County, Pennsylvania, bounded and described as follows: Beginning at a point at the right of way of Pennsylvania Railroad Company, thence south eighty-four (84) degrees thirty (30) minutes west across a street and along line of Lot now or formerly of Elizabeth S. Ogden, one hundred seventy-four (174) feet, more or less, to a post at the corner of Lot now or formerly as Mrs. Minnie B. Good; thence along Lot of Mrs. Minnie B. Good in a northerly direction fifty (50) feet to a point; thence north eight-four (84) degrees thirty (30) minutes east along other lands of a prior grantor for a distance of eighty (80) feet; more or less, to a point on the right of way of the Pennsylvania Railroad Company, which point is fifty (50) feet north from the place of beginning; thence along said right of way in a southerly direction fifty (50) feet to a post and place of beginning. Excepting and reserving, however, the prior grantor, its successors and assigns, the right to use for road purposes a strip of land 20 feet breadth and extending along the eastern side of the above described land adjoining the right of way of the Pennsylvania Railroad Company.

BEING the same premises conveyed to grantor by deed recorded in the Clearfield County Recorder of Deeds on May 8, 2000 instrument number 200006258.

PREMISES BEING: 71 ERIE STREET.

VERIFICATION

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the court and or the verification could not be obtained within the time allowed for the filing of the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of its knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel.

The undersigned understands that this statement is made subject to the penalties of 18 Pa. C. S. Sec. 4904 relating to unsworn falsifications to authorities.


Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 3/6/05

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff

v.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

COURT OF COMMON PLEAS
CIVIL DIVISION
TERM
NO. 05-373-CD
CLEARFIELD COUNTY

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186

We hereby certify the
within to be a true and
correct copy of the
original instrument, and
FEDERMAN AND PHELAN

Notice to Defend:
David S. Meholic, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

MAR 17 2005

Attest.

William L. Brown
Prothonotary/
Clerk of Courts

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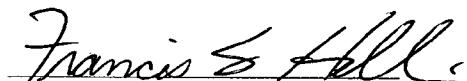
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PREMISES BEING: 71 ERIE STREET.

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The undersigned understands that this statement is made subject to the penalties of 18 Pa. C. S. Sec. 4904 relating to unsworn falsifications to authorities.


Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 3/6/05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

No.: 05-373-CD

vs.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

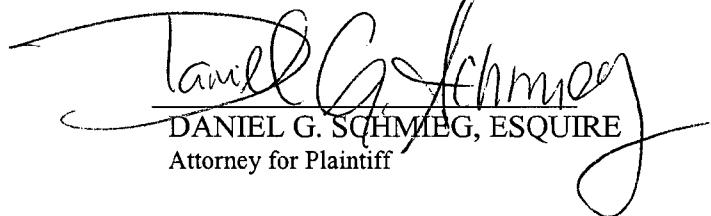
**PRAECIPE FOR IN REM JUDGMENT FOR FAILURE TO
ANSWER AND ASSESSMENT OF DAMAGES**

TO THE PROTHONOTARY:

Kindly enter an in rem judgment in favor of the Plaintiff and against MARK E. POWELL and ROBIN L. POWELL, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

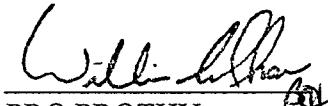
As set forth in Complaint	\$81,327.37
Interest (3/17/05 to 6/22/05)	<u>1,335.74</u>
TOTAL	\$82,663.11

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) that notice has been given in accordance with Rule 237.1, copy attached.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

Damages are hereby assessed as indicated.

DATE: June 23, 2005


PRO PROTHY

KIO

FILED Atty pd. 20.00
m/11/2005 Notice & ICC
JUN 23 2005 to Defs.
William A. Snyder, Prothonotary/Clerk of Courts
Statement to
Atty

PHELAN, HALLINAN AND SCHMIEG
By: Lawrence T. Phelan, Esq., Id. No. 32227
Francis S. Hallinan, Esq., Id. No. 62695
Daniel G. Schmieg, Esq., Id. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A., S/B/M TO WELLS : COURT OF COMMON PLEAS
FARGO HOME MORTGAGE, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

MARK E. POWELL : NO. 05-373-CD
ROBIN L. POWELL

Defendants

**TO: MARK E. POWELL
71 ERIE STREET
WALLACETON, PA 16876**

DATE OF NOTICE: APRIL 26, 2005

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY AS ENFORCEMENT OF LIEN AGAINST PROPERTY.

IMPORTANT NOTICE

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YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT
ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641 x 5982

PENNSYLVANIA LAWYER REFERRAL
SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
800-692-7375

PHELAN, HALLINAN AND SCHMIEG
By: Lawrence T. Phelan, Esq., Id. No. 32227
Francis S. Hallinan, Esq., Id. No. 62695
Daniel G. Schmieg, Esq., Id. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A., S/B/M TO WELLS : COURT OF COMMON PLEAS
FARGO HOME MORTGAGE, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

MARK E. POWELL : NO. 05-373-CD
ROBIN L. POWELL

Defendants

TO: ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

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FRANCIS S. HALLINAN, ESQUIRE
Attorneys for Plaintiff

PHELAN, HALLINAN AND SCHMIEG
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ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A., S/B/M TO WELLS : COURT OF COMMON PLEAS
FARGO HOME MORTGAGE, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

MARK E. POWELL
ROBIN L. POWELL

: NO. 05-373-CD

Defendants

TO: **MARK E. POWELL**
62 CHESTNUT RIDGE ROAD
MCVEYTON, PA 17051

DATE OF NOTICE: APRIL 26, 2005

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ATTORNEY FOR PLAINTIFF

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FARGO HOME MORTGAGE, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

MARK E. POWELL
ROBIN L. POWELL : NO. 05-373-CD
Defendants

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IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT
ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641 x 5982

PENNSYLVANIA LAWYER REFERRAL
SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
800-692-7375

FRANCIS S. HALLINAN, ESQUIRE
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG
By: DANIEL G. SCHMIEG, ESQUIRE
IDENTIFICATION NO. 62205
ONE PENN CENTER AT SUBURBAN STATION
1617 JOHN F. KENNEDY BLVD., SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS
CIVIL DIVISION

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE, INC.

CLEARFIELD COUNTY

No.: 05-373-CD

vs.

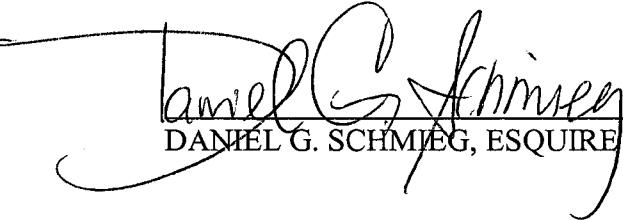
MARK E. POWELL
ROBIN L. POWELL

VERIFICATION OF NON-MILITARY SERVICE

DANIEL G. SCHMIEG, ESQUIRE, hereby verifies that he is attorney for the Plaintiff in the above-captioned matter, and that on information and belief, he has knowledge of the following facts, to wit:

- (a) that the defendant(s) is/are not in the Military or Naval Service of the United States or its Allies, or otherwise within the provisions of the Soldiers' and Sailors' Civil Relief Act of Congress of 1940, as amended.
- (b) that defendant, MARK E. POWELL, is over 18 years of age, and resides at 71 ERIE STREET, WALLACETON, PA 16876 .
- (c) that defendant, ROBIN L. POWELL, is over 18 years of age, and resides at 71 ERIE STREET, WALLACETON, PA 16876.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



DANIEL G. SCHMIEG, ESQUIRE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE, INC.

Plaintiff No.: 05-373-CD

VS.

MARK E. POWELL
ROBIN L. POWELL

Defendant(s)

Notice is given that a Judgment in the above captioned matter has been entered
against you on June 23, 2005.

By: **DEPUTY**

If you have any questions concerning this matter please contact:


DANIEL G. SCHMIEG, ESQUIRE
Attorney or Party Filing
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

 COPY

Wells Fargo Bank N.A.

Plaintiff(s)

No.: 2005-00373-CD

Real Debt: \$82,663.11

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Mark E. Powell

Robin L. Powell

Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: June 23, 2005

Expires: June 23, 2010

Certified from the record this 23rd day of June, 2005.

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

PRAECIPE FOR WRIT OF EXECUTION--(MORTGAGE FORECLOSURE)
Pa.R.C.P. 3180-3183

**WELLS FARGO BANK, N.A., S/B/M TO WELLS
FARGO HOME MORTGAGE, INC.**

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA**

vs.

No. 05-373-CD

**MARK E. POWELL
ROBIN L. POWELL**

**PRAECIPE FOR WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

To the Director of the Office of the Prothonotary:

Issue writ of execution in the above matter:

Amount Due

\$82,663.11

Interest from 6/22/05 to
Date of Sale (\$13.59 per diem)

125.00 and Costs. **Prothonotary costs**

Daniel G. Schmieg
Daniel G. Schmieg, Esquire
Attorney for Plaintiff
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814

Note: Please attach description of Property.

KIO

FILED 1cc&6writs
m/11/14 8:01 AM w/prop. descr.
JUN 23 2005 to Shaff

William A. Shaw
Prothonotary/Clerk of Courts
Atty pd. 20.00

(68)

No. 05-373-CD

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK, N.A., S/B/M TO WELLS
FARGO HOME MORTGAGE, INC.

Prothonotary Clerk of Courts
William A. Shaw

JUN 23 2005

FILED

vs.

MARK E. POWELL
ROBIN L. POWELL

PRAECEIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)



William A. Shaw

Attorney for Plaintiff(s)

Address: 71 ERIE STREET, WALLACETON, PA 16876
71 ERIE STREET, WALLACETON, PA 16876
Where papers may be served.

CLEARFIELD COUNTY

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE, INC. No.: 05-373-CD

vs.

MARK E. POWELL
ROBIN L. POWELL

AFFIDAVIT PURSUANT TO RULE 3129
(Affidavit No. 1)

WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC., Plaintiff in the above action, by its attorney, Daniel G. Schmieg, Esquire, sets forth as of the date the Praeclipe for the Writ of Execution was filed the following information concerning the real property located at 71 ERIE STREET, WALLACETON, PA 16876:

1. Name and address of Owner(s) or reputed Owner(s):

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

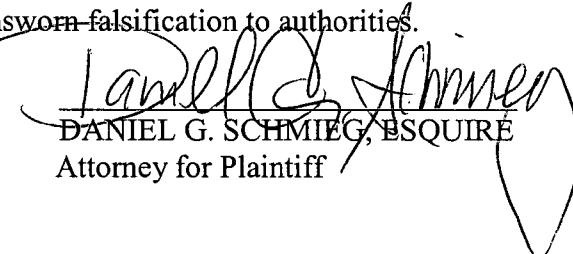
MARK E. POWELL	71 ERIE STREET WALLACETON, PA 16876
----------------	--

ROBIN L. POWELL	71 ERIE STREET WALLACETON, PA 16876
-----------------	--

2. Name and address of Defendant(s) in the judgment:

SAME AS ABOVE

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

June 21, 2005

CLEARFIELD COUNTY

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE, INC. No.: 05-373-CD

vs.

MARK E. POWELL
ROBIN L. POWELL

AFFIDAVIT PURSUANT TO RULE 3129
(Affidavit No. 2)

WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC., Plaintiff in the above action, by its attorney, Daniel G. Schmieg, Esquire, sets forth as of the date the Praecep for the Writ of Execution was filed the following information concerning the real property located at 71 ERIE STREET, WALLACETON, PA 16876:

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

None.

4. Name and address of last recorded holder of every mortgage of record:

Name	Last Known Address (if address cannot be reasonable ascertained, please indicate)
------	---

ATLANTIC BAY MORTGAGE GROUP, LLC.	1508 MILITAR CUTOFF ROAD, #204 WILMINGTON, NC 28405
-----------------------------------	--

5. Name and address of every other person who has any record lien on the property:

Name _____

Last Known Address (if address cannot be reasonable ascertained, please indicate)

None.

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale.

Name _____

Last Known Address (if address cannot be reasonably ascertained, please indicate)

Clearfield County Domestic Relations

Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

7. Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name _____

Last Known Address (if address cannot be reasonably ascertained, please indicate)

Commonwealth of Pennsylvania
Department of Welfare

PO Box 2675
Harrisburg, PA 17105

Tenant/Occupant

71 ERIE STREET
WALLACETON, PA 16876

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

~~DANIEL G. SCHMIEG, ESQUIRE~~
Attorney for Plaintiff

June 21, 2005

PHELAN HALLINAN & SCHMIEG
By: DANIEL G. SCHMIEG, ESQUIRE
ONE PENN CENTER AT
SUBURBAN STATION
1617 JOHN F. KENNEDY BOULEVARD
SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF
COURT OF COMMON PLEAS
CIVIL DIVISION

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE,
INC. No.: 05-373-CD

vs.

CLEARFIELD COUNTY

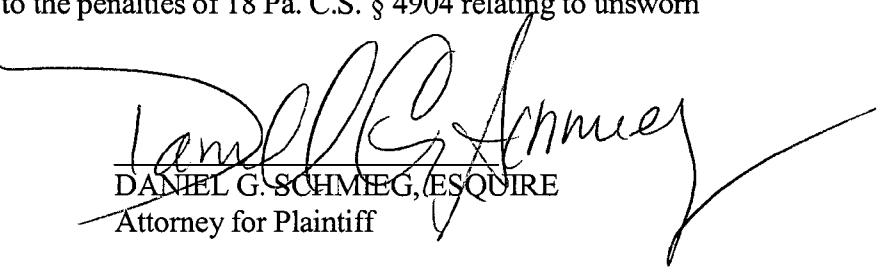
MARK E. POWELL
ROBIN L. POWELL

CERTIFICATION

DANIEL G. SCHMIEG, ESQUIRE, hereby states that he is the attorney for the Plaintiff in the above captioned matter and that the premises are not subject to the provisions of Act 91 because it is:

- an FHA Mortgage
- non-owner occupied
- vacant
- Act 91 procedures have been fulfilled

This certification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

WRIT OF EXECUTION -- (MORTGAGE FORECLOSURE)
Pa.R.C.P. 3180 to 3183 and Rule 3257

**WELLS FARGO BANK, N.A., S/B/M TO WELLS
FARGO HOME MORTGAGE, INC.**

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA**

vs.

NO.: 05-373-CD

**MARK E. POWELL
ROBIN L. POWELL**

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

Commonwealth of Pennsylvania:

County of Clearfield:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property (specifically described property below):

Premises: **71 ERIE STREET, WALLACETON, PA 16876**

(See legal description attached.)

Amount Due	<u>\$82,663.11</u>
Interest from 6/22/05 to	\$ _____
Date of Sale (\$13.59 per diem)	
Total	\$ _____ Plus costs as endorsed. 125.00 Prothonotary costs

Dated 6/23/05
(SEAL)

Prothonotary, Common Pleas Court of
Clearfield County, Pennsylvania

By:

Deputy

KIO

IMPORTANT NOTICE: This property is sold at the direction of the plaintiff. It may not be sold in the absence of a representative of the plaintiff at the Sheriff's Sale. The sale must be postponed or stayed in the event that a representative of the plaintiff is not present at the sale.

2000 COB
No. 05-373-CD

**In the Court of Common Pleas of
Clearfield County, Pennsylvania**

WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME
MORTGAGE, INC.

VS.

MARK E. POWELL
ROBIN L. POWELL

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

Real Debt	<u>\$82,663.11</u>
Int. from 6/22/05 to Date of Sale (\$13.59 per diem)	_____
Costs	_____
Prothy. Pd.	<u>125.00</u>
Sheriff	_____

Daniel G. Schmieg
Attorney for Plaintiff

Address: 71 ERIE STREET, WALLACETON, PA 16876
71 ERIE STREET, WALLACETON, PA 16876
Where papers may be served.

Daniel G. Schmieg, Esquire
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

DESCRIPTION

ALL THAT CERTAIN AREA OR TRACT OF LAND, situate in Wallaceton, Clearfield County, Pennsylvania, bounded and described as follows. Beginning at a point at the right of way of Pennsylvania Railroad Company, thence South eighty-four (84) degrees thirty (30) minutes west across a street and along line of lot now or formerly of Elizabeth S. Ogden, one hundred seventy-four (174) feet, more or less, to a post at the corner of Lot now or formerly as Mrs. Minnie B. Good; thence along Lot of Mrs. Minnie B. Good in a northerly direction fifty (50) feet to a point; thence north eight-four (84) degrees thirty (30) minutes east along other lands of a prior grantor for a distance of eighty (80) feet; more or less, to a point on the right of way of the Pennsylvania Railroad Company, which point is fifty (50) feet north from the place of beginning; thence along said right of way in a southerly direction fifty (50) feet to a post and place of Beginning. Excepting and reserving however, the prior grantor, its successors and assigns, the right to use for road purposes a strip of land 20 feet breadth and extending along the eastern side of the above described land adjoining the right of way of the Pennsylvania Railroad Company

TITLE TO SAID PREMISES IS VESTED IN Mark E. Powell and Robin L. Powell, husband and wife, by Deed from James D. Maimes, dated 8-23-02 and recorded 9-10-02 in Instrument No. 200214350

Tax Parcel # 19-010-376-13

Premises: 71 Erie Street, Wallaceton, PA 16876

CA
PHELAN HALLINAN & SCHMIEG, LLP
by: Michele M. Bradford, Esquire
Atty. I.D. No. 69849
One Penn Center, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

FILED NO CC
11/16/2005 6P
NOV 16 2005

William A. Shaw
Prothonotary/Clerk of Courts

Wells Fargo Bank, N.A.,
s/b/m to Wells Fargo Home Mortgage, Inc.
3476 Stateview Boulevard
Fort Mill, SC 29715

Plaintiff

: Court of Common Pleas
: Civil Division
: Clearfield County

vs.

: No. 05-373-CD

Mark E. Powell
Robin L. Powell
71 Erie Street
Wallaceton, PA 1876

Defendants

MOTION FOR EQUITABLE CONVERSION TO REAL PROPERTY

AND NOW, COMES PLAINTIFF, Wells Fargo Bank, N.A., s/b/m to Wells Fargo Home Mortgage, Inc., by its attorneys, Phelan Hallinan & Schmieg, LLP, and presents this Motion for Equitable Conversion to Real Property, and in support thereof, avers the following:

1. On or about March 24, 2003, Defendants Mark E. Powell and Robin L. Powell made, executed and delivered a mortgage to Atlantic Bay Mortgage Group LLC in the principal sum of \$73,800.00 for the property at 71 Erie Street, a/k/a 73 Erie Street, Wallaceton, PA 16876, which mortgage was recorded on March 31, 2003 in the Office of the Recorder of Deeds of Clearfield County at Instrument Number 200305044. A true and correct copy of the mortgage is attached hereto, made part hereof, and marked as Exhibit "A".

2. Atlantic Bay Mortgage Group LLC delivered an Assignment of Mortgage to Wells Fargo Home Mortgage, Inc., which assignment was recorded on March 31, 2003 in the Office of the Recorder of Deeds of Clearfield County at Instrument Number 200305045. A

true and correct copy of the Assignment of Mortgage is attached hereto, made part hereof, and marked as Exhibit "A1".

3. Defendants defaulted on the mortgage payments, and remain due and owing to Plaintiff for the May 1, 2004 payment and each payment thereafter.

4. On or about March 17, 2005, Plaintiff filed a complaint in mortgage foreclosure. A true and correct copy of the complaint is attached hereto, made part hereof, and marked as Exhibit "B".

5. Defendants Mark E. Powell and Robin L. Powell were served with the complaint on March 21, 2005. True and correct copies of the Affidavits of Service are attached hereto, made part hereof, and marked as Exhibit "C".

6. Plaintiff filed a default judgment against Defendants on June 23, 2005, a true and correct copy of which is attached hereto, made part hereof, and marked as Exhibit "D".

7. The property had been assessed in part for "land value", and in part for "building value", under a tax parcel I.D. number of 19-010-376-13. Based on the Clearfield County assessment ratio of 5.24, the fair market value of the property is \$83,185.00. A true and correct copy of the tax assessment record is attached hereto, made part hereof, and marked as Exhibit "E".

8. On July 26, 2002, the property was appraised at \$78,000.00 for the land and house together. The appraiser noted that the house is a mobile home. A true and correct copy of the appraisal is attached hereto, made part hereof, and marked as Exhibit "F".

9. It was clearly the intention of the parties that the \$73,800.00 loan be secured by a mortgage on both the land and the house.

10. Plaintiff obtained photographs of the house which reflect a front patio, a back porch, landscaping, and permanent utility hookups, which show the home's permanent affixation to the land. Attached hereto, made part hereof, and marked as Exhibit "G" are true and correct copies of the photographs of the subject property.

11. In addition, Plaintiff inquired of the Pennsylvania Department of Transportation ("Penndot") and was informed that there is no mobile home registered in the Defendants' names. This is further evidence that the home is not mobile and that the Defendants intend the home to be permanently affixed to the land. A true and correct copy of Penndot's letter is attached hereto, made part hereof, and marked as Exhibit "H".

12. There is no statutory basis in the Commonwealth of Pennsylvania for court declaration that a mobile home has been converted to realty and affixed as part of the land.

13. Pennsylvania is rife with common law that personal property or chattel be considered a fixture and as such, part of the real estate, when it is deemed to have been permanently affixed to the land.

14. Because the property is clearly attached via foundation to the land, it was clearly the intent of the parties that this home be made permanent at its site and that the mortgage cover such home as security interest for the loan.

15. Principles of equity dictate that the intent of the parties should govern.

16. Plaintiff is requesting the entry of a court order declaring the house as realty, so that the buyer of the property at Sheriff's Sale will acquire clear title to the house and land. If the requested relief is not granted, Plaintiff may not get the full benefit of the collateral for the loan, as the parties intended.

WHEREFORE, Plaintiff Wells Fargo Bank, N.A., s/b/m to Wells Fargo Home Mortgage, Inc. respectfully requests that this Honorable Court enter an Order on this motion, that the property at 71 Erie Street, a/k/a 73 Erie Street, Wallaceton, PA 16876 with a tax parcel I.D. number of 19-010-376-13, be equitably converted to real estate by way of this motion, and not subject to separation from land.

Date: 11/15/05

PHELAN HALLINAN & SCHMIEG, LLP

By:

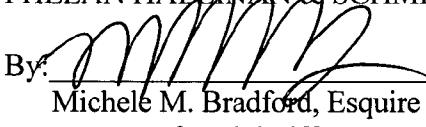

Michele M. Bradford, Esquire
Attorney for Plaintiff

EXHIBIT A

KAREN L. STARCH
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania
INSTUMENT NUMBER
200305044
RECORDED IN
RECORDED ON
Mar 31, 2003
1:49:12 PM
Total Pages: 14
RECORDING FEES - \$37.00
REBINDER
COUNTY IMPRINTMENT \$2.00
FIRMS
RECIPIENT
STATE MFT TAX
TOTAL
RECIPIENT IMPROVEMENT \$3.00
FIRM
JUSTICE
FIRM
RECIPIENT
CUSTODIAN
SPRINGFIELD METRO ABSTRACT CO
INC.

KAREN L. STARCH
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

0023635535

[Space Above This Line For Recording Data]

MORTGAGE

Loan ID: 0023635535

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated, March 24th, 2003, together with all Riders to this document.

(B) "Borrower" is MARK E. POWELL, A Married Man

Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is ATLANTIC BAY MORTGAGE GROUP LLC

Lender is a corporation organized and existing under the laws of the state of North Carolina
Lender's address is 1508 Military Cutoff Road, #204, Wilmington, NC 28405

Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated, March 24th, 2003.

The Note states that Borrower owes Lender Seventy Three Thousand Eight Hundred and
no/100-----

Dollars (U.S. \$ 73,800.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than April 1st, 2033.

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following riders are to be executed by Borrower [check box as applicable]:

Adjustable Rate Rider Condominium Rider Second Home Rider
 Balloon Rider Planned Unit Development Rider Other(s) [specify] _____
 1-4 Family Rider Biweekly Payment Rider

Legal Description Rider

SCHEDULE C

TITLE NUMBER: 40888

ALL THAT CERTAIN AREA OR TRACT OF LAND, situate in Wallaceton,
Clearfield County, Pennsylvania, bounded and described as follows:

Beginning at a point at the right of way of Pennsylvania Railroad Company,
thence south eighty-four (84) degrees thirty (30) minutes west across a street and along
line of Lot now or formerly of Elizabeth S. Ogden, one hundred seventy-four (174) feet,
more or less, to a post at the corner of Lot now or formerly as Mrs. Minnie B. Good;
thence along Lot of Mrs. Minnie B. Good in a northerly direction fifty (50) feet to a
point;
thence north eight-four (84) degrees thirty (30) minutes east along other lands of a prior
grantor for a distance of eighty (80) feet; more or less, to a point on the right of way of
the
Pennsylvania Railroad Company, which point is fifty (50) feet north from the place of
beginning; thence along said right of way in a southerly direction fifty (50) feet to a post
and place of beginning.

Excepting and reserving, however, the prior grantor, its successors and assigns,
the right to use for road purposes a strip of land 20 feet breadth and extending along the
eastern side of the above described land adjoining the right of way of the Pennsylvania
Railroad Company.

EXHIBIT "A"

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" mean those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to

Lender the following described property located in the County of **Clearfield**

SEE TITLE

Item #: 19-010-376-13

which currently has the address of **73 ERIE STREET, WALLACETON, PENNSYLVANIA 16876**
("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section

15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under his Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and

"agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance

proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender

may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to, (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until the Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party

(or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has – if any – with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation of termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the

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amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceed permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). Lender shall notify Borrower of, among other things: (a) the default; (b) the action required to cure the default; (c) when the default must be cured; and (d) that failure to cure the default as specified may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. Lender shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured as specified, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, attorneys' fees and costs of title evidence to the extent permitted by Applicable Law.

23. Release. Upon payment of all sums secured by this Security Instrument, this Security Instrument and the estate conveyed shall terminate and become void. After such occurrence, Lender shall discharge and satisfy this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Waivers. Borrower, to the extent permitted by Applicable Law, waives and releases any error or defects in proceedings to enforce this Security Instrument, and hereby waives the benefit of any present or future laws providing for stay of execution, extension of time, exemption from attachment, levy and sale, and homestead exemption.

25. Reinstatement Period. Borrower's time to reinstate provided in Section 19 shall extend to one hour prior to the commencement of bidding at a sheriff's sale or other sale pursuant to this Security Instrument.

26. Purchase Money Mortgage. If any of the debt secured by this Security Instrument is lent to Borrower to acquire title to the Property, this Security Instrument shall be a purchase money mortgage.

27. Interest Rate After Judgment. Borrower agrees that the interest rate payable after a judgment is entered on the Note or in an action of mortgage foreclosure shall be the rate payable from time to time under the Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Witnesses:

Mark E. Powell

MARK E. POWELL

(Seal)

-Borrower

(Seal)

-Borrower

(Seal)
-Borrower

(Seal)

-Borrower

[Space Below This Line For Acknowledgment]

Certificate of Residence

I, *Pete A. Bocot*, do hereby certify that the correct address of the within-named Mortgagor is *1508 MILITARY CUTOFF, WILMINGTON, N.C. 28401*.
Witness my hand this 24th day of March, 2003.

P.A. Bocot

Agent of Mortgagor

COMMONWEALTH OF PENNSYLVANIA,

County ss:

On this, the 24th day of March, 2003, before me, the undersigned officer, personally appeared
MARK E. POWELL

known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purpose herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

Jennifer Rhoades
Notary

Title of Officer

ATLANTIC BAY MORTGAGE GROUP LLC
1508 Military Cutoff Road, #204
Wilmington, NC 28405

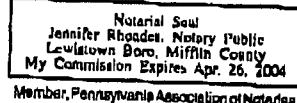


EXHIBIT A1

PREPARED BY:

ATLANTIC BAY MORTGAGE GROUP LLC
1508 Military Cutoff Road, #204
Wilmington, NC 28405

AND WHEN RECORDED MAIL TO

NAM & HELLS FARGO HOME MORTGAGE, INC.
ADDRESS 7601 France Ave. South #300
CITY Edina, MN 55435
STATE

Loan # 0023635535

Corporation Assignment of Real Estate Mortgage

FOR VALUE RECEIVED, the undersigned hereby grants, assigns and transfers to **WELLIS FARGO HOME MORTGAGE, INC.**
7601 Finance Ave. South #300 Edina, MN 55435
all the rights, title and interest of undersigned in and to that certain Real Estate Mortgage dated **March 24th, 2003**
, executed by

MARK E. POWELL, A Married Man

to ATLANTIC BAY MORTGAGE GROUP LLC
a corporation organized under the laws of the state of North Carolina and whose principal place of business is
1508 Military Cutoff Road, #204 Wilmington, NC 28405
and recorded in Liber page(s) 4700305044 Clearfield County Records.

State of **PENNSYLVANIA**

described hereinafter as follows:

SEE TITLE

ITEM # 19-010-376-13

ALSO KNOWN AS: 73 ERIE STREET, WALLACETON, PENNSYLVANIA 15876

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Real Estate Mortgage. ATLANTIC BAY MORTGAGE GROUP LLC

STATE OF North Carolina
COUNTY OF New Hanover

On March 28, 2003 before me,
the undersigned, a Notary Public in and for said County and

By: _____
Date: _____

EXHIBIT B

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff

v.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
800-692-7375

Notice to Defend:
David S. Meholic, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

We hereby certify the
within to be a true and
correct copy of the
original filed of record
FEDERMAN AND PHELAN

FILED
10-50
MAR 1 X 2005
William A. Shaw
Prothonotary/Clerk of Courts

ATTORNEY FILE COPY
PLEASE RETURN

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff

v.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

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Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

WELLS FARGO BANK, N.A.,
S/B/M TO WELLS FARGO HOME
MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

2. The name(s) and last known address(es) of the Defendant(s) are:

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16876

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 03/24/2003 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to ATLANTIC BAY MORTGAGE GROUP, LLC which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200305044. By Assignment of Mortgage recorded 3/31/03 the mortgage was Assigned To PLAINTIFF which Assignment is recorded in Assignment Of Mortgage Instrument # 200205045.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 05/01/2004 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$73,032.01
Interest	4,770.50
04/01/2004 through 03/16/2005	
(Per Diem \$13.63)	
Attorney's Fees	1,225.00
Cumulative Late Charges	24.24
03/24/2003 to 03/16/2005	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 79,601.75
Escrow	
Credit	0.00
Deficit	1,725.62
Subtotal	<u>\$ 1,725.62</u>
TOTAL	\$ 81,327.37

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.

8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.

9. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 81,327.37, together with interest from 03/16/2005 at the rate of \$13.63 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

By: /s/Francis S. Hallinan
 LAWRENCE T. PHELAN, ESQUIRE
 FRANCIS S. HALLINAN, ESQUIRE
 Attorneys for Plaintiff

ALL THAT CERTAIN AREA OR TRACT OF LAND, situate in Wallacetown, Clearfield County, Pennsylvania, bounded and described as follows: Beginning at a point at the right of way of Pennsylvania Railroad Company, thence south eighty-four (84) degrees thirty (30) minutes west across a street and along line of Lot now or formerly of Elizabeth S. Ogden, one hundred seventy-four (174) feet, more or less, to a post at the corner of Lot now or formerly as Mrs. Minnie B. Good; thence along Lot of Mrs. Minnie B. Good in a northerly direction fifty (50) feet to a point; thence north eight-four (84) degrees thirty (30) minutes east along other lands of a prior grantor for a distance of eighty (80) feet, more or less, to a point on the right of way of the Pennsylvania Railroad Company, which point is fifty (50) feet north from the place of beginning; thence along said right of way in a southerly direction fifty (50) feet to a post and place of beginning. Excepting and reserving, however, the prior grantor, its successors and assigns, the right to use for road purposes a strip of land 20 feet breadth and extending along the eastern side of the above described land adjoining the right of way of the Pennsylvania Railroad Company.

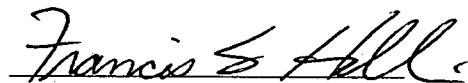
BEING the same premises conveyed to grantor by deed recorded in the Clearfield County Recorder of Deeds on May 8, 2000 instrument number 200006258.

PREMISES BEING: 71 ERIE STREET.

VERIFICATION

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the court and or the verification could not be obtained within the time allowed for the filing of the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of its knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel.

The undersigned understands that this statement is made subject to the penalties of 18 Pa. C. S. Sec. 4904 relating to unsworn falsifications to authorities.


Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 3/6/05

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICE # 1 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
VS.
DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

COPY

SHERIFF RETURN

NOW, March 21, 2005 AT 11:25 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MARK E. POWELL DEFENDANT AT 71 ERIE ST., WALLACETON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBIN POWELL, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100313
NO: 05-373-CD
SERVICE # 2 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
VS.
DEFENDANT: MARK E. POWELL and ROBIN L. POWELL

SHERIFF RETURN

NOW, March 21, 2005 AT 11:25 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ROBIN L. POWELL DEFENDANT AT 71 ERIE ST., WALLACETON, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ROBIN L. POWELL, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

EXHIBIT D

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WELLS FARGO BANK, N.A., S/B/M TO
WELLS FARGO HOME MORTGAGE, INC.
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

No.: 05-373-CD

vs.

MARK E. POWELL
ROBIN L. POWELL
71 ERIE STREET
WALLACETON, PA 16871

FILED
JUN 23 2005
William A. Shaw
Prothonotary/Clerk of Courts

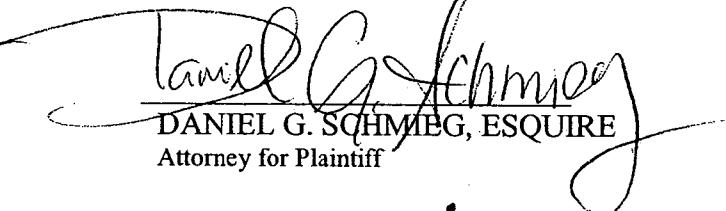
PRAECIPE FOR IN REM JUDGMENT FOR FAILURE TO
ANSWER AND ASSESSMENT OF DAMAGES

TO THE PROTHONOTARY:

Kindly enter an in rem judgment in favor of the Plaintiff and against MARK E. POWELL and ROBIN L. POWELL, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in Complaint	\$81,327.37
Interest (3/17/05 to 6/22/05)	<u>1,335.74</u>
TOTAL	\$82,663.11

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) that notice has been given in accordance with Rule 237.1, copy attached.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

Damages are hereby assessed as indicated.

DATE: June 23, 2005

 PRO PROTHY

KIO

ATTORNEY FILE COPY
PLEASE RETURN

ATTORNEY FILE COPY
PLEASE RETURN

EXHIBIT E

ALLEY

Control #: 019007246 Map #: 019001037600013

ZONING: CLASS

CARD #: 1 OF 1

CURRENT OWNER/ADDRESS
POWELL, MARK E. & ROBIN L.
71 ERIE STREET GENERAL DELIVERY

WALLACETON
PA
16878

DEED BOOK: 2002
DEED PAGE: 14350
DEED DATE: 20020823

TOTAL ACREAGE: 0.000 TOTAL LAND VALUE: 2,500

DATA COLLECTION INFORMATION -

SALES DATA:

Date	Type	Price	Valid	Date
20020910	LAND + BLDG	11,000	A	0
20000428	LAND ONLY	1	J	0
20000331	LAND ONLY	100	A	0

Style: MT. HOME Color: NATURAL Dwelling Data: Cost Approach Computations

WALLS:	PRIMED/EQUAL
Total Rooms:	7
Basement:	FULL
Attic:	2
Full Baths:	NONE
Add'l Fixtures:	0
Bedrooms:	3
Plumbing Additions:	0
Unfin. Area Basement:	50
Attic:	50

Heating System:	WARM AIR	Heat/AC Adj.
Type:	OIL	FBLA
Fin. Bsmt. Living Area:	0 X	Rec. Rm
Basement Rec. Room Area:	0 X	Fireplace
WB / Metal Fireplaces:	0 / 1	Gar.
Basement Garage (# Cars):	0	Bsmt. Gar.
Ground Flr. Area:	1792	Subtotal
Total Living Area:	1792	Grade Factor
Quality Grade:	C	C & D factor
Year Built:	2002	TOTAL RCN
Condition:	AVERAGE	% Good
Market Adj:		\$61.62
		0.9

OUTBUILDING DATA

Type	Qty	Wt	Size1	Size2	Unit	Cond	Value
RM1	1	1975	12	65	C	A	\$5,450

Misc OBY Desc:
Total OBY Value =

5500

56

EXHIBIT F

Summary Appraisal

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. 00wall

Property Description

Property Address	73 Erie Street	City	Wallacon	State	PA	Zip Code	18876
Land Description	ATTACHED	County					
Assessor's Parcel No.	19-010-376-13	Tax Year	2002	R.E. Taxes	\$ To Be Assed	Special Assessments	\$ NA
Borrower	Mark and Robin Powell	Current Owner	James D. Malina	Occupant	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Tenant	<input type="checkbox"/> Vacant
Property rights appraised	<input checked="" type="checkbox"/> Fee Simple	Leasehold	Project Type	<input type="checkbox"/> PUD	<input type="checkbox"/> Condominium (HUD/VA only)	HOA	NA
Neighborhood or Project Name	Wallacon	Map Reference	Clearfield County	Census Tract 3310			
Sale Price	\$ NA	Date of Sale	NA	Description and \$ amount of loan charges/concessions to be paid by seller			
Lender/Client	Atlantic Bay Mortgage Group	Address	5919 Oleander Drive, Suite 115, Wilmington, NC 28403				
Appraiser	Sonya L. Flanagan	Address	302 E. Pine Street, Clearfield, PA 16830				

Location	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Suburban	<input type="checkbox"/> Rural	Predominant	Single family housing	Present land use %	Land use change
Built up	<input type="checkbox"/>	<input checked="" type="checkbox"/> Over 75%	<input type="checkbox"/> 25-75%	<input type="checkbox"/> Under 25%	PRICE \$ (sqft)	AGE (yr)	
Growth rate	<input type="checkbox"/>	<input checked="" type="checkbox"/> Rapid	<input type="checkbox"/> Stable	<input type="checkbox"/> Slow	20 Low	30	<input checked="" type="checkbox"/> Not likely
Property values	<input type="checkbox"/>	<input checked="" type="checkbox"/> Increasing	<input type="checkbox"/> Stable	<input type="checkbox"/> Declining	80 High	75+	<input type="checkbox"/> In process
Demand/supply	<input type="checkbox"/>	<input checked="" type="checkbox"/> Shortage	<input type="checkbox"/> In balance	<input type="checkbox"/> Over supply	Predominant		To: NA
Marketing time	<input type="checkbox"/>	<input checked="" type="checkbox"/> Under 1 mos.	<input type="checkbox"/> 1-6 mos.	<input type="checkbox"/> Over 6 mos.	Commercial	5%	
				Years (over 50)	40	40+	Vacant
							10%

Note: Race and the racial composition of the neighborhood are not appraisal factors.
Neighborhood boundaries and characteristics: All of Wallacon Borough. Typical mix of home styles and land use.

Factors that affect the marketability of the properties in the neighborhood (proximity to employment and amenities, employment stability, appeal to market, etc.):
The subject property is located in the community known as Wallacon. Proximity to employment and amenities is typical of other neighborhoods and communities. The overall market has remained stable even with recent announcements of industrial closings, layoffs and downzoning in surrounding communities.

Market conditions in the subject neighborhood (including support for the above conclusions related to the trend of property values, demand/supply, and marketing time - such as data on competitive properties for sale in the neighborhood, description of the prevalence of sales and financing concessions, etc.):
Sales and financing concessions are not prevalent in the market area. Based on current market activity, marketing time is 3-6 months with an exposure time of 30-90 days. Demand and supply as well as property values are stable.

Project Information for PUDs (if applicable) - Is the developer/builder in control of the Home Owners' Association (HOA)? YES NO

Approximate total number of units in the subject project _____ Approximate total number of units for sale in the subject project _____

Describing common elements and recreational facilities:

Dimensions	174 X 50 X 80 X 50	Corner Lot	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No				
Site area	6350 Sq. Ft. +/-							
Specific zoning classification and description	NA							
Zoning compliance	<input type="checkbox"/> Legal	<input type="checkbox"/> Legal nonconforming (Grandfathered use)	<input type="checkbox"/> Illegal	<input checked="" type="checkbox"/> No zoning				
Highest & best use as improved:	<input checked="" type="checkbox"/> Present use	<input type="checkbox"/> Other use (explain)						
Utilities	Public	Other	Off-site Improvements	Type	Public	Private	Topography	Level
Electricity	<input checked="" type="checkbox"/>		Street	Natural	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Size	Typical for area
Gas	<input checked="" type="checkbox"/>		Curb/gutter	NA	<input type="checkbox"/>	<input type="checkbox"/>	Shape	Irregular
Water	<input checked="" type="checkbox"/>		Sidewalk	NA	<input type="checkbox"/>	<input type="checkbox"/>	Drainage	Average
Sanitary sewer	<input checked="" type="checkbox"/>		Street lights	NA	<input type="checkbox"/>	<input type="checkbox"/>	View	Average
Storm sewer	<input checked="" type="checkbox"/>		Alley	NA	<input type="checkbox"/>	<input type="checkbox"/>	Landscaping	Average
							Driveway Surface	Natural
							Apparent easements	Typical utility
							FEMA Special Flood Hazard Area	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
							FEMA Zone	X Map Date 11-8-74
							FEMA Map No.	420316 H01

Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning, use, etc.): Site is typical of others in the neighborhood.

GENERAL DESCRIPTION		EXTERIOR DESCRIPTION		FOUNDATION		BASEMENT		INSULATION				
No. of Units	One	Foundation	Block	Slab	NA	Area Sq.Ft.	1749	Roof	<input type="checkbox"/>			
No. of Stories	One	Exterior Walls	Vinyl	Crawl Space	NA	% Finished	0%	Ceiling	<input checked="" type="checkbox"/> R-31			
Type (Det./Att.)	Detached	Roof Surface	Shingle	Basement	100%	Ceiling	Exposed	Walls	<input checked="" type="checkbox"/> R-19			
Design (Style)	DWMH	Gutters & Dwnspcts.	None	Sump Pump	No	Walls	Block	Floor	<input checked="" type="checkbox"/> R-14			
Existing/Proposed	Proposed	Window Type	D.H.	Dampness	New construct	Floor	Concrete	Outside Entry	<input type="checkbox"/> None <input checked="" type="checkbox"/> Unknown			
Age (Yrs.)	New	Storm/Screens	Yes	Settlement	New construct							
Effective Age (Yrs.)	New	Manufactured House Yes		Infestation	New construct							
ROOMS	Four	Living	Dining	Kitchen	Den	Family Rm.	Rec. Rm.	Bedrooms	# Baths	Laundry	Other	Area Sq.Ft.
Basement												
Level 1		1	1	1		1		3	2	1		1,749
Level 2												

Finished area above grade contains:	7 Rooms	3 Bedroom(s)	2 Bath(s)	1,749 Square Feet of Gross Living Area		
INTERIOR	Materials/Condition	HEATING	KITCHEN EQUIP.	ATTIC	AMENITIES	CAR STORAGE:
Floors	Cpt/Res/Good	Type: HA	Refrigerator	None	Fireplace(s): 1	None <input checked="" type="checkbox"/>
Walls	Drywall/Good	Fuel: Gas	Rnge/Oven	Stairs	Patio	Garage # of cars
Trim/Finish	Average	Condition: Avg.	Dispose	Drop Stair		
Bath	Resilient/Good	COOLING	Dishwasher	Scuttle	Deck	Attached
Wainscot	Drywall/Good	Central: NA	Fan/Hood	Floor	Porch	Detached
Doors	Combination	Other: NA	Microwave	Heated	Fence	Built-in
		Condition: NA	Washer/Dryer	Finished	Pool	Carport
						Driveway

Additional features (special energy efficient items, etc.): 50 gallon electric water heater/Cathedral ceiling throughout/100 amp electric service

Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction remodeling/additions, etc.: Physical:
None Functional: Lack of porches/decks External: Stable economy

Adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property: None noted by limited inspection. I am not an expert on environmental or hazardous waste.

Summary Appraisal

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. powell

Valuation Section

ESTIMATED SITE VALUE			\$ 6,000	Comments on Cost Approach (such as, source of cost estimate, site value, square foot calculation and for HUD, VA and FmHA, the estimated remaining economic life of the property):
ESTIMATED REPRODUCTION COST-NEW OF IMPROVEMENTS:				
Dwelling	1,749 Sq. Ft. @ \$	32.96	\$ 57,647	
Bsmnt. 1749	Sq. Ft. @ \$	10.83	\$ 18,942	
F/P			\$ 1,600	
Garage/Carport	Sq. Ft. @ \$			
Total Estimated Cost New			\$ 78,089	
Less 50 Physical	Functional	External	Est. Remaining Econ. Life:	50
Depreciation	\$ 1,000	\$ 7,808	\$ 6,808	
Depreciated Value of Improvements			\$ 69,280	
'As-is' Value of Site Improvements			\$ 1,000	
INDICATED VALUE BY COST APPROACH			\$ 75,300	

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
73 Erie Street	RR1 Box 198E	209 Caroline Street	380A Coulter Lane	
Address Wallacetown	West Decatur	Curwensville	Mariadale	
Proximity to Subject	2.23 MI SSE	12.30 MI W	3.98 MI ENE	
Sales Price	\$ NA	\$ 88,000	\$ 78,000	\$ 78,000
Price/Gross Lv. Area	\$ 0.00	\$ 47.02	\$ 42.65	\$ 54.76
Data and/or Verification Sources	NA	Files Public Records	Files Public Records	Appraiser Public Records
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+ (-) Adjustment	DESCRIPTION
Sales or Financing Concessions	Conventional	Conventional		Conventional
Date of Sale/Time	NA	1-02	6-01	10-01
Location	Suburban	Suburban	Suburban	
Lesser/Lessor Sale Simple	Fee Simple	Fee Simple	Fee Simple	
Site	127 X 50 +/-	1.9 Acres	-5,000 100 X 135	-5,000 2.5171 Acres
View	Average	Average	Average	Average
Design and Appeal	DWMH/Avg	DWMH/Avg	DWMH/Avg	DWMH/Avg
Quality of Construction	Average	Average	Average	Average
Age	New	7AC/2-3EFF	5AC/2-3EFF	5AC/1EFF
Condition	Good	Average-Good	3,500 Average-Good	3,500 Good
Above Grade	Total Bldgs. Bldgs.	Total Bldgs. Bldgs.	Total Bldgs. Bldgs.	
Room Count	5 7: 3: 2,00	6 3: 2,50	-1,000 7: 3: 2,00	8: 3: 2,00
Gross Lving Area	1,749 Sq.Ft.	1,829 Sq.Ft.	1,782 Sq.Ft.	1,988 Sq.Ft.
Basement & Finished	100%	100%	100%	
Rooms Below Grade	Unfinished	Unfinished	Crawl space	5,000 Piers
Functional Utility	Average	Average	Average	Average
Heating/Cooling	Gas HA	Oil HA	Gas HA C/Air	-1,500 Oil HA
Energy Efficient Items	No special	Woodburner	-500 No special	No special
Garage/Carport	None	2 B. In Garage	-4,000 1 Att. Garage	-2,000 1 Det. Garage
Porch, Patio, Deck	None	Deck/Porch	-1,000 Front/Rear	Front/Rear
Fireplace(s), etc.	1 Fireplace	1 Fireplace	None	1,500 1 Fireplace
Fence, Pool, etc.	NA	NA	NA	NA
NA	NA	NA	NA	NA
Net Adj. (Total)	<input type="checkbox"/> - <input checked="" type="checkbox"/> \$ 8,000	<input type="checkbox"/> - \$ 500	<input checked="" type="checkbox"/> - \$ 1,500	
Adjusted Sales Price	Gross: 17.4%	Gross: 28.7%	Gross: 29.6%	
of Comparable	Net: -9.3%	Net: 0.7%	Net: 2.0%	\$ 77,500

Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.): See Attached Addendum.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Data	No prior sales	No prior sales	No prior sales	No prior sales
Source for prior sales	within past year	within past year	within past year	within past year

Analysis of any current agreement of sale, option, or listing of the subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal:
Not Applicable

INDICATED VALUE BY SALES COMPARISON APPROACH \$ 78,000

INDICATED VALUE BY INCOME APPROACH (If Applicable) Estimated Market Rent: \$ N/A Mo. x Gross Rent Multiplier: N/A = \$ NA

This appraisal is made "as is" subject to the repairs, alterations, inspections or conditions listed below subject to completion per plans and specifications.

Conditions of Appraisal: See Attached Addendum. There is currently a single wide trailer on the property that is to be removed.

Final Reconciliation: The market comparison approach gives the better indication of value for single family residential property. The cost approach supports the market value conclusion. Insufficient data for income approach.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/Fannie Mae Form 1004B (Revised 9/93).

I (WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF July 26, 2002

(WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$ 78,000

APPRaiser:

Signature

Name: Sonja L. Flanagan

Date Report Signed: July 30, 2002/Re-Identification Date: 1-30-03

State Certification #: RL-000370-L

Or State License #

SUPERVISORY APPRAISER (ONLY IF REQUIRED):

Signature

Name

Data Report Signed

State Certification #

Or State License #

 Old Old Not

Inspect Property

Summary Appraisal

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. powell

Supplemental Valuation Section

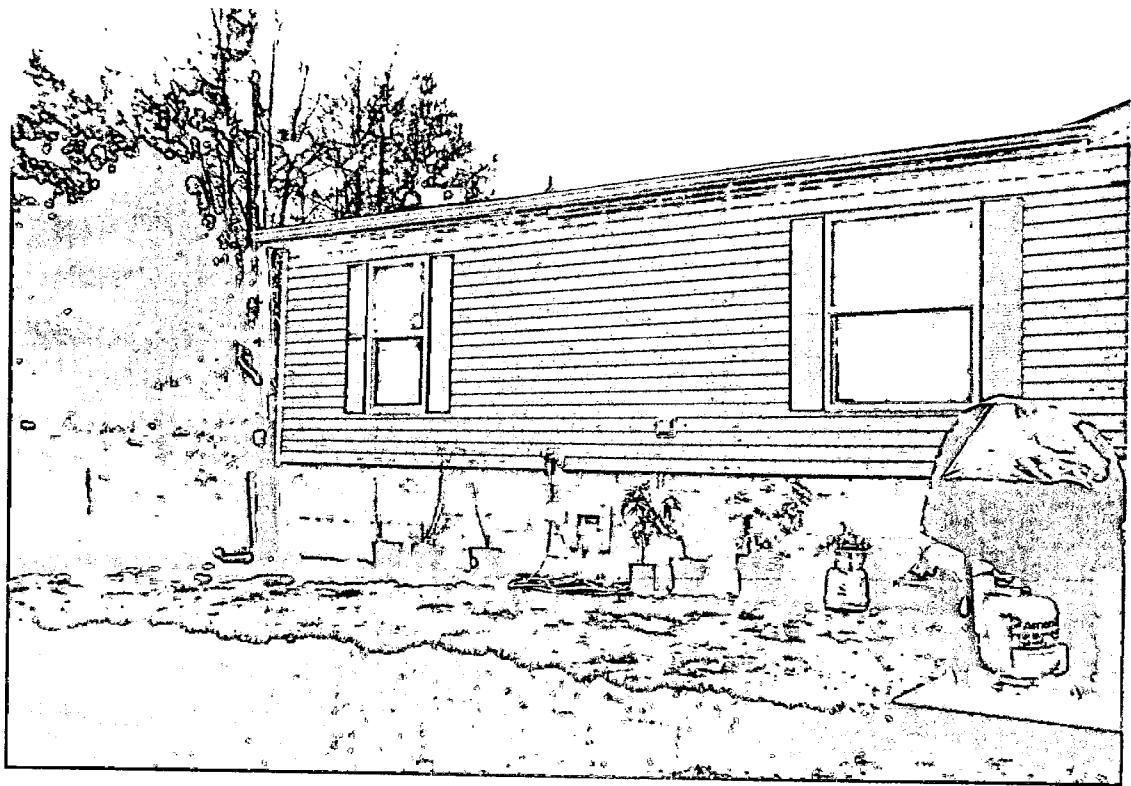
ITEM	SUBJECT	COMPARABLE NO. 4	COMPARABLE NO. 5	COMPARABLE NO. 6	
73 Erie Street Address Wallacetown		RR3, Clover Street Philipsburg	Park Road Mineral Springs		
Proximity to Subject		3.91 MI SE	8.51 MI WNW		
Sales Price	\$ NA	\$ 84,000	\$ 89,000	\$	
Price/Gross Lv. Area	\$ 0.00	\$ 60.26	\$ 47.59	\$	
Data and/or Verification Sources	NA NA	Files Public Records	Appraiser Public Records		
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+ (-) Adjustment	DESCRIPTION	+ (-) Adjustment
Sales or Financing Concessions		Conventional		Conventional	
Date of Sale/Time	NA	3-02		3-02	
Location	Suburban	Urban		Suburban	
Leasehold/Fee Simple	Fee Simple	Fee Simple		Fee Simple	
Site	127 X 50+/-	1 Acre	-6,000	.62 Acre	-5,000
View	Average	Average		Average	
Design and Appeal	DVMH/Avg	DVMH/Avg		DVMH/Avg	
Durability of Construction	Average	Average		Average	
Age	New	BAC/2-3EFF		4AC/1EFF	
Condition	Good	Average-Good	3,500	Good	
Above Grade	Total: 3 Bdrms 1 Bath	Total: 3 Bdrms 1 Bath	Total: 3 Bdrms 1 Bath	Total: 3 Bdrms 1 Bath	
Room Count	7 1 3 2.00	5 1 3 2.00	7 1 3 2.00		
Gross Living Area	1,749 Sq.Ft.	1,394 Sq.Ft.	2,000	1,870 Sq.Ft.	Sq.Ft.
Basement & Finished	100%	100%	100%		
Rooms Below Grade	Unfinished	Crawl space	5,000	Unfinished	
Functional Utility	Average	Average		Average	
Heating/Cooling	Gas HA	Oil HA C/Air	-1,500	Oil HA C/Air	-1,500
Energy Efficient Items	No special	No special		No special	
Garage/Carport	None	2 Det. Garage	-4,000	None	
Porch, Patio, Deck,	None	Front/Deck	-1,000	Front/Deck	-1,000
Fireplace(s), etc.	1 Fireplace	1 Fireplace		1 Fireplace	
Fences, Pool, etc.	NA	NA		NA	
	NA	NA		NA	
Net Adj. (total)		\$ 1,000	\$ 7,500	\$	
Adjusted Sales Price of Comparable		Gross: 26.2% Net: -1.2% \$ 83,000	Gross: 8.4% Net: -8.4% \$ 81,500	Gross: Net: \$	

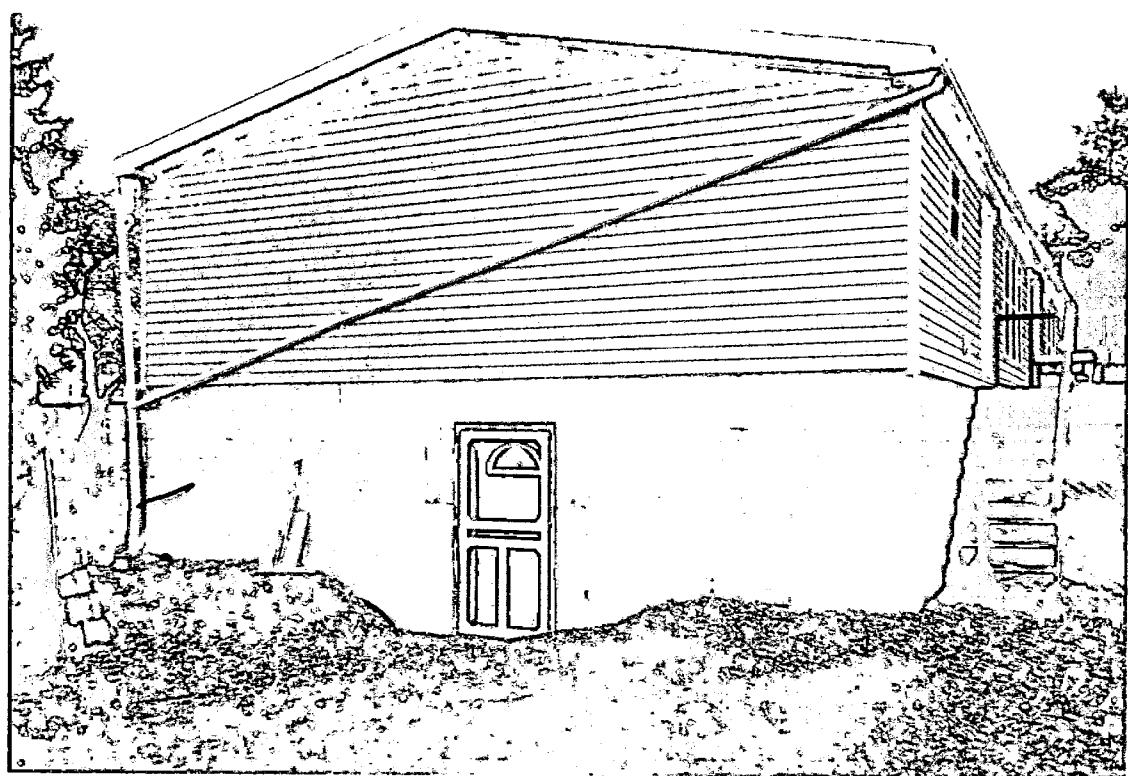
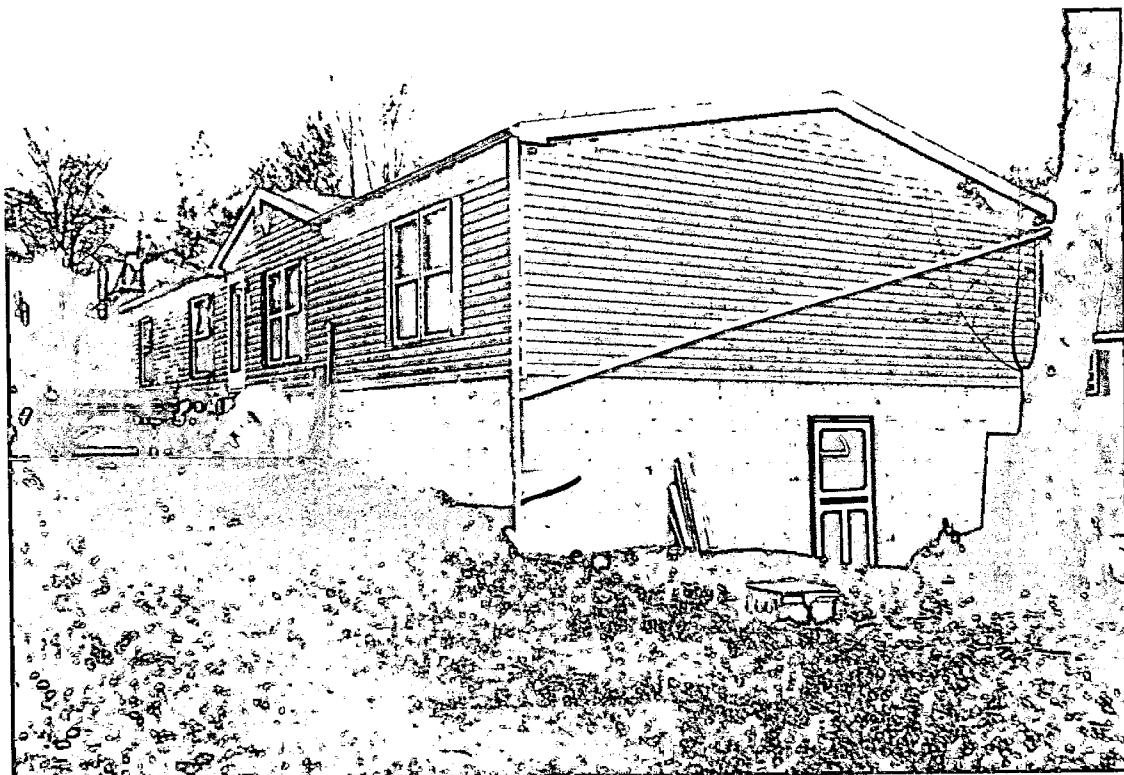
Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.):

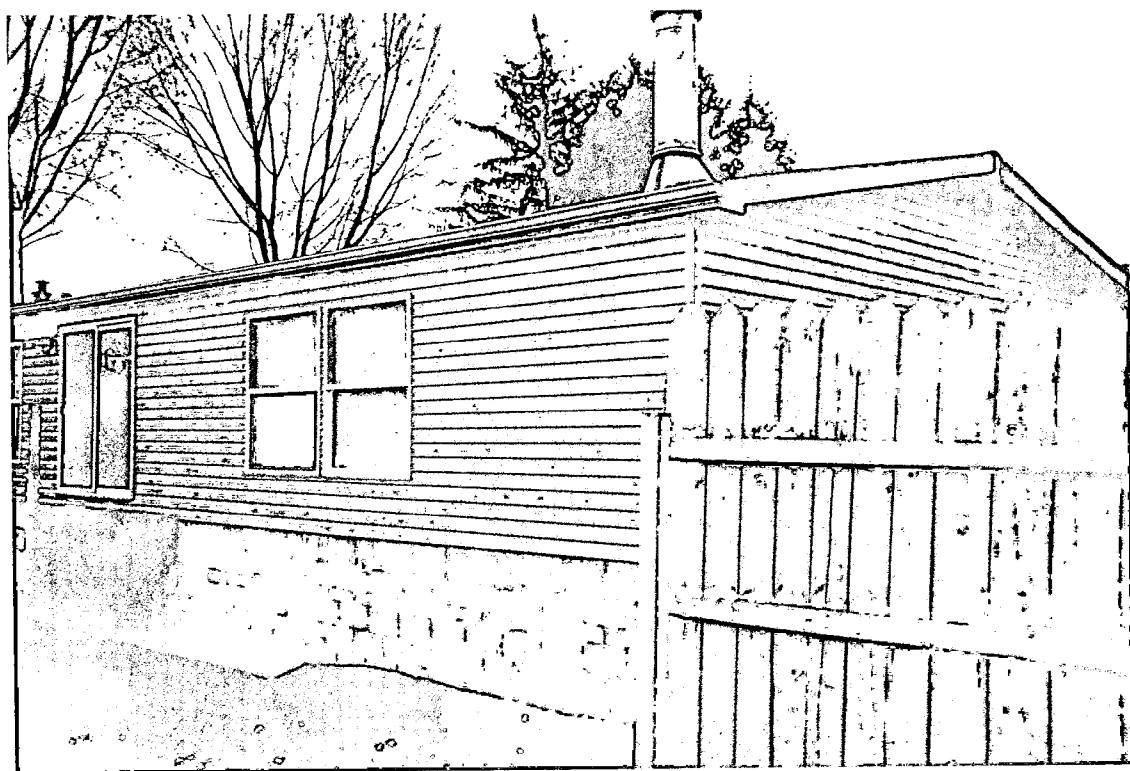
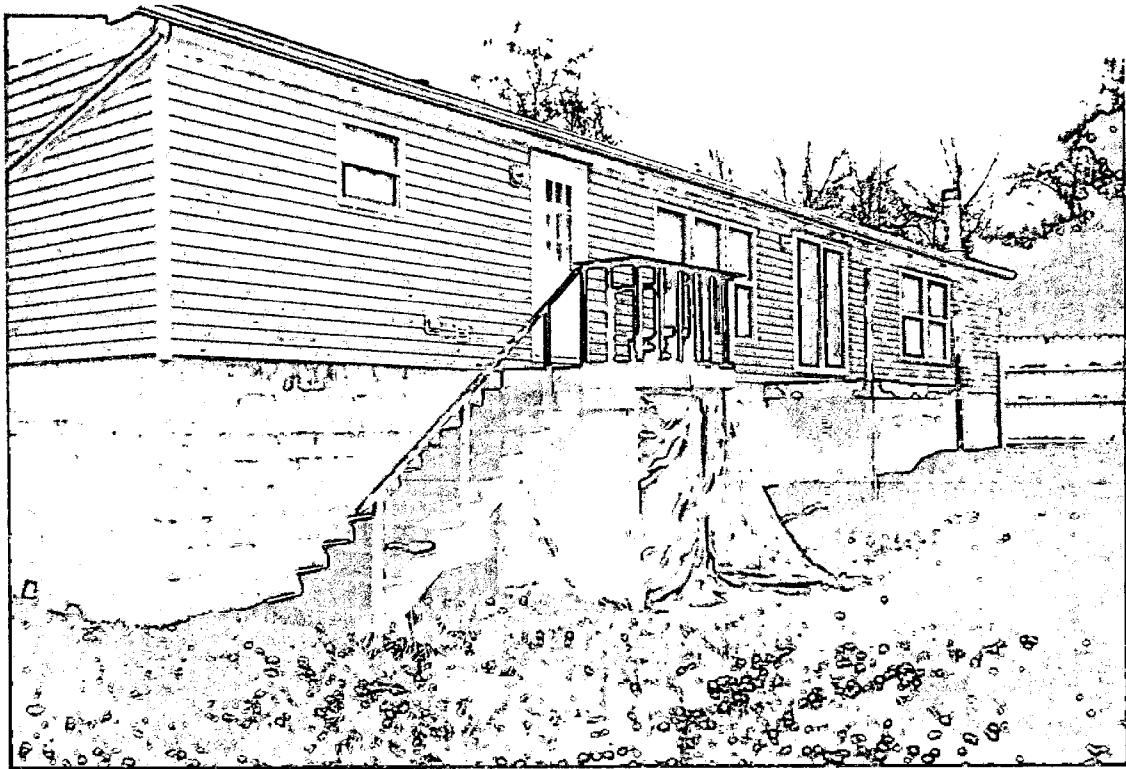
ITEM	SUBJECT	COMPARABLE NO. 4	COMPARABLE NO. 5	COMPARABLE NO. 6
Date, Price and Date Source for prior sales within year of appraisal	No prior sales within past year.	No prior sales within past year.	Transferred 3-13-00 for \$89,000.	

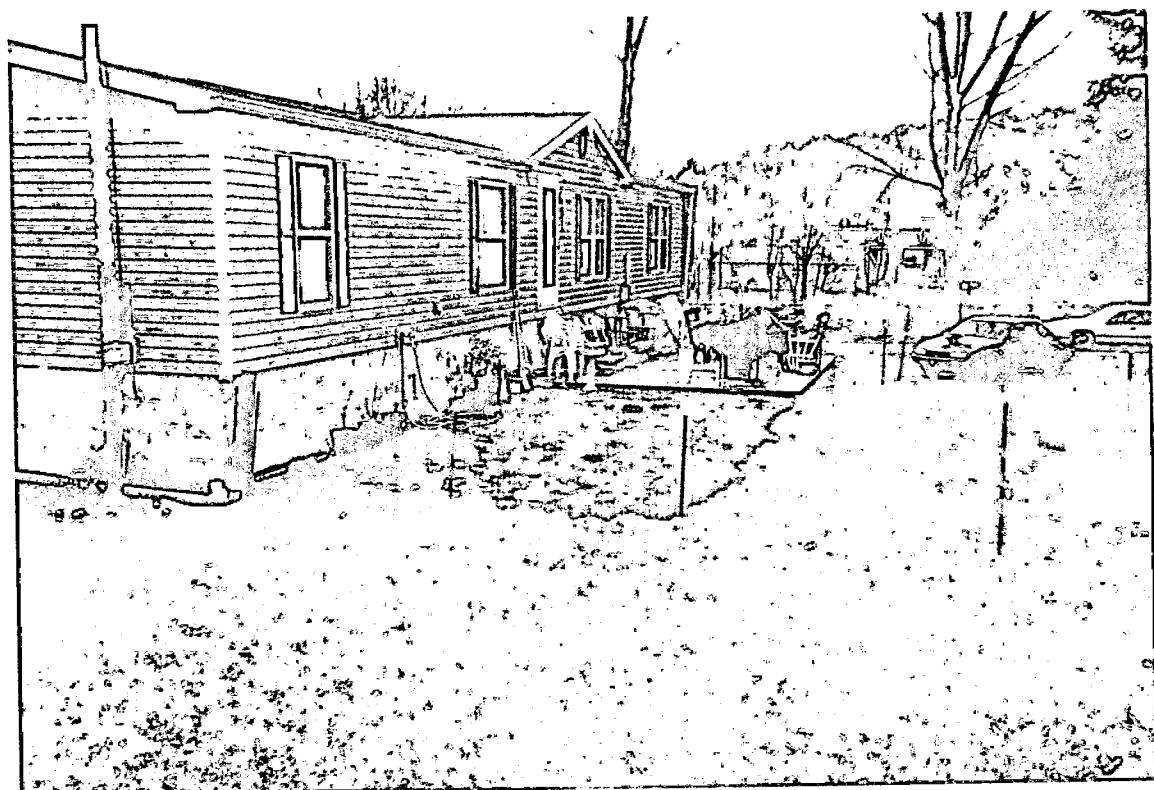
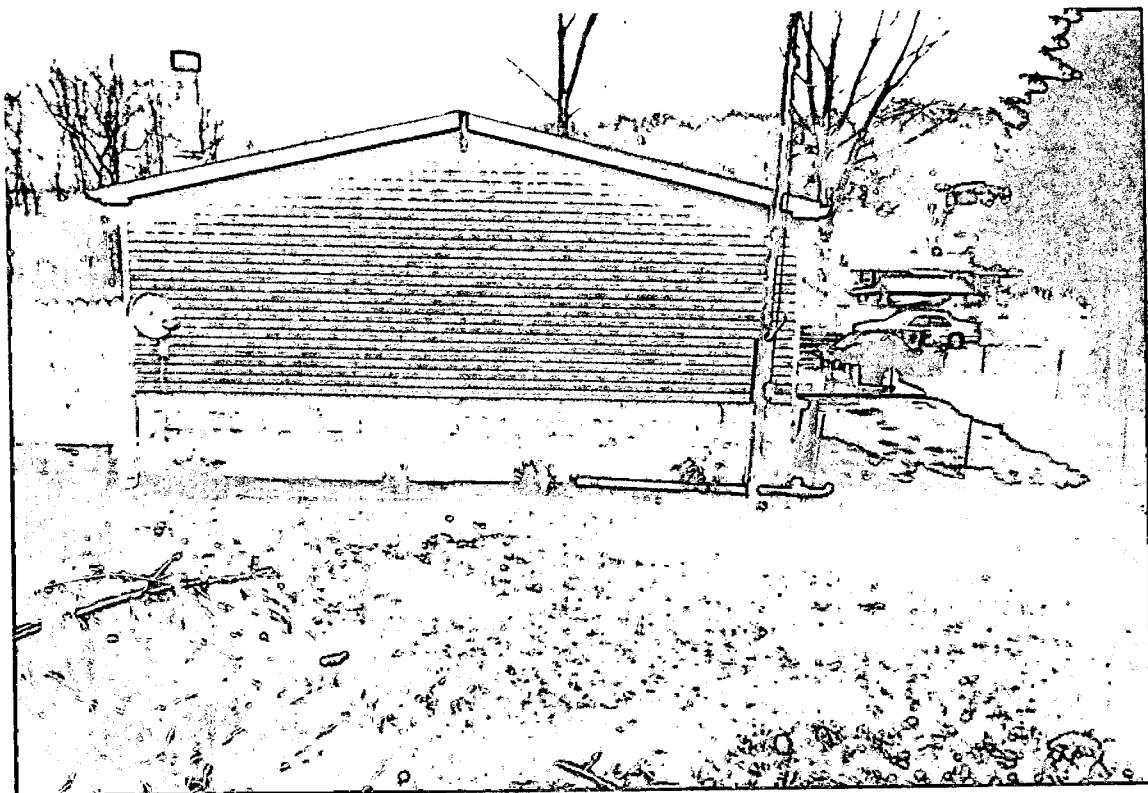
Analysis of any current agreement of sale, option, or listing of the subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal:

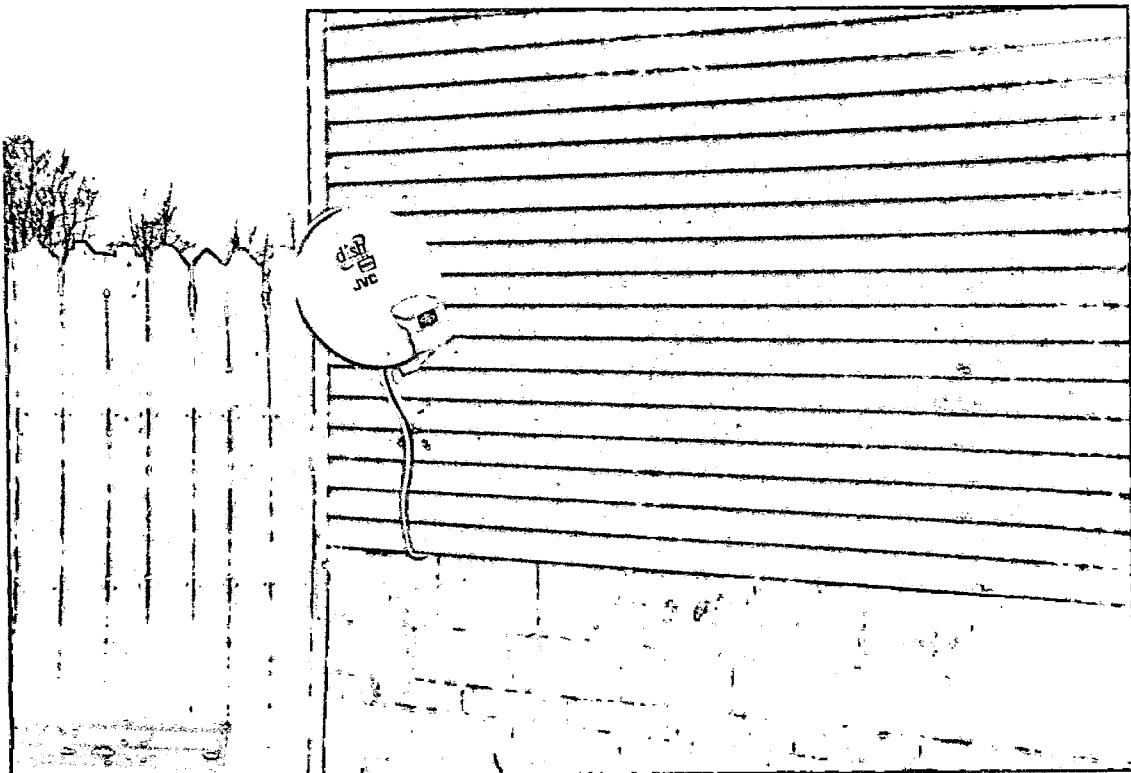
EXHIBIT G

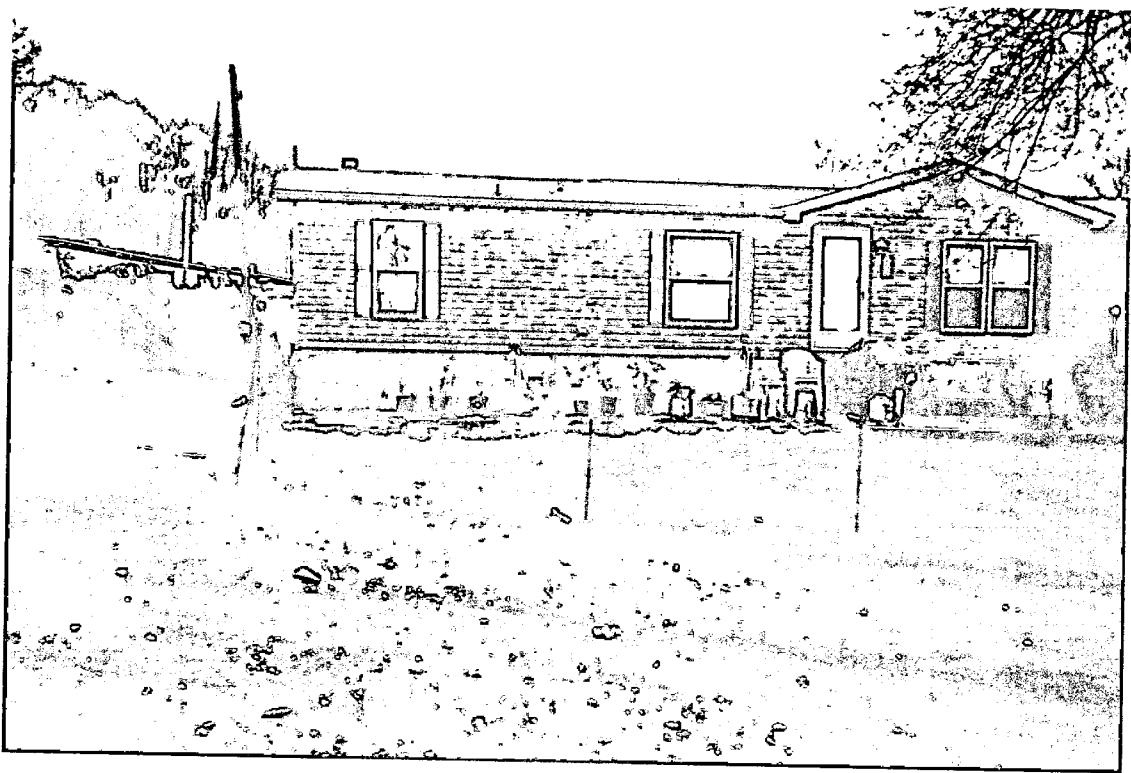


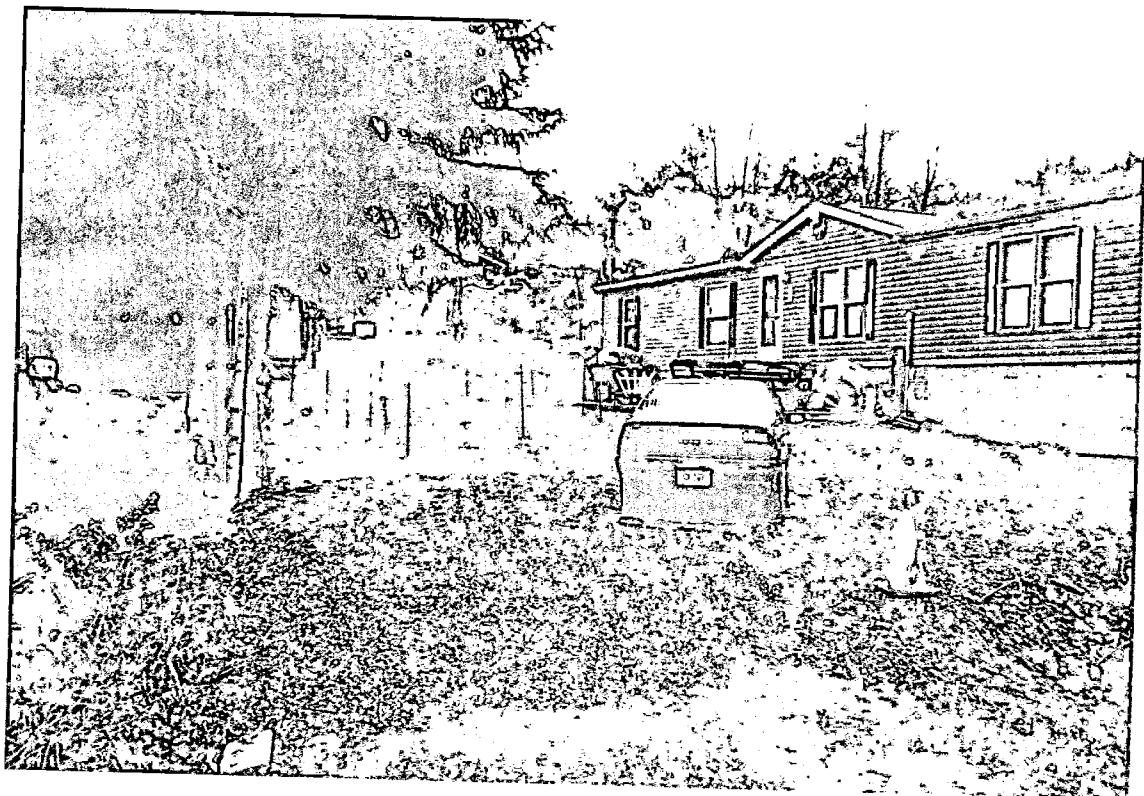


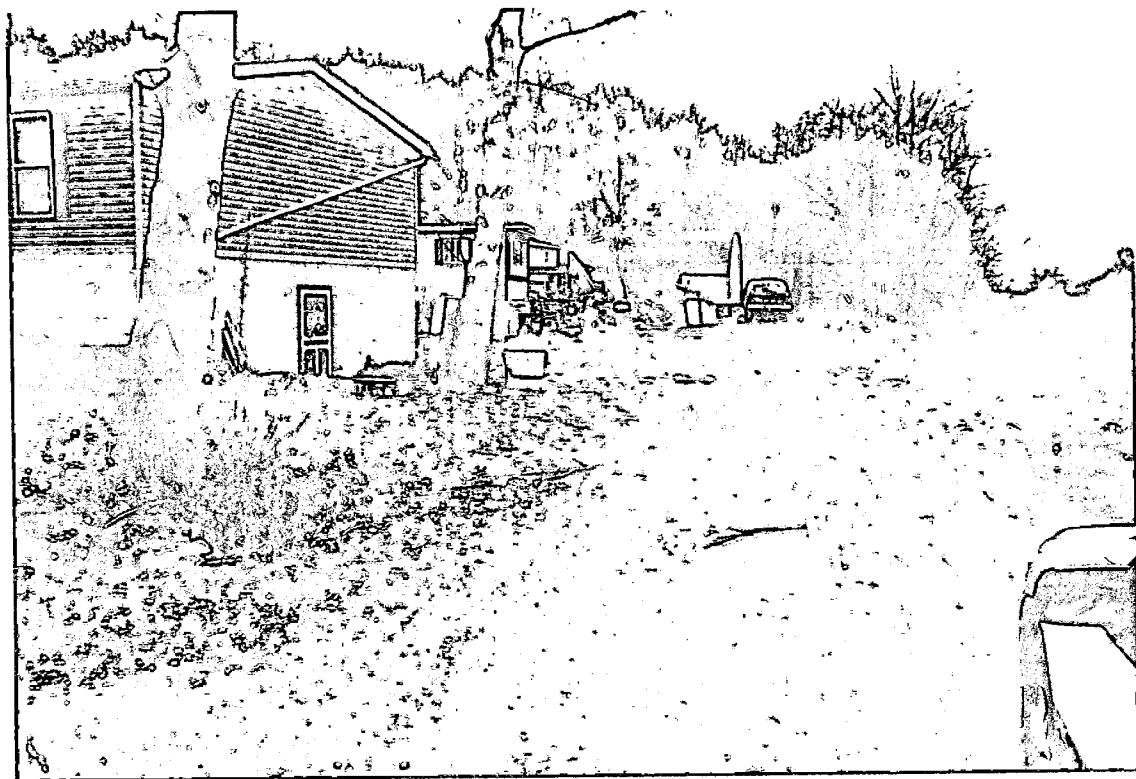












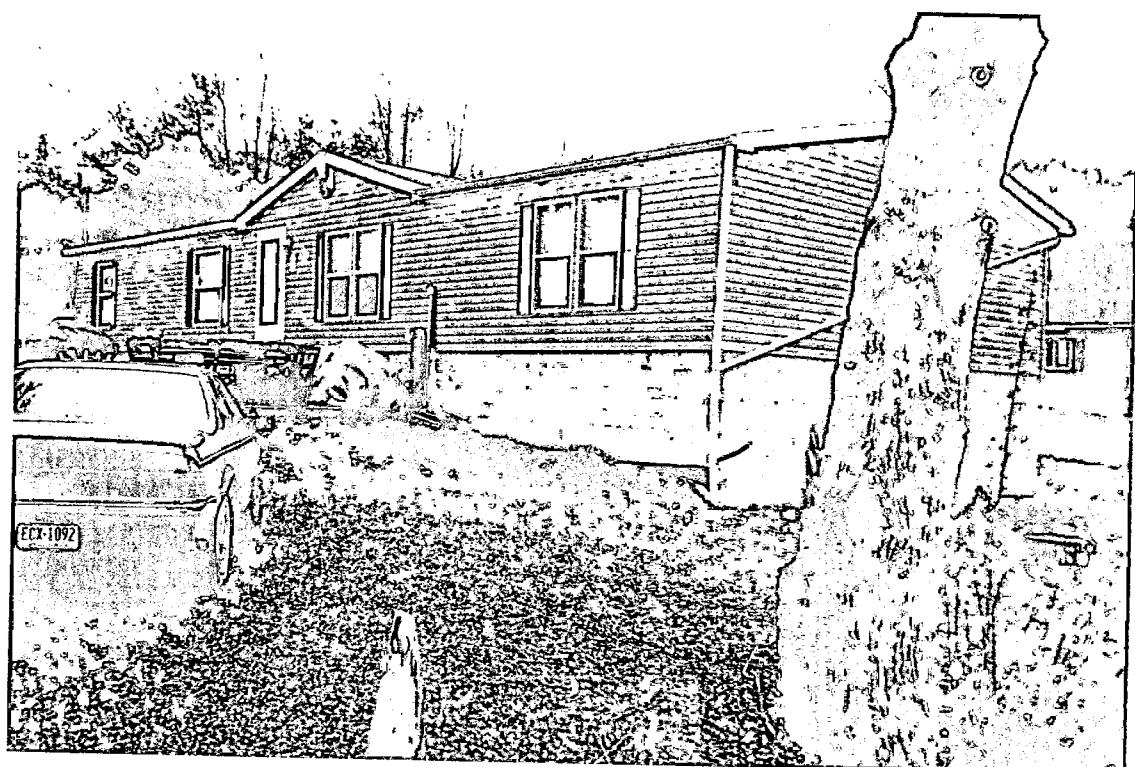
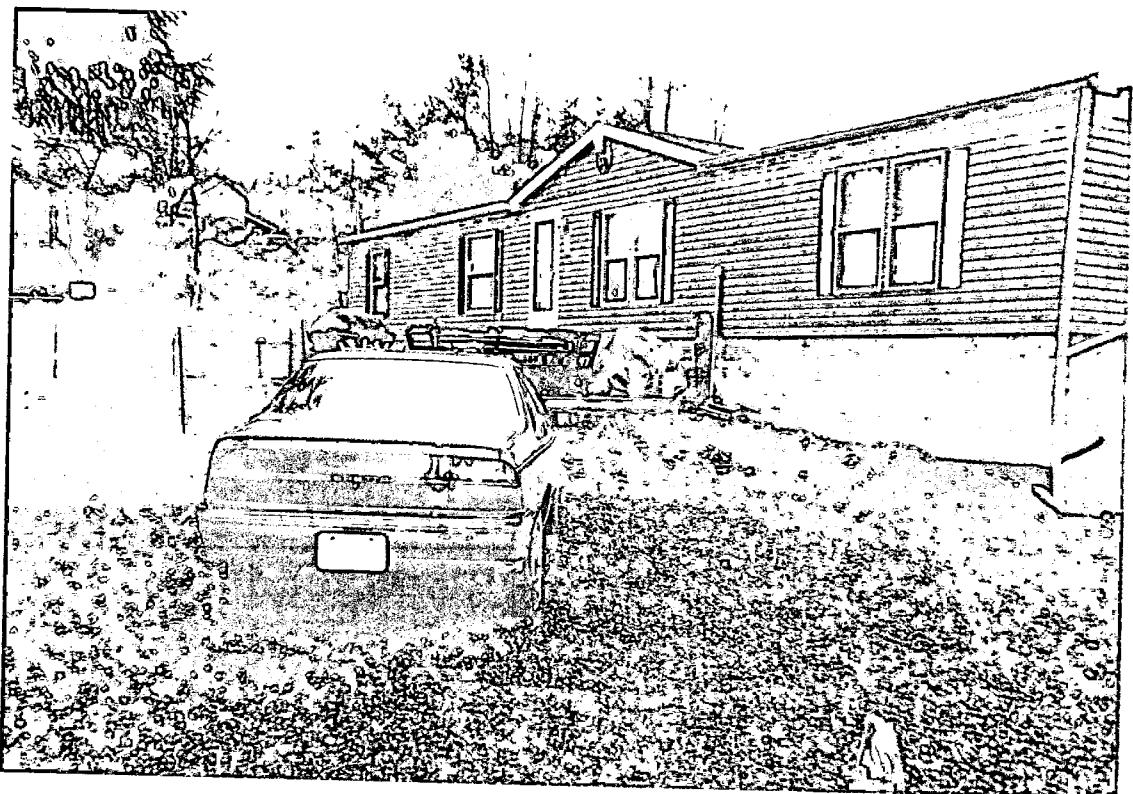


EXHIBIT H

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
SAFETY ADMINISTRATION
HARRISBURG, PA 17123
6/08/05

FORECLOSURE REVIEW SERVICE IN
400 FELLOWSHIP ROAD
SUITE 220
MT LAUREL NJ 08054-0000

051590704000284 001

Dear Customer:

The Bureau of Motor Vehicles has received your request for information. We are not able to provide this information because the record you requested, as indicated below, does not exist in our files.

NAME : POWELL,MARK E ROBIN

If you have any questions concerning this information, please contact Vehicle Record Services at the address or telephone number listed below.

Sincerely,

Customer Service Team
Bureau of Motor Vehicles

ADDRESS CORRESPONDENCE TO:
Department of Transportation
Vehicle Record Services
PO Box 68691
Harrisburg, PA 17106-8691

INFORMATION: (7:00 AM TO 9:00 PM)
IN STATE 1-800-932-4600
OUT-OF-STATE 717-391-6190
TDD IN STATE 1-800-228-0676
TDD OUT-OF-STATE 717-391-6191
www.dot.state.pa.us

VERIFICATION

Michele M. Bradford, Esquire hereby states that she is the attorney for the Plaintiff in this action, that she is authorized to make this Verification, and that the statements made in the foregoing Plaintiff's Motion for Equitable Conversion to Real Property, and Brief in support thereof are true and correct to the best of her knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

DATE: 11/15/05

PHELAN HALLINAN & SCHMIEG, LLP

BY: 
Michele M. Bradford, Esquire
Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP
by: Michele M. Bradford, Esquire
Atty. ID. No. 69849
One Penn Center, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Wells Fargo Bank, N.A.,
s/b/m to Wells Fargo Home Mortgage, Inc.
3476 Stateview Boulevard
Fort Mill, SC 29715

Plaintiff

: Court of Common Pleas
: Civil Division
: Clearfield County

vs.

: No. 05-373-CD

Mark E. Powell
Robin L. Powell
71 Erie Street
Wallaceton, PA 1876

Defendants

CERTIFICATION OF SERVICE

TO THE PROTHONOTARY:

I hereby certify that true and correct copies of the foregoing Motion for Equitable Conversion to Real Property and Brief in support thereof, were served by regular mail on Defendants on the date listed below.

Mark E. Powell
Robin L. Powell
71 Erie Street,
a/k/a 73 Erie Street
Wallaceton, PA 1876

DATE: 11/15/05

PHELAN HALLINAN & SCHMIEG, LLP

BY: 

Michele M. Bradford, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

Wells Fargo Bank, N.A.,
s/b/m to Wells Fargo Home Mortgage, Inc.
3476 Stateview Boulevard
Fort Mill, SC 29715

Plaintiff

: Court of Common Pleas
: Civil Division
: No. 05-373-CD

vs.

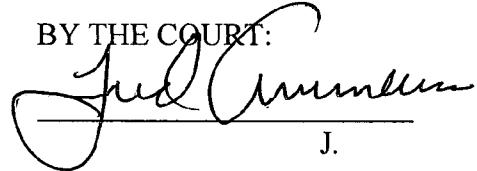
Mark E. Powell
Robin L. Powell
71 Erie Street
Wallaceton, PA 1876

Defendants

RULE

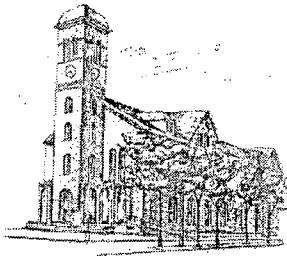
AND NOW, this 18th day of Nov- 2005, a Rule is entered upon the Defendants, to show cause why an Order should not be entered granting Plaintiff's Motion for Transfer of Title.

Rule Returnable on the 16th day of December 2005, at 9:00 a.m. in the Main Courtroom of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

J.

FILED ¹⁰⁰
01/04/06
NOV 21 2005


William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)/Attorney(s)

Defendant(s)/Attorney(s)

Other

Special Instructions:

PHELAN HALLINAN & SCHMIEG, LLP
by: Michele M. Bradford, Esquire
Atty. I.D. No. 69849
One Penn Center, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Wells Fargo Bank, N.A.,
s/b/m to Wells Fargo Home Mortgage, Inc.
3476 Stateview Boulevard
Fort Mill, SC 29715

Plaintiff

: Court of Common Pleas
: Civil Division
: Clearfield County
: No. 05-373-CD

vs.

Mark E. Powell
Robin L. Powell
71 Erie Street
Wallaceton, PA 1876

Defendants

CERTIFICATION OF SERVICE

TO THE PROTHONOTARY:

I hereby certify that true and correct copies of the Rule dated November 18, 2005, were served by regular mail on Defendants on the date listed below.

Mark E. Powell
Robin L. Powell
71 Erie Street,
a/k/a 73 Erie Street
Wallaceton, PA 1876

Mark E. Powell
Robin L. Powell
220 Powder Magazine Road
Philipsburg, PA 16866

DATE: 11/29/05

PHELAN HALLINAN & SCHMIEG, LLP

BY: MMB
Michele M. Bradford, Esquire
Attorney for Plaintiff

FILED

DEC 01 2005

W/ 1:55/CS
William A. Shaw

Prothonotary/Clerk of Courts

1 CEN to Am

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

Wells Fargo Bank, N.A.,
s/b/m to Wells Fargo Home Mortgage, Inc. : Court of Common Pleas
3476 Stateview Boulevard
Fort Mill, SC 29715 : Civil Division
Plaintiff : No. 05-373-CD

vs.

Mark E. Powell
Robin L. Powell
71 Erie Street
Wallacetton, PA 1876

Defendants

ORDER

AND NOW, this 16th day of December, 2005, upon consideration of Plaintiff's Motion for Equitable Conversion and any response thereto, it is hereby ORDERED and DECREED that the property at 71 Erie Street, a/k/a 73 Erie Street, Wallacetton, PA 16876 with a tax parcel I.D. number of 19-010-376-13, is equitably converted to real estate by way of this motion, and not subject to separation from land, and it is

ORDERED and DECREED that the Clearfield County Recorder of Deeds is hereby directed to accept a certified copy of this order for recording.

BY THE COURT:

Judith A. Shaw
J.

FILED

DEC 16 2005
0/9.30 (W)

William A. Shaw
Prothonotary/Clerk of Courts
3 Cents To Attm

PHELAN HALLINAN & SCHMIEG, LLP
by: Michele M. Bradford, Esquire
Atty. I.D. No. 69849
One Penn Center, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Wells Fargo Bank, N.A.,
s/b/m to Wells Fargo Home Mortgage, Inc.
3476 Stateview Boulevard
Fort Mill, SC 29715

Plaintiff

: Court of Common Pleas
: Civil Division
: Clearfield County

vs.

Mark E. Powell
Robin L. Powell
71 Erie Street
Wallaceton, PA 1876

Defendants

: No. 05-373-CD
RECEIVED

CJV 16 2005

**COURT ADMINISTRATOR'S
OFFICE**

**BRIEF IN SUPPORT OF PLAINTIFF'S
MOTION FOR EQUITABLE CONVERSION TO REAL PROPERTY**

I. PROCEDURAL HISTORY

On March 24, 2003, Mark E. Powell and Robin L. Powell made, executed and delivered a mortgage on the Property to Atlantic Bay Mortgage Group LLC in the principal amount of \$73,800.00. Atlantic Bay Mortgage Group LLC delivered an Assignment of the Mortgage to Wells Fargo Home Mortgage, Inc.. Defendants defaulted in payments on the mortgage, and remain due and owing to Plaintiff for the May 1, 2004 payment and each payment thereafter.

On or about March 17, 2005, Plaintiff filed a complaint in mortgage foreclosure, and Mark E. Powell and Robin L. Powell were served with the complaint on March 21, 2005. Plaintiff filed a default judgment against Defendants on June 23, 2005.

The property had been assessed in part for "land value", and in part for "building value", under a tax parcel I.D. number of 19-010-376-13. Further investigation of the property was obtained by way of an appraisal report, and photographs were taken of the

property, to ascertain the status of the real estate improvement. Plaintiff also obtained a report from Penndot.

Since the house is a mobile home, potential third party purchasers of the property may not be able to obtain insurable title. The fact that the house is a mobile home is a cloud on title. Plaintiff is requesting the entry of a Court Order declaring the house as realty, so that the buyer of the property at Sheriff's sale will acquire clear title to the house and land, and will be able to obtain an owner's policy of title insurance. If the requested relief is not granted, Plaintiff may not get the full benefit of the collateral for the loan, as the parties intended.

II. LEGAL ARGUMENT

A. Conversion to Realty

Clearly it was the intent of the mortgagors that the home be used as security for the loan made by Atlantic Bay Mortgage Group LLC and not raw land alone. It was certainly Atlantic Bay Mortgage Group LLC's intent that the mortgage cover the dwelling.

In Pennsylvania, the intent of the parties is a key consideration in determining whether or not a chattel becomes a fixture. In re Appeal of Sheetz, Inc., 657 A.2d 1011 (1995). There are at least three considerations to be made in making this determination: (1) the manner in which it is physically attached or installed, (2) the extent to which it is essential to the permanent use of the building or other improvement and (3) the intention of the parties who attached or installed it. *Id.* At 1013, citing, McCloskey, 101 Pa. Commonwealth Court at 113-4, 515 A.2d at 644 citing, *Clothier, the Law of Fixtures in Pennsylvania*, 32 Pa. B.Q. 66, 66-67 (1960-61).

Plaintiff submits that when these factors are considered, it is evident that the home is affixed to the land. The parties did not sit down at the closing table with the intent to mortgage raw land. If this home was ever mobile, it is not now, being firmly founded

without any trace of mobility. Neither is the home convertible back to a mobile status. The Sheetz case goes on to cite the Superior Court case of Streyle v. Board of Property Assessment, 173 Pa. Superior Court 324, 98 A.2d 410 (1953) which held that “[h]ouse trailers, so long as they remain mobile, i.e., equipped with wheels, are personal property and not subject to taxation as real estate”. Id. at 327, 328, 98 A.2d at 412. It would stand to reason that once the wheels are removed, permanent affixation is evident, the property should be taxable as real estate.

Clayton v. Lienhard, 312 Pa.433, 167 A.321 (1933) is still the lead case cited for determining what category “chattels” fall under in connection with real estate. There is that which is clearly furniture and will always remain personality, that which is clearly affixed and cannot be removed without injury to the real estate or the fixture itself, and that under which mobile homes fall: physically connected to the real estate, but removable without destroying the mobile home or the real estate.

Plaintiff submits that the home at 71 Erie Street, a/k/a 73 Erie Street, Wallaceton, PA 16876 falls under the second classification. However, were the court to find that it was a “mobile home” under the Clayton definition, it would still need to find the home to be real estate, due to the determining factor that is *the intent of the parties at the time of annexation* Id. At 436, 322 (emphasis added).

The Boyd Appeal case heard in Beaver County, Pennsylvania held that a “mobile home” which had its mobility removed was no longer a “mobile home” for zoning purposes, but should be deemed a single-family dwelling. It further distinguished between trailers (with wheels) and mobile homes, indicating that “the structural construction of th[is] home differs from that of a conventional home only to the extent that it is of a smaller scale. The degree of difficulty in physically moving the structure is the same”. Boyd Appeal, 67 Pa. D. & C. 2d1, 1974 WL 15624 (Pa.Com.Pl) (1974). In defining the structure, the Court set forth a plethora of factors that it found to separate such a permanent home from that of a trailer,

such as the foundation itself, the building materials, the water, sewer and electricity utilities, telephone service, septic tank and fuel oil heating unit. Id. at 15.

Further, counsel for Plaintiff in prior cases with very similar fact patterns has had relief granted in its favor in several Pennsylvania counties.

In the instant case, Mark E. Powell and Robin L. Powell have clearly evidenced similar manifestations of intent to have this dwelling be permanently affixed to the land. It is clear from the photographs attached hereto that there is utility hookup, a patio, and a permanent foundation, and the interior of the dwelling is replete with the amenities of any other home.

Further, as evidenced by the Clearfield County Tax Assessment documents attached to Plaintiff's instant motion, this property has been assessed as improved property for real estate tax purposes. Surely, logic dictates that if this type of improvement would be considered a home for zoning reasons, and the very county in which it sits has assessed it as real estate for tax purposes, the property should be deemed realty.

A Lancaster County, Pennsylvania Court used the Clayton standard to hold that a mobile home constituted real estate under Pennsylvania law when the wheels of the home had been removed, the home remained in place for seven years, water, sewer, electricity and telephone were connected, and the owners paid real estate taxes to Lancaster County. Fromm v. Frankhouser, 7Pa. D. & C. 3d 560, 566-567, 1977 WL 269 (Pa.Comm. Pl) (1977). The same conclusion should be reached in Clearfield County in the instant case.

B. Relief in Aid of Execution

Pa.R.C.P. 3118 is designed to give the court "broad discretion to provide relief in aid of execution". National Recovery Systems v. Pinto, 18 D. & C. 3d 684, 686 (Pa.Comp.Pl 1981). Specifically, the rule provides, *inter alia*:

- (a) On petition of the plaintiff, after notice and hearing, the court in which a judgment has been entered may, before or after the issuance of a

writ of execution, enter an order against any party or person...

(3) directing the defendant or any other party or person to take such action as the court may direct to preserve collateral security for property of the defendant levied upon or attached, or any security interest levied upon or attached; . . . (6) granting such other relief as may be deemed necessary and appropriate. Pa.R.C.P. 3118(a).

The predicates for a petitioner to obtain supplementary relief in aid of execution of a judgment are (1) the existence of an underlying judgment; and (2) property of the debtor subject to execution. Kaplan v. I. Kaplan Inc., 422 Pa. Super. 215, 619 A.2d 322 (1993). In this case, there is no question that an underlying judgment was entered in favor of the Plaintiff and against the Defendants. (See Exhibit "D"). Moreover, it is also clear that the mortgaged property at 71 Erie Street, a/k/a 73 Erie Street, Wallaceton, PA 16876, is property of the Defendants and is subject to attachment and execution. Therefore, the creditor is entitled to invoke Rule 3118 for its motion to aid in the execution of the property and the court has jurisdiction over this matter.

C. Plaintiff's Motion to Equitably Convert Should Be Granted Pursuant to Rule 126

In Livingston v. Unis, 659 A.2d 606 (Pa. Cmwlth. 1995), although the Commonwealth Court found the Common Pleas Court exceeded the scope of Rule 3118 by making a determination of which creditor had priority to the debtor's lottery winnings, the court nonetheless refused to remand the case for a separate hearing. *Id.* at 612. In so finding the court stated "it would be judicially inefficient to remand this matter to the trial court when all of the necessary parties were able to participate in the matter before the Court of Common Pleas. " *Id.* at 609. In support of its ruling, the Livingston court cited Pa. R.C.P. 126, which provides that civil procedure "rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable." Pa. R.C.P. 126.

In the present case, the Defendants at all times were aware of all proceedings and were able to fully participate. However, the Defendants have not contested any of the proceedings. Requiring a separate action to quiet title would cause undue delay and additional cost to Plaintiff.

D. Quiet Title and Foreclosure Claims May Be Joined Under Meara

Even if the Motion to Equitably Convert to Real Property were deemed to be a quiet title action, such an action may be properly joined with a foreclosure action under Meara v. Hewitt, 455 PA 132 (1974). Under the Pennsylvania Rules of Civil Procedure, a plaintiff in an action of mortgage foreclosure may state in his or her complaint two or more grounds for foreclosure, but may not state more than one cause of action. Pa. R.C.P. 1146. Thus, an action in equity may be joined with an action to quiet title and an action of mortgage foreclosure, where all three actions turn on the same legal question of the validity of a mortgage. Goodrich Amram 2d § 1146:1.

E. Declaratory Relief

Pennsylvania Rule of Civil Procedure 1602 titled “Declaratory Judgment as Ancillary Relief” states that a party may include a prayer for declaratory relief in *any* action at law or in equity. Consistent with the law cited above, this rule permits Plaintiff’s requested relief in a mortgage foreclosure action.

The Declaratory Judgments Act states, “Courts of record, within their respective jurisdictions, shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. . . .” 42 Pa. C.S.A. §7532. In the instant case, Plaintiff is seeking an order declaring the status of the house as realty. Section 7532 gives the Court the authority to make this declaration. The Pennsylvania Superior Court has held that the Declaratory Judgments Act is to be liberally construed. Doe v. Johns-Manville

Corp., 471 A.2d 1252, 324 Pa. Super. 469 (Pa. Super. 1984). In addition, the Declaratory Judgments Act is intended to provide relief from uncertainty. Curtis v. Cleland, 552 A.2d 316, 122 Pa. Cmwlth. 328 (1988). Accordingly, Plaintiff submits that the Declaratory Judgments Act provides the Court with jurisdiction to declare the Powell's house as realty, to provide relief to the Plaintiff from the uncertainty associated with selling a mobile home to a third party.

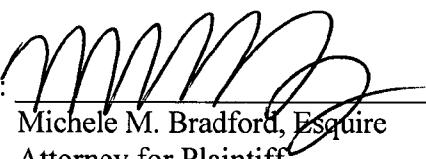
F. Equitable Principles

Plaintiff is without an adequate remedy at law and will suffer irreparable harm unless the requested relief is granted. This Court has plenary power to administer equity according to well-settled principals of equity jurisprudence in cases under its jurisdiction. Cheval v. City of Philadelphia, 176 A. 779, 116 Pa. Super. 101 (1935). Moreover, it is well settled that Courts will lean to a liberal exercise of the equity power conferred upon them instead of encouraging technical niceties in the modes of procedure and forms of pleading. Gunnet v. Trout, 380 Pa. 504, 112 A.2d 333 (1955). This is certainly a case where the exercise of this Court's equity powers is appropriate and necessary. Plaintiff is requesting the entry of a court order declaring the house as realty, so that the buyer of the property at Sheriff's Sale will acquire clear title to the house and land. If the requested relief is not granted, Plaintiff may not get the full benefit of the collateral for the loan, as the parties intended.

WHEREFORE, Plaintiff Wells Fargo Bank, N.A., s/b/m to Wells Fargo Home Mortgage, Inc. respectfully requests that this Honorable Court enter an Order on this motion, that the property at 71 Erie Street, a/k/a 73 Erie Street, Wallaceton, PA 16876 with a tax parcel I.D. number of 19-010-376-13, be equitably converted to real estate by way of this motion, and not subject to separation from land.

Respectfully submitted:
PHELAN HALLINAN & SCHMIEG, LLP

Date: 11/15/05

By: 
Michele M. Bradford, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20195
NO: 05-373-CD

PLAINTIFF: WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
VS.
DEFENDANT: MARK E. POWELL AND ROBIN L. POWELL

Execution REAL ESTATE

SHERIFF RETURN

DATE RECEIVED WRIT: 06/23/2005

LEVY TAKEN 09/15/2005 @ 1:42 PM

POSTED 09/15/2005 @ 1:42 PM

SALE HELD 01/06/2006

SOLD TO WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC. William A. Shaw
Prothonotary/Clerk of Courts

SOLD FOR AMOUNT \$1.00 PLUS COSTS

WRIT RETURNED 02/06/2006

DATE DEED FILED 02/06/2006

PROPERTY ADDRESS 71 ERIE STREET WALLACETON , PA 16876

FILED

01/32/06
FEB 06 2006

SERVICES

@ SERVED MARK E. POWELL

NOT SERVED MOVED HOUSE EMPTY.

@ SERVED ROBIN L. POWELL

NOT SERVED MOVED HOUSE EMPTY.

12/02/2005 @ 5:20 PM SERVED MARK E. POWELL

CENTRE COUNTY SHERIFF'S OFFICE SERVED MARK E. POWELL, DEFENDANT, AT HIS RESIDENCE 220 POWDER MAGAZINE ROAD, PHILIPSBURG, CENTRE COUNTY, PENNSYLVANIA BY HANDING TO ROBIN L. POWELL WIFE/DEFENDANT

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

12/02/2005 @ 5:20 PM SERVED ROBIN L. POWELL

CENTRE COUNTY SHERIFF'S OFFICE SERVED ROBIN L. POWELL, DEFENDANT, AT HER RESIDENCE 220 POWDER MAGAZINE ROAD, PHILIPSBURG, CENTRE COUNTY, PENNSYLVANIA BY HANDING TO ROBIN L. POWELL

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

@ SERVED

NOW, NOVEMBER 3, 2005 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO CONTINUE THE SHERIFF SALE SCHEDULED FOR NOVEMBER 4, 2005 TO JANUARY 6, 2006.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20195
NO: 05-373-CD

PLAINTIFF: WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC.
vs.

DEFENDANT: MARK E. POWELL AND ROBIN L. POWELL

Execution REAL ESTATE

SHERIFF RETURN

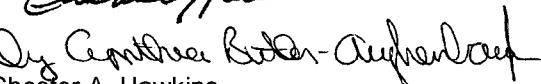
SHERIFF HAWKINS \$256.01

SURCHARGE \$40.00 PAID BY ATTORNEY

Sworn to Before Me This

So Answers,

____ Day of _____ 2006


By 
Chester A. Hawkins
Sheriff

WRIT OF EXECUTION -- (MORTGAGE FORECLOSURE)
Pa.R.C.P. 3180 to 3183 and Rule 3257

WELLS FARGO BANK, N.A., S/B/M TO WELLS
FARGO HOME MORTGAGE, INC.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY,
PENNSYLVANIA

vs.

NO.: 05-373-CD

MARK E. POWELL
ROBIN L. POWELL

WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)

Commonwealth of Pennsylvania:

County of Clearfield:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property (specifically described property below):

Premises: 71 ERIE STREET, WALLACETON, PA 16876

(See legal description attached.)

Amount Due	<u>\$82,663.11</u>
Interest from 6/22/05 to Date of Sale (\$13.59 per diem)	<u>\$</u> _____
Total	<u>\$</u> _____ Plus costs as endorsed. <u>125.00</u> Prothonotary costs

Willie A. Blair
Prothonotary, Common Pleas Court of
Clearfield County, Pennsylvania

By:

Deputy

KIO

Dated 6/23/05
(SEAL)
Received June 23, 2005 @ 1:30 P.M.
Cheston A. Matthews
By Andrea Butler-Aylenback

IMPORTANT NOTICE: This property is sold at the direction of the plaintiff. It may not be sold in the absence of a representative of the plaintiff at the Sheriff's Sale. The sale must be postponed or stayed in the event that a representative of the plaintiff is not present at the sale.

No. 05-373-CD

**In the Court of Common Pleas of
Clearfield County, Pennsylvania**

**WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME
MORTGAGE, INC.**

VS.

**MARK E. POWELL
ROBIN L. POWELL**

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

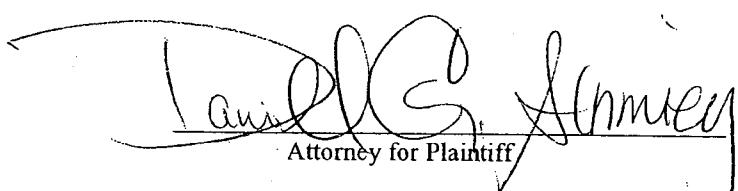
Real Debt \$82,663.11

Int. from 6/22/05 _____
to Date of Sale (\$13.59 per diem)

Costs _____

Proth. Pd. 125.00

Sheriff _____


Attorney for Plaintiff

Address: 71 ERIE STREET, WALLACETON, PA 16876
71 ERIE STREET, WALLACETON, PA 16876
Where papers may be served.

Daniel G. Schmieg, Esquire
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

DESCRIPTION

ALL THAT CERTAIN AREA OR TRACT OF LAND, situate in Wallaceton, Clearfield County, Pennsylvania, bounded and described as follows. Beginning at a point at the right of way of Pennsylvania Railroad Company, thence South eighty-four (84) degrees thirty (30) minutes west across a street and along line of lot now or formerly of Elizabeth S. Ogden, one hundred seventy-four (174) feet, more or less, to a post at the corner of Lot now or formerly as Mrs. Minnie B. Good; thence along Lot of Mrs. Minnie B. Good in a northerly direction fifty (50) feet to a point; thence north eight-four (84) degrees thirty (30) minutes east along other lands of a prior grantor for a distance of eighty (80) feet; more or less, to a point on the right of way of the Pennsylvania Railroad Company, which point is fifty (50) feet north from the place of beginning; thence along said right of way in a southerly direction fifty (50) feet to a post and place of Beginning. Excepting and reserving however, the prior grantor, its successors and assigns, the right to use for road purposes a strip of land 20 feet breadth and extending along the eastern side of the above described land adjoining the right of way of the Pennsylvania Railroad Company

TITLE TO SAID PREMISES IS VESTED IN Mark E. Powell and Robin L. Powell, husband and wife, by Deed from James D. Maines, dated 8-23-02 and recorded 9-10-02 in Instrument No. 200214350

Tax Parcel # 19-010-376-13

Premises: 71 Erie Street, Wallaceton, PA 16876

**REAL ESTATE SALE
SCHEDULE OF DISTRIBUTION**

NAME MARK E. POWELL

NO. 05-373-CD

NOW, February 06, 2006, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on January 06, 2006, I exposed the within described real estate of Mark E. Powell And Robin L. Powell to public venue or outcry at which time and place I sold the same to WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC. he/she being the highest bidder, for the sum of \$1.00 plus costs and made the following appropriations, viz:

SHERIFF COSTS:

RDR SERVICE	15.00
MILEAGE	15.00
LEVY	8.10
MILEAGE	15.00
POSTING	8.10
CSDS	15.00
COMMISSION	10.00
POSTAGE	0.00
HANDBILLS	4.81
DISTRIBUTION	15.00
ADVERTISING	25.00
ADD'L SERVICE	15.00
DEED	30.00
ADD'L POSTING	
ADD'L MILEAGE	
ADD'L LEVY	
BID AMOUNT	1.00
RETURNS/DEPUTIZE	9.00
COPIES	15.00
	5.00
BILLING/PHONE/FAX	15.00
CONTINUED SALES	20.00
MISCELLANEOUS	
TOTAL SHERIFF COSTS	\$256.01

DEED COSTS:

ACKNOWLEDGEMENT	5.00
REGISTER & RECORDER	29.00
TRANSFER TAX 2%	0.00
TOTAL DEED COSTS	\$29.00

PLAINTIFF COSTS, DEBT AND INTEREST:

DEBT-AMOUNT DUE	82,663.11
INTEREST @ 13.5900 %	2,690.82
FROM 06/22/2005 TO 01/06/2006	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	40.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
TOTAL DEBT AND INTEREST	\$85,393.93
COSTS:	
ADVERTISING	349.66
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
DUE	
LIEN SEARCH	100.00
ACKNOWLEDGEMENT	5.00
DEED COSTS	29.00
SHERIFF COSTS	256.01
LEGAL JOURNAL COSTS	180.00
PROTHONOTARY	125.00
MORTGAGE SEARCH	40.00
MUNICIPAL LIEN	185.00
TOTAL COSTS	\$1,269.67

DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff



CHESTER A. HAWKINS
SHERIFF

**Sheriff's Office
Clearfield County**

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 20195 TERM & NO. 05-373-CD

WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC.

vs.
MARK E. POWELL AND ROBIN L. POWELL

DOCUMENTS TO BE SERVED:
NOTICE OF SALE
WRIT OF EXECUTION
COPY OF LEVY

SERVE BY: ASAP

**MAKE REFUND PAYABLE TO ATTY OFFICE: PHELAN HALLINAN & SCHMI
RETURN TO BE SENT TO THIS OFFICE**

SERVE: MARK E. POWELL

ADDRESS: 220 POWDER MAGAZINE ROAD
PHILIPSBURG, PA 16866

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depelize the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Depetation being made at the request and risk of the Plaintiff this day, Monday, November 21, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

Pa 3257-PA
10/17/05



CHESTER A. HAWKINS
SHERIFF

Sheriff's Office Clearfield County

COURTHOUSE
1 NORTH SECOND STREET, SUITE 116
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986
AFTER 4:00 P.M. (814) 765-1533
FAX (814) 765-5915

ROBERT SNYDER
CHIEF DEPUTY

MARILYN HAMM
DEPT. CLERK

CYNTHIA AUGHENBAUGH
OFFICE MANAGER

PETER F. SMITH
SOLICITOR

DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 20195 TERM & NO. 05-373-CD

WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME MORTGAGE, INC.

vs.
MARK E. POWELL AND ROBIN L. POWELL

DOCUMENTS TO BE SERVED:
NOTICE OF SALE
WRIT OF EXECUTION
COPY OF LEVY

SERVE BY: ASAP

**MAKE REFUND PAYABLE TO ATTY OFFICE: PHELAN HALLINAN & SCHMI
RETURN TO BE SENT TO THIS OFFICE**

SERVE: ROBIN L. POWELL

ADDRESS: 220 POWDER MAGAZINE ROAD
PHILIPSBURG, PA 16866

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF OF CLEARFIELD COUNTY, State of Pennsylvania, do hereby depose the SHERIFF OF CENTRE COUNTY, Pennsylvania to execute this writ. This Deposition being made at the request and risk of the Plaintiff this day, Monday, November 21, 2005.

RESPECTFULLY,

A handwritten signature in black ink, appearing to read "Chester A. Hawkins".

CHESTER A. HAWKINS,
SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

SHERIFF'S OFFICE

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do Not detach any copies.

1. Plaintiff(s)

Wells Fargo BANK

2. Case Number

05-373-CD

3. Defendant(s)

Mark and Robin Powell

4. Type of Writ or Complaint:

Complaint

SERVE

→
AT

5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold.

Mark Powell

6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code)

220 Powder Magazine Rd, Philipsburg, Pa 16866

7. Indicate unusual service:

Reg Mail Certified Mail Deputy Post Other

Now, 20. I, Sheriff of CENTRE COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

Sheriff of Centre County

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN – Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.

9. Print/Type Name and Address of Attorney/Originator

10. Telephone Number

11. Date

12. Signature

SPACE BELOW FOR USE OF SHERIFF ONLY - DO NOT WRITE BELOW THIS LINE

13. I acknowledge receipt of the writ or complaint as indicated above. } SIGNATURE of Authorized CCSD Deputy of Clerk and Title 14. Date Filed 15. Expiration/Hearing Date

TO BE COMPLETED BY SHERIFF

16. Served and made known to Robin Powell, on the 2 day of Dec,

20 05, at 5:30 o'clock, P m., at Same as above, County of Centre

Commonwealth of Pennsylvania, in the manner described below:

Defendant(s) personally served.
 Adult family member with whom said Defendant(s) resides(s). Relationship is Wife
 Adult in charge of Defendant's residence.
 Manager/Clerk of place of lodging in which Defendant(s) resides(s).
 Agent or person in charge of Defendant's office or usual place of business.
 _____ and officer of said Defendant company.
 Other _____

On the _____ day of _____, 20____, at _____ o'clock, _____ M.

Defendant not found because:

Moved Unknown No Answer Vacant Other _____

Remarks:

Advance Costs	Docket	Service	Sur Charge	Affidavit	Mileage	Postage	Misc.	Total Costs	Costs Due or Refund
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17. AFFIRMED and subscribed to before me this <u>8</u>	So Answer.								
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20. day of <u>Dec.</u> 20 <u>05</u>	18. Signature of Dep. Sheriff <u>Ted J. He</u> 19. Date <u>12-6-05</u>								
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23. COMMONWEALTH NOTARY PUBLIC IN PENNSYLVANIA Notarial Seal Corinne H. Peters, Notary Public My Commission Expires <u>Dec. 2008</u>	21. Signature of Sheriff <u>Ted J. He</u> 22. Date								
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SHERIFF OF CENTRE COUNTY									
Amount Pd.					Page				

24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND TITLE Member, Pennsylvania Association of Notaries	25. Date Received								
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SHERIFF'S OFFICE

CENTRE COUNTY

Rm 101 Court House, Bellefonte, Pennsylvania, 16823 (814) 355-6803

SHERIFF SERVICE PROCESS RECEIPT, AND AFFIDAVIT OF RETURN

INSTRUCTIONS FOR SERVICE OF PROCESS: You must file one instruction sheet for each defendant. Please type or print legibly. Do Not detach any copies.

1. Plaintiff(s)	2. Case Number								
<u>Wells Fargo Bank</u>	<u>05-373-CD</u>								
3. Defendant(s)	4. Type of Writ or Complaint:								
<u>Mark and Robin Powell</u>	<u>Complaint</u>								
SERVE → AT	5. Name of Individual, Company, Corporation, Etc., to Serve or Description of Property to be Levied, Attached or Sold. <u>Mark and Robin Powell</u> 6. Address (Street or RFD, Apartment No., City, Boro, Twp., State and Zip Code) <u>220 Powder Magazine Rd. Philipsburg, Pa 16866</u>								
7. Indicate unusual service:	<input type="checkbox"/> Reg Mail <input type="checkbox"/> Certified Mail <input type="checkbox"/> Deputize <input type="checkbox"/> Post <input type="checkbox"/> Other								
Now, <u>20</u> I SHERIFF OF CENTRE COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.									
Sheriff of Centre County									
8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE									
NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN – Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriff's sale thereof.									
9. Print/Type Name and Address of Attorney/Originator	10. Telephone Number								
	11. Date								
	12. Signature								
SPACE BELOW FOR USE OF SHERIFF ONLY – DO NOT WRITE BELOW THIS LINE									
13. I acknowledge receipt of the writ or complaint as indicated above.	SIGNATURE of Authorized CCSD Deputy of Clerk and Title								
	14. Date Filed								
	15. Expiration/Hearing Date								
TO BE COMPLETED BY SHERIFF									
16. Served and made known to <u>Mark and Robin Powell</u> , on the <u>2</u> day of <u>Dec.</u> ,									
20 <u>05</u> , at <u>5:20</u> o'clock, <u>F</u> m., at <u>SAME AS ABOVE ADDRESS</u> , County of Centre									
Commonwealth of Pennsylvania, in the manner described below:									
<input checked="" type="checkbox"/> Defendant(s) personally served. <input type="checkbox"/> Adult family member with whom said Defendant(s) resides(s). Relationship is _____ <input type="checkbox"/> Adult in charge of Defendant's residence. <input type="checkbox"/> Manager/Clerk of place of lodging in which Defendant(s) resides(s). <input type="checkbox"/> Agent or person in charge of Defendant's office or usual place of business. <input type="checkbox"/> _____ and officer of said Defendant company. <input type="checkbox"/> Other _____									
On the _____ day of _____, 20____, at _____ o'clock, _____ M.									
Defendant not found because:									
<input type="checkbox"/> Moved <input type="checkbox"/> Unknown <input type="checkbox"/> No Answer <input type="checkbox"/> Vacant <input type="checkbox"/> Other _____									
Remarks:									
Advance Costs <u>75.00</u>	Docket <u>9.00</u>	Service <u>15.00</u>	Sur Charge <u>—</u>	Affidavit <u>3.50</u>	Mileage <u>24.00</u>	Postage <u>1.00</u>	Misc. <u>1.00</u>	Total Costs <u>53.50</u>	Costs Due or Refund <u>21.50</u>
17. AFFIRMED and subscribed to before me this <u>8</u>				So Answer.					
20. day of <u>Dec.</u> <u>2005</u>				18. Signature of Dep. Sheriff <u>[Signature]</u>					
23. COMMONWEALTH OF PENNSYLVANIA Notary Public Notary Seal Corinne H. Peters, Notary Public Bellefonte, Boro, Centre County My Commission Expires Sept. 5, 2009				19. Date <u>12-6-05</u>					
				21. Signature of Sheriff <u>[Signature]</u>					
				22. Date					
				SHERIFF OF CENTRE COUNTY					
				Amount Pd. _____ Page _____					
24. I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED AUTHORITY AND IT IS DE NOTARIES				25. Date Received					

Federman and Phelan is now
Law Offices

PHELAN HALLINAN & SCHMIEG, LLP

One Penn Center at Suburban Station
1617 John F. Kennedy Boulevard
Suite 1400
Philadelphia, PA 19103-1814
Sandra.Cooper@fedphe.com

Sandra Cooper
Judgment Department, Ext. 1258

Representing Lenders in
Pennsylvania and New Jersey

November 3, 2005

Office of the Sheriff
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

ATTENTION: CINDY (814) 765-5915

**Re: WELLS FARGO BANK, N.A., S/B/M TO WELLS FARGO HOME
MORTGAGE, INC. v. MARK E. POWELL ROBIN L. POWELL
No. 06-373-CD
71 ERIE STREET, WALLACETON, PA 16876**

Dear Cindy:

Please postpone the Sheriff's Sale of the above referenced property which
is scheduled for November 4, 2005.

The property is to be relisted for the 1/6/06 Sheriff's Sale.

Very truly yours,

SMC

Sandra Cooer

VIA TELECOPY (814) 765-5915

CC: **MARK E. POWELL** **ROBIN L. POWELL**