

Affidavit

*****Please Index Under the Following Name and Instrument:**

— **Jessica M. Magro**

— **Mortgage dated Sept. 19, 2008, recorded in Instrument Number
20080923000376460**

This Instrument Prepared By:

Paul H. Greenwood, Esq.
BALCH & BINGHAM LLP
Post Office Box 306
Birmingham, Alabama 35201
(205) 251-8100

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

Before me, the undersigned, a Notary Public in and for said county in said state, personally appeared Paul H. Greenwood, whose name is signed to this Affidavit and who is known to me, and who being by me first duly sworn, deposes and says as follows:

1. My name is Paul H. Greenwood and I am over the age of nineteen years. I make the statements contained in this Affidavit based on my personal knowledge.

2. I am the attorney of record for Compass Bank in Case No. CV-2017-900845.00 (the "**Lawsuit**") in the Circuit Court of Shelby County, Alabama (the "**Circuit Court**").

3. On March 29, 2018, a Consent Order and Pro Tanto Dismissal of Compass Bank was entered in the Lawsuit by the Circuit Court (the "**Order**"). A true and correct copy of the Order is attached to this Affidavit as **Exhibit "1"** and incorporated herein by reference.

4. This Affidavit and the attached Order are being recorded in the Office of the Judge of Probate of Shelby County, Alabama, for the purpose of giving public notice of the Order.



Paul H. Greenwood
Executed on March 30, 2018

[Acknowledgment on the Following Page]

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **Paul H. Greenwood**, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 30 day of March, 2018.

Brooke Freeman
Notary Public

[SEAL]

My commission expires: _____

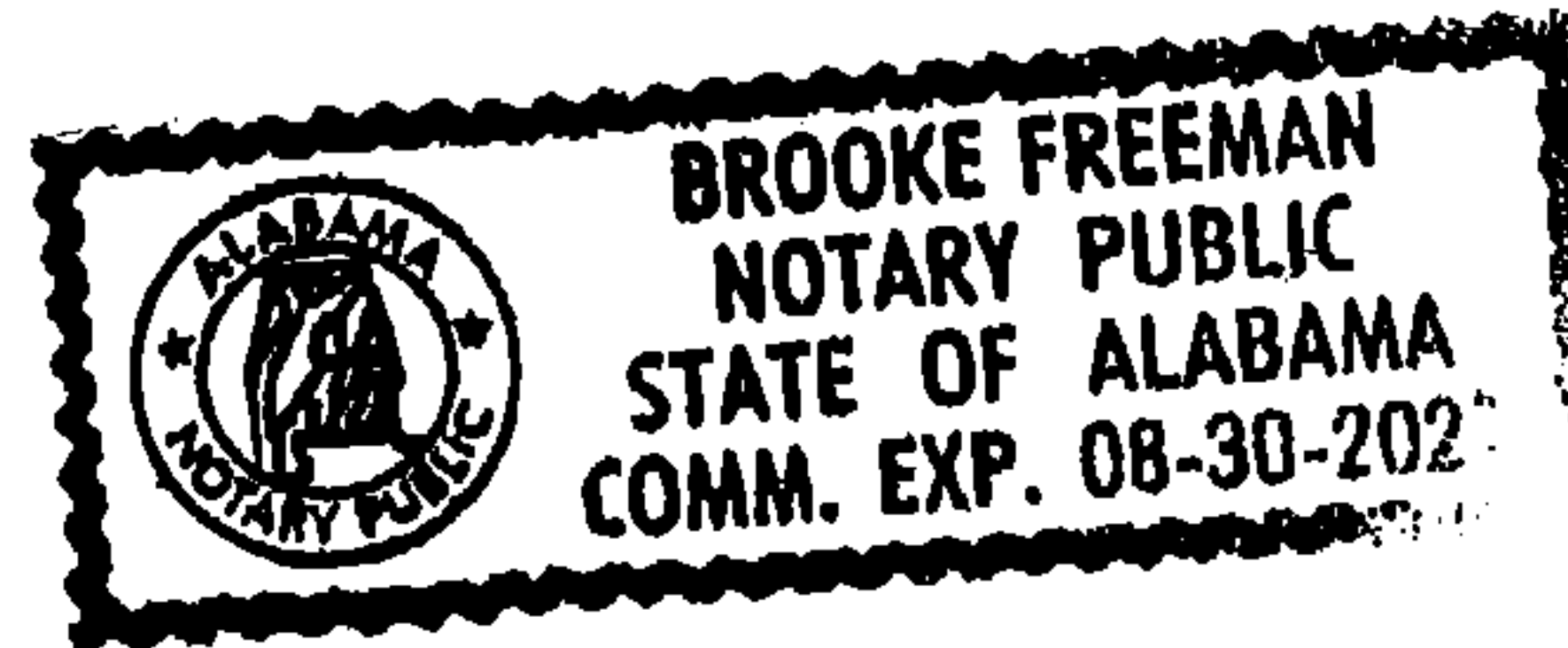


Exhibit “1”

The Order



AlaFile E-Notice

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58-CV-2017-900845.00

Judge: LARA M ALVIS

To: GREENWOOD PAUL HILLIARD
pgreenwood@balch.com

NOTICE OF COURT ACTION

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

HORIZON CONDOMINIUM ASSOCIATION, INC. V. LYDIA GRACE DAVIS ET AL
58-CV-2017-900845.00

A court action was entered in the above case on 3/29/2018 3:46:06 PM

ORDER

[Filer:]

Disposition: GRANTED
Judge: LMA
Notice Date: 3/29/2018 3:46:06 PM

MARY HARRIS
CIRCUIT COURT CLERK
SHELBY COUNTY, ALABAMA
POST OFFICE BOX 1810
112 NORTH MAIN STREET
COLUMBIANA, AL, 35051

205-669-3760
mary.harris@alacourt.gov



ELECTRONICALLY FILED
3/29/2018 3:46 PM
58-CV-2017-900845.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

20180330000106250 03/30/2018 11:49:09 AM AFFID 5/6

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

HORIZON	CONDOMINIUM,	
ASSOCIATION, INC.,)	
Plaintiff,)	
)	
V.)	Case No.: CV-2017-900845.00
)	
DAVIS LYDIA GRACE,)	
PALMIER KEVIN,)	
HENDERSON JAMES MICHAEL,)	
HILL SCOTT ET AL,)	
Defendants.)	

CONSENT ORDER AND PRO TANTO DISMISSAL OF COMPASS BANK

Before the Court is the Joint Motion of Plaintiff Horizon Condominium Association, Inc. (the "**Plaintiff**") and Defendant Compass Bank ("**Compass Bank**") for Entry of Consent Order and Pro Tanto Dismissal of Compass Bank (the "**Joint Motion**").

The Plaintiff and Compass Bank stipulate as to the following facts set forth in the Plaintiff's complaint instituting this action and/or Compass Bank's answer:

- (a) Compass Bank is the holder of a certain first priority mortgage dated September 19, 2008, executed by Defendant Jessica M. Magro ("**Magro**") and recorded in the Office of the Judge of Probate of Shelby County, Alabama, in **Instrument Number 20080923000376460** (the "**Mortgage**");
- (b) The Mortgage encumbers certain real property and improvements commonly known as 1807 Morning Sun Circle, Birmingham, Alabama 35242, and more particularly described as follows (collectively, "**Unit 1807**"):

Unit 1807, in Horizon, a Condominium, as established by that certain Declaration of Condominium of Horizon, A Condominium, which is recorded in Instrument 2001-40927, to which Declaration of Condominium a plan is attached as Exhibit "A" thereto, said Plan being filed for record in Map Book 28, Page 141, in the Probate Office of Shelby County, Alabama, and to which said Declaration of Condominium the Bylaws of the Horizon Condominium Association, Inc., is attached as Exhibit "D", together with an undivided interest in the Common Elements assigned to said Unit, as shown in

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Exhibit "C" of said Declaration of Condominium of Horizon, a Condominium.

The Plaintiff contends its lien on Unit 1807 is superior to Compass Bank's Mortgage to the extent of the common expense assessments based on the periodic budget adopted by the Plaintiff which would have become due in the absence of acceleration during the six months immediately preceding the institution of this lawsuit.

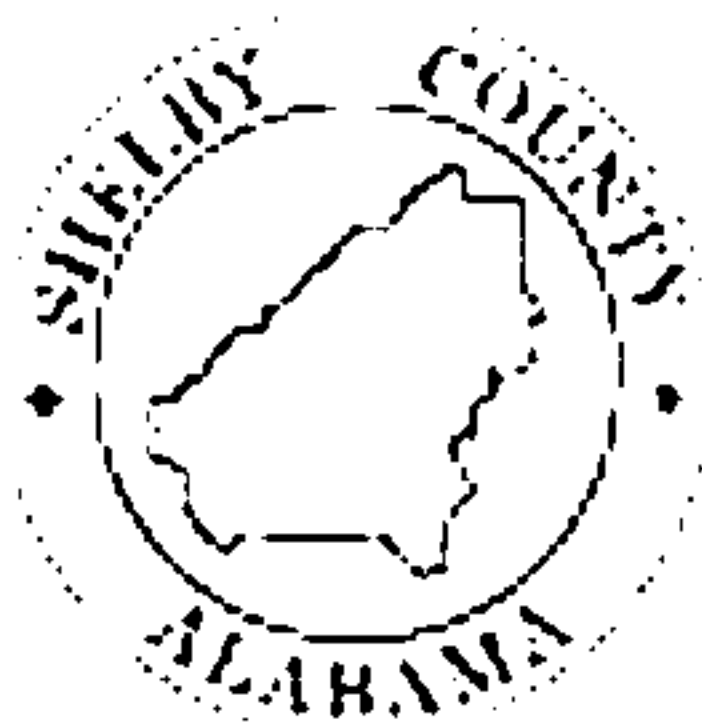
In order to avoid further litigation, the Plaintiff and Compass Bank have settled their dispute and have come to an agreement on the stipulations set forth in this Order.

Having considered the Joint Motion, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

- (c) The Joint Motion is **GRANTED**;
- (d) Any foreclosure arising out of this lawsuit of Unit 1807 is subject to and will not disturb Compass Bank's Mortgage;
- (e) Any judgment entered in favor of the Plaintiff in this lawsuit is subject to and will be junior in priority to Compass Bank's Mortgage;
- (f) This Order may be recorded in the public records of Shelby County to give record notice of the priority of the lien positions on Unit 1807; and
- (g) Compass Bank is hereby **DISMISSED** from this action with prejudice and with each party to bear its own costs and attorneys' fees. This is a **Pro Tanto** dismissal of Compass Bank and shall **not** operate as a dismissal of the remaining claims against or between any of the remaining parties in this action.

DONE this 29th day of March, 2018.

/s/ LARA M ALVIS
CIRCUIT JUDGE



Filed and Recorded
Official Public Records
Judge James W. Fuhrmeister, Probate Judge,
County Clerk
Shelby County, AL
03/30/2018 11:49:09 AM
\$30.00 DEBBIE
20180330000106250

A handwritten signature in black ink, appearing to read "James W. Fuhrmeister", is written over the typed name of the County Clerk.