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8/29/2016 3:42 PM  
58-CV-2012-900409.00  
CIRCUIT COURT OF  
SHELBY COUNTY, ALABAMA  
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA



20160906000322980 1/5 \$27.00  
Shelby Cnty Judge of Probate, AL  
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BANK OF NEW YORK,  
Plaintiff,

V.

MURRY WILBERT D,  
MURRY BARBARA J,  
GREEN TREE SERVICING LLC,  
Defendants.

Case No.: CV-2012-900409.00

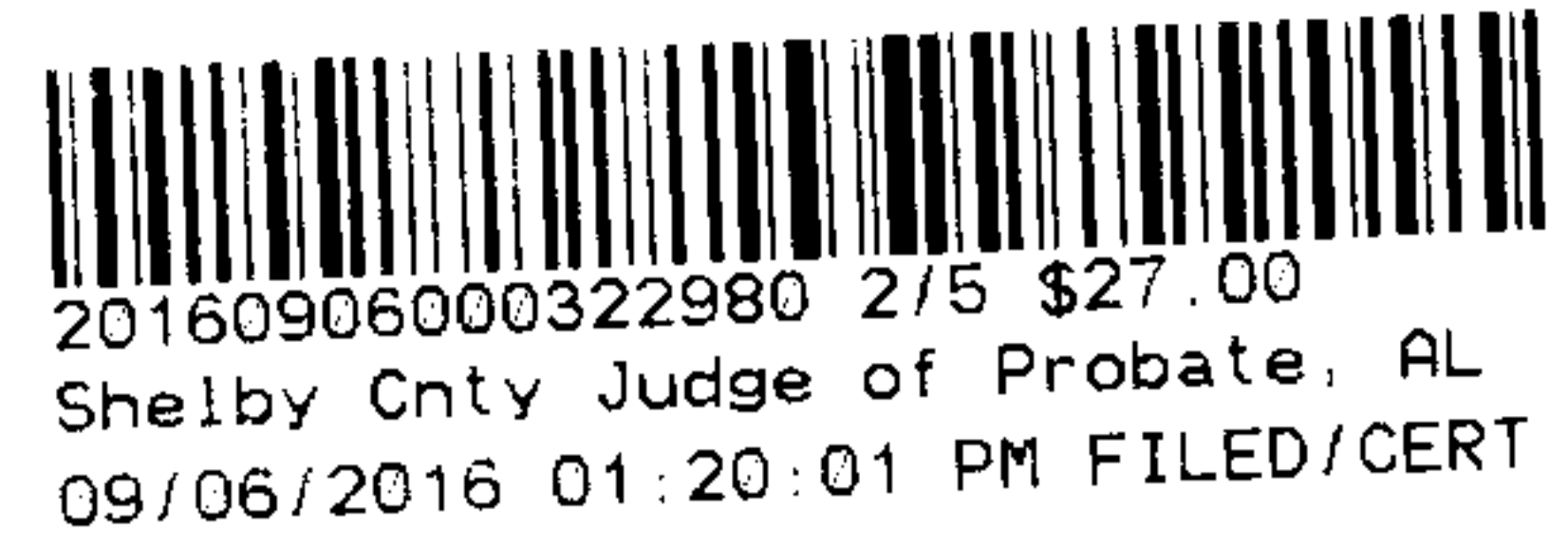
**CONSENT ORDER**

The matter before the Court is an ejectment case filed by the plaintiff, Bank of New York Mellon, as Trustee for the Certificate Holders CWABS, Inc. Asset Backed Certificates, Series 2004-12 ("BNYM"), against Defendants, Wilbert D. Murry and Barbara Murry. The Defendants, through counsel, filed an answer and counterclaim denying that the Plaintiff is entitled to possession and alleging, among others, wrongful foreclosure. The Defendants seek to set aside the foreclosure and to reinstate their mortgage indebtedness owed to Plaintiff.

The Plaintiff, Defendants and Third-Party Defendant Green Tree Servicing LLC have advised the Court that they have reached an agreement as set forth herein between them. The parties have made it known to the Court that they have entered into an agreement by which the foreclosure deed (see **Exhibit A** hereto) and recorded on January 27, 2012 as instrument number 20120127000032500 in the Probate Records of Shelby County, Alabama, is due to be rescinded and the terms of the mortgage and promissory note are to be revived. The parties further advise that, in addition, all claims made by Plaintiff are due to be dismissed, without prejudice, and all claims made by the Defendants against BNYM and Green Tree Servicing LLC, with prejudice, each party to bear their own costs.

The parties also seek an Order from this Court reviving the mortgage executed by the Defendants in favor of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., SOLELY AS NOMINEE FOR FULL SPECTRUM LENDING, INC., recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Instrument Number 20041026000591580 and subsequently assigned to Bank of New York Mellon, as Trustee for the Certificate Holders CWABS, Inc. Asset Backed Certificates, Series 2004-12, and placing the parties in the position they were in immediately before the foreclosure. The parties request that the mortgage be entitled to the same full force and effect and be entitled to the same priority and dignity that existed immediately prior to the foreclosure action.

Based upon the representations of the parties through counsel, the agreement as presented by counsel for the parties and the foregoing recitals, the Court is of the opinion and hereby orders, adjudges and decrees that (1) the foreclosure be declared and therefore is null and void,



(2) the parties be and hereby are placed in the position they were in prior to foreclosure; and (3) the mortgage be and hereby is hereby revived with the same full force and effect and be entitled to the same priority and dignity that existed immediately prior to the foreclosure action. It is further ordered that the claims of the Plaintiff are dismissed without prejudice and that the claims of the Defendants against BNYM and Green Tree dismissed with prejudice, each party to bear its/his/her own costs. The claims of the Defendants against Bank of America, N.A. shall remain pending.

**DONE this 29<sup>th</sup> day of August, 2016.**

**/s/ WILLIAM H. BOSTICK, III**  
**CIRCUIT JUDGE**



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SEND TAX NOTICE TO:  
Bank of America  
7105 Corporate Drive, Mail Stop PTX-C-35  
Plano, TX 75024

STATE OF ALABAMA            )  
SHELBY COUNTY                )

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FORECLOSURE DEED

KNOW ALL MEN BY THESE PRESENTS, that

WHEREAS, heretofore, on, to-wit: the 18th day of October, 2004, Wilbert D. Murry and Barbara J. Murry, husband and wife, executed that certain mortgage on real property hereinafter described to Mortgage Electronic Registration Systems, Inc. acting solely as nominee for Full Spectrum Lending, Inc., which said mortgage was recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Instrument Number 20041026000591580, said mortgage having subsequently been transferred and assigned to Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12, by instrument recorded in Instrument Number 20080917000368360, in the aforesaid Probate Office ("Transferee"); and

WHEREAS, in and by said mortgage, the Transferee was authorized and empowered in case of default in the payment of the indebtedness secured thereby, according to the terms thereof, to sell said property before the Courthouse door in the City of Columbiana, Shelby County, Alabama, after giving notice of the time, place, and terms of said sale in some newspaper published in said County by publication once a week for three (3) consecutive weeks prior to said sale at public outcry for cash, to the highest bidder, and said mortgage provided that in case of sale under the power and authority contained in same, the Transferee or any person conducting said sale for the Transferee was authorized to execute title to the purchaser at said sale; and it was further provided in and by said mortgage that the Transferee may bid at the sale and purchase said property if the highest bidder thereof; and

WHEREAS, default was made in the payment of the indebtedness secured by said mortgage, and the said Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12 did declare all of the indebtedness secured by said mortgage, subject to foreclosure as therein provided and did give due and proper notice of the foreclosure of said mortgage by publication in the Shelby County Reporter, a newspaper of general circulation published in Shelby County, Alabama, in its issues of April 13, 2011, April 20, 2011, and April 27, 2011; and





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WHEREAS, on January 18, 2012, the day on which the foreclosure was due to be held under the terms of said notice, between the legal hours of sale, said foreclosure was duly conducted, and Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12 did offer for sale and sell at public outcry in front of the Courthouse door in Columbiana, Shelby County, Alabama, the property hereinafter described; and

WHEREAS, Michael Corvin as member of Corvin Auctioneering, LLC was the auctioneer who conducted said foreclosure sale and was the person conducting the sale for the said Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12; and

WHEREAS, Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12 was the highest bidder and best bidder in the amount of Two Hundred Twenty-Five Thousand And 00/100 Dollars (\$225,000.00) on the indebtedness secured by said mortgage, the said Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12, by and through Michael Corvin as member of Corvin Auctioneering, LLC as auctioneer conducting said sale for said Transferee, does hereby grant, bargain, sell and convey unto Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12 all of its right, title, and interest in and to the following described property situated in Shelby County, Alabama, to-wit:

Lot 28, according to the Map and Survey of Brook Highland, 1st Sector, as recorded in Map Book 12, Page 62 A & B, in the Probate Office of Shelby County, Alabama.

TO HAVE AND TO HOLD the above described property unto Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12 its successors/heirs and assigns, forever; subject, however, to the statutory rights of redemption from said foreclosure sale on the part of those entitled to redeem as provided by the laws in the State of Alabama; and also subject to all recorded mortgages, encumbrances, recorded or unrecorded easements, liens, taxes, assessments, rights-of-way, and other matters of record in the aforesaid Probate Office.



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IN WITNESS WHEREOF, Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12, has caused this instrument to be executed by and through Michael Corvin as member of Corvin Auctioneering, LLC, as auctioneer conducting said sale for said Transferee, and said Michael Corvin as member of Corvin Auctioneering, LLC, as said auctioneer, has hereto set his/her hand and seal on this 19 day of JANUARY, 2012.

Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12

By: Corvin Auctioneering, LLC  
Its: Auctioneer

By: [Signature]  
Michael Corvin, Member

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Michael Corvin, whose name as member of Corvin Auctioneering, LLC acting in its capacity as auctioneer for Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificate Holders CWABS, Inc. Asset-Backed Certificates, Series 2004-12, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this date, that being informed of the contents of the conveyance, he, as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in its capacity as auctioneer for said Transferee.

Given under my hand and official seal on this 19 day of JANUARY, 2012

[Signature]  
Notary Public  
My Commission Expires SEPTEMBER 27, 2014

This instrument prepared by:  
Andy Saag  
SIROTE & PERMUTT, P.C.  
P. O. Box 55727  
Birmingham, Alabama 35255-5727

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