

IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT, IN
AND FOR MANATEE COUNTY,
FLORIDA
CASE NO. 2008-*CA*-000462

HSBC BANK USA, N.A., AS TRUSTEE ON BEHALF
OF ACE SECURITIES CORP. HOME EQUITY LOAN
TRUST AND FOR THE REGISTERED HOLDERS OF
ACE SECURITIES CORP. HOME EQUITY LOAN
TRUST, SERIES 2005-HE6, ASSET BACKED PASS-
THROUGH CERTIFICATES,
Plaintiff,

vs.
DONNA M. PINKSTON; UNKNOWN SPOUSE OF
DONNA M. PINKSTON; ANY AND ALL
UNKNOWN PARTIES CLAIMING BY, THROUGH,
UNDER, AND AGAINST THE HEREIN NAMED
INDIVIDUAL DEFENDANT(S) WHO ARE NOT
KNOWN TO BE DEAD OR ALIVE, WHETHER SAID
UNKNOWN PARTIES MAY CLAIM AN INTEREST
AS SPOUSES, HEIRS, DEVISEES, GRANTEEES, OR
OTHER CLAIMANTS; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.; UNKNOWN
TENANT#1 IN POSSESSION OF THE SUBJECT
PROPERTY; UNKNOWN TENANT#2 IN
POSSESSION OF THE SUBJECT PROPERTY;
Defendants.

2008 JA 16 PM 2:14

SS
FILED FOR RECORD
12B SHORE
AREA OF THE CIRCUIT COURT
MANATEE COUNTY FLORIDA

COMPLAINT IN MORTGAGE FORECLOSURE

Plaintiff, HSBC BANK USA, N.A., AS TRUSTEE ON BEHALF OF ACE SECURITIES CORP.
HOME EQUITY LOAN TRUST AND FOR THE REGISTERED HOLDERS OF ACE
SECURITIES CORP. HOME EQUITY LOAN TRUST, SERIES 2005-HE6, ASSET BACKED
PASS-THROUGH CERTIFICATES (hereafter "Plaintiff") by and through undersigned counsel,
hereby sues Defendants, DONNA M. PINKSTON; UNKNOWN SPOUSE OF DONNA M.
PINKSTON; ANY AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER,
AND AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT
KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM
AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEEES, OR OTHER CLAIMANTS;
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; UNKNOWN TENANT#1 IN

Oc6677-07



POSSESSION OF THE SUBJECT PROPERTY; UNKNOWN TENANT#2 IN POSSESSION OF THE SUBJECT PROPERTY; and alleges:

COUNT I - RE-ESTABLISH LOST NOTE

1. This is an action to re-establish a promissory note under Section 673.3091 of the Florida Statutes.
2. On June 22, 2005, in MANATEE County, Florida, DONNA M. PINKSTON, executed and delivered to NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION, a promissory note in the principal amount of \$107,200.00. Attached hereto is a substantial copy of the note.
3. The original promissory note was lost or destroyed subsequent to Plaintiff's acquisition thereof. The exact time and manner of said loss or destruction being unknown to Plaintiff. Plaintiff was in possession of the promissory note and entitled to enforce it when loss of possession occurred. The loss of possession was not the result of a transfer by Plaintiff or a lawful seizure. Said note is not in the custody or control of Plaintiff.
4. Plaintiff cannot reasonably obtain possession of the promissory note because its whereabouts cannot be determined.
5. The Defendants named in this complaint are the only persons known to Plaintiff who are interested for or against the reestablishment of the subject note.
6. WHEREFORE, Plaintiff demands that this court reestablish the attached exhibit.

COUNT II - FORECLOSURE OF MORTGAGE

7. This is an action to foreclose a mortgage on real property located in MANATEE County, Florida.
8. All condition precedent to the filing of this matter have been completed and/or waived.
9. On June 22, 2005, Defendant, DONNA M. PINKSTON, executed and delivered a promissory note and mortgage securing payment of same to NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION. The mortgage was recorded on July 11, 2005 in Book 2037, Page

1
1
1

2074 of the Official Public Records of MANATEE County, Florida, and mortgaged the property described therein owned by and in possession of the mortgagor. Attached hereto is a copy of the recorded mortgage.

10. Plaintiff owns and holds the note and the mortgage.

11. The property is now owned by Defendant DONNA M. PINKSTON who holds possession.

12. There has been a default under the note and mortgage held by Plaintiff in that the payment due, August 1, 2007, and all subsequent payments have not been made.

13. Plaintiff declares the full amount payable under the note and mortgage to be now due.

14. There is now due and owing to Plaintiff herein \$107,059.99 on principal of said note and mortgage, plus interest from July 1, 2007, and title search expense for ascertaining necessary parties to this action, all costs of this action, including any expenses incurred for locating parties and serving process, and any other advances that are proper under the note and mortgage being foreclosed herein including, but not limited to, taxes, insurance, mortgage insurance, late charges, property inspections, property preservation and maintenance. Said indebtedness has been accelerated pursuant to the terms of the subject note and mortgage.

15. Defendant, UNKNOWN SPOUSE OF DONNA M. PINKSTON, may claim an interest in the subject property by virtue of marriage to DONNA M. PINKSTON, but the interest, if any, is subject and inferior to the lien of Plaintiff's mortgage.

16. Defendant, ANY AND ALL UNKNOWN PARTIES CLAIMING BY, THROUGH, UNDER, AND AGAINST THE HEREIN NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT KNOWN TO BE DEAD OR ALIVE, WHETHER SAID UNKNOWN PARTIES MAY CLAIM AN INTEREST AS SPOUSES, HEIRS, DEVISEES, GRANTEEES, OR OTHER CLAIMANTS; may claim an interest in the subject property by virtue of any possible interest, but the interest, if any, is subject and inferior to the lien of Plaintiff's mortgage.

17. Defendant, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., may claim an interest in the subject property by virtue of a mortgage recorded July 11, 2005, in MANATEE County Official Public Records Book 2037, Page 2096. Said interest, if any, is subject and inferior to the lien of Plaintiff's mortgage.

18. Defendant, UNKNOWN TENANT#1 IN POSSESSION OF THE SUBJECT PROPERTY, may claim an interest in the subject property by virtue of being in actual possession of same, but the interest, if any, is subject and inferior to the lien of Plaintiff's mortgage.

19. Defendant, UNKNOWN TENANT#2 IN POSSESSION OF THE SUBJECT PROPERTY, may claim an interest in the subject property by virtue of being in actual possession of same, but the interest, if any, is subject and inferior to the lien of Plaintiff's mortgage.

20. Plaintiff is obligated to pay its attorneys a reasonable fee for their services and is entitled to recover its attorney's fees pursuant to Florida Statute and the promissory note.

WHEREFORE, Plaintiff prays as follows:

(a) That this Court will take jurisdiction of this cause, of the subject matter and the parties hereto.

(b) That this Court ascertains and determines the sums of money due and payable to the Plaintiff from the Defendants.

(c) That the sum of money found to be due as aforesaid be decreed by this Court to be a lien upon the lands described in Plaintiff's mortgage.

(d) That such lien be foreclosed in accordance with the rules and established practice of this Court, and upon failure of the Defendants to pay the amount of money found to be due by them to the Plaintiff, that said land be sold to satisfy said lien.

(e) That this Court decree that the lien of the Plaintiff is superior to any and all right, title and interest of the Defendants herein or any person or parties claiming by, through or under them since the institution of this suit.

(f) That all right, title or interest of the Defendants or any person claiming by, through or under them be forever barred and foreclosed.

(g) That the Court retain jurisdiction of this cause to grant further relief as the Court deems just and proper including, but not limited to, deficiency judgment(s) if the proceeds of the sale are insufficient to pay Plaintiff's claim.

**THIS COMMUNICATION, FROM A DEBT COLLECTOR, IS AN ATTEMPT TO
COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR
THAT PURPOSE**

**TO ALL DEFENDANTS: PLEASE READ THE NEXT PAGE CONTAINING
IMPORTANT INFORMATION IF YOU WANT TO DISPUTE THE VALIDITY OF
THE DEBT PLAINTIFF IS ATTEMPTING TO COLLECT IN THIS LAWSUIT.**

Dated: January 14, 2008

VAN NESS LAW FIRM, P.A.
1239 E Newport Center Drive
Suite 110
Deerfield Beach FL 33442
Phone (954) 571-2031
Fax (954) 571-2033

By: _____

J. Anthony Van Ness, Esq.
Florida Bar # 391832
 Mark C. Elia, Esq.
Florida Bar # 695734