

MEMORANDUM

SUPREME COURT - STATE OF NEW YORK

By: Justice Thomas P. Phelan

IAS PART 7

NOVASTAR MORTGAGE, INC.,

NASSAU COUNTY
INDEX NO. 3350/06

Plaintiff,

- against -

ORIGINAL MOTION DATE: 09/28/07
SUBMISSION DATE: 09/28/07
MOTION SEQUENCE #1

HERBERT RIDDICK; LUCY RIDDICK; OTTIS
HOOD, NEW YORK STATE DEPARTMENT
OF TAXATION & FINANCE,

Defendant(s).

Motion by plaintiff for an order confirming the report of the referee and for a Judgment of Foreclosure and Sale is granted.

It is uncontroverted that defendants defaulted in appearing in this action, and plaintiff has provided prima facie evidence of its entitlement to the relief sought.

While the court acknowledges receipt of a one-page handwritten note dated September 10, 2007 from Herbert Riddick in which he alleges that on May 30, 2006 he and co-defendants Lucy Riddick and Ottis Hood signed over the deed to the property to plaintiff in exchange for a promise by "Rebaca" that plaintiff would pay \$20,000.00, said "opposition" is not properly before the court. Most importantly and as previously noted, defendants defaulted in appearing in this action which was commenced in march, 2006.

In any event, defendant Riddick's note is unsworn. Nor was it served upon plaintiff. Finally, although the note included copies of several signature pages signed by one or more of these defendants (two pages numbered "2" and one page numbered "3"), no other pages are included so as to document what it was these defendants agreed to and nothing is provided with a signature by an employee or agent of plaintiff.

RE: NOVASTAR MORTGAGE v. RIDDICK

Page 2.

Consistent with the foregoing, the proposed Judgment of Foreclosure and Sale included with plaintiff's motion has been signed by the court simultaneously herewith.

10-15-07
Date

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