

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI
THE BANK OF NEW YORK MELLON FKA THE PLAINTIFF
BANK OF NEW YORK NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY AS TRUSTEE FOR THE
BENEFIT OF THE CERTIFICATEHOLDERS OF
THE CWABS INC., ASSET-BACKED CERTIFICATES,
SERIES 2004-1

VS. NO. 12-CV-548

7/23/12 11:11:46
DK T BK 3,472 PG 35
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

STEVE JOHNSTON; BOBBIE JOHNSTON
AND AMERICAN GENERAL FINANCIAL SERVICES, INC. DEFENDANTS

DEFAULT JUDGMENT

THIS MATTER HAVING COME ON to be heard on the
"Complaint for Rescission of Substitute Trustee's Deed and
Reinstatement of Deed of Trust" filed by The Bank of New
York Mellon f/k/a The Bank of New York not in its Individual
Capacity but solely as Trustee for the benefit of The
Certificateholders of The CWABS Inc., Asset-Backed
Certificates, Series 2004-1 ("Plaintiff"). The Court does
hereby find that the relief requested by the Plaintiff
should be granted as follows:

1. The Bank of New York Mellon f/k/a The Bank of New
York not in its Individual Capacity but solely as Trustee
for the benefit of The Certificateholders of The CWABS Inc.,
Asset-Backed Certificates, Series 2004-1 is a corporation

Dyke Henry

with a principal place of business c/o 400 National Way,
Simi Valley, CA 93065.

2. Separate Defendants, Steve Johnston and Bobbie Johnston, were residents of DeSoto County, Mississippi and - at one time - could have been served with process at 6700 Gatewood Circle, Horn Lake, Mississippi 38637; however, said Separate Defendants' current whereabouts are unknown.

3. Separate Defendant, American General Financial Services, Inc., is a corporation that has been served with process c/o its Registered Agent, CT Corporation System at 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

4. This Court has jurisdiction over the parties to - and the subject matter of - this action. Venue is proper in this Court.

5. On our about November 6, 1991, Bobbie Jo Colvin (a/k/a Bobbie Jo Colvin Johnston and Bobbie Johnston) obtained title to the below-described property pursuant to a Warranty Deed executed by Randy J. Berryhill and Carol L. Berryhill and recorded in Book 239, Page 657 in the Office of the Chancery Clerk of DeSoto County, Mississippi.

6. On our about October 28, 2003, Steve Johnston and Bobbie Johnston executed a Deed of Trust to CTC Real Estate Services as Trustee for the benefit of Mortgage Electronic

Registration Systems, Inc. as Nominee for Countrywide Home Loans, Inc., which Deed of Trust was recorded in Book 1863, Page 0533, in the Office of the Chancery Clerk of DeSoto County, Mississippi. Said Deed of Trust was intended to secure a Note in the original principal balance of \$64,600.00.

7. Said Deed of Trust granted said beneficiary a secured interest in the following-described property in DeSoto County, Mississippi:

LOT 1026, SECTION C, NORTH DESOTO VILLAGE SUBDIVISION, IN SECTION 33, TOWNSHIP 1 SOUTH, RANGE 8 WEST, CITY OF HORN LAKE, DESOTO COUNTY, MISSISSIPPI, AS SHOWN BY THE PLAT APPEARING OF RECORD IN PLAT BOOK 10, PAGE 2 IN THE OFFICE OF THE CHANCERY CLERK OF DESOTO COUNTY, MISSISSIPPI.

8. Mortgage Electronic Registration Systems, Inc. as Nominee for Countrywide Home Loans, Inc. assigned said Deed of Trust to The Bank of New York Mellon f/k/a The Bank of New York not in its Individual Capacity but solely as Trustee for the benefit of The Certificateholders of The CWABS Inc., Asset-Backed Certificates, Series 2004-1 pursuant to an Assignment of Deed of Trust executed July 12, 2011 and recorded in Book 3321, Page 184 in the Office of the Chancery Clerk of DeSoto County, Mississippi.

9. Steve Johnston and Bobbie Johnston fell into default under the payment terms of the subject Deed of Trust.

10. The Bank of New York Mellon f/k/a The Bank of New York not in its Individual Capacity but solely as Trustee for the benefit of The Certificateholders of The CWABS Inc., Asset-Backed Certificates, Series 2004-1, the current beneficiary of said Deed of Trust, substituted ReconTrust Company, N.A. as trustee therein, as authorized by the terms thereof, as evidenced by an instrument dated July 12, 2011 and recorded in Book 3321, Page 186 in the Office of the Chancery Clerk of DeSoto County, Mississippi.

11. The Bank of New York Mellon f/k/a The Bank of New York not in its Individual Capacity but solely as Trustee for the benefit of The Certificateholders of The CWABS Inc., Asset-Backed Certificates, Series 2004-1 was the highest and best bidder at the February 2, 2012 foreclosure sale, and the Substitute Trustee, ReconTrust Company, N.A., executed a Substitute Trustee's Deed to The Bank of New York Mellon f/k/a The Bank of New York not in its Individual Capacity but solely as Trustee for the benefit of The Certificateholders of The CWABS Inc., Asset-Backed Certificates, Series 2004-1. Said Substitute Trustee's Deed was recorded in Book 675, Page 751 in the Office of the Chancery Clerk of DeSoto County, Mississippi.

12. Despite the holding of the afore-mentioned Substitute Trustee's Sale and the recording of the afore-mentioned Substitute Trustee's Deed, the parties now desire

to enter into a Loan Modification Agreement in an effort to permit Steve Johnston and Bobbie Johnston to retain the subject property as their homestead.

13. The subject Substitute Trustee's Deed should be rescinded; the subject Deed of Trust should be reinstated; and the parties should be restored to their pre-foreclosure position as if the February 2, 2012 sale had never occurred and the subject Substitute Trustee's Deed had never been recorded.

14. Separate Defendant, American General Financial Services, Inc., may be claiming an interest in the subject property by virtue of a Deed of Trust executed March 24, 2006 by Bobbie Jo Colvin Johnston to Mary J. Kelley as Trustee for the benefit of American General Financial Services, which Deed of Trust was recorded in Book 2437, Page 97 in the Office of the Chancery Clerk of DeSoto County, Mississippi. Said Deed of Trust was intended to secure a Note in the original principal balance of \$6,412.00.

15. Said interest of American General Financial Services, Inc. in the subject property is inferior to that of the Plaintiff herein.

16. That the Plaintiff has given proper notice of default to Separate Defendants, Steve Johnston, Bobbie Johnston and American General Financial Services, Inc., and

said Defendants have failed to respond as would be required under the Mississippi Rules of Civil Procedure.

17. That the subject Substitute Trustee's Deed is hereby rescinded.

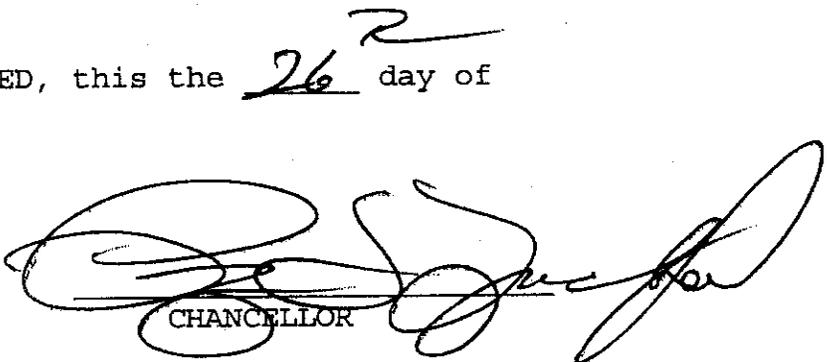
18. That the subject Deed of Trust is hereby reinstated as if the February 2, 2012 foreclosure sale had never occurred.

19. That the Chancery Clerk is directed to record a copy of the Order in this matter in the land records and marginally index the Order on the recorded copies of the Subject Deed of Trust and Subject Substitute Trustee's Deed.

20. That the Plaintiff and Defendants are hereby restored to the positions they were in prior to the February 2, 2012 foreclosure sale.

SO ORDERED AND ADJUDGED, this the 26th day of

June 2012.


CHANCELLOR

AGREED AS TO FORM:

DYKE, HENRY, GOLDSHOLL
& WINZERLING, P.L.C.
415 North McKinley, Suite 1177
Little Rock, Arkansas 72205
(501) 661-1000

By: 

Scot P. Goldsholl
Mississippi Bar No. 8461

PREPARED BY:

DK W BK 686 PG 23

Scot P. Goldsholl
Mississippi Bar No. 8461
Dyke, Henry, Goldsholl & Winzerling, P.L.C.
415 North McKinley, Suite 1177
Little Rock, Arkansas 72205
Telephone No. (501) 661-1000
Facsimile No. (501) 661-1100
sgoldsholl@dhgw.net



STATE OF MISSISSIPPI, COUNTY OF DESOTO
I HEREBY CERTIFY that the above and foregoing is
a true copy of the original filed in this office.
This the 10th day of April, 2012
W.E. Davis, Clerk of the Chancery Court
By [Signature] D.C.