

At an I.A.S. Term, Part 32 of the Supreme Court of the State of New York, held in and for the County of Queens, at the Courthouse at 88-11 Sutphin Blvd, Jamaica, New York 11435 on the _____ day of _____, 20_____.

PRESENT: HON. RUDOLPH E. GRECO, JR.
SUPREME COURT OF THE STATE OF NEW YORK

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MORGAN STANLEY MORTGAGE LOAN TRUST 2007-8XS, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST TO BANK OF AMERICA, NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE

Plaintiff

vs

MICHAEL DOUMAZIOS, EFSTATHIA DOUMAZIOS, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR SAXON EQUITY MORTGAGE BANKERS, LTD., NEW YORK CITY ENVIRONMENTAL CONTROL BOARD, NEW YORK CITY PARKING VIOLATIONS BUREAU

Defendant(s)
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ORDER CONFIRMING REFEREE REPORT AND JUDGMENT OF FORECLOSURE AND SALE

INDEX #: 703080/2015

MORTGAGED PREMISES:
8-11 150TH STREET
WHITESTONE, NY 11357

BL #: 4513 - 6

Upon the Summons, Complaint and Notice of Pendency filed in this action on April 1, 2015, Notice of Motion dated May 18, 2018 and the affirmation by Ashley M Pascuzzi, Esq. the affidavit of merit and amount due by Michael Ward who is Second Assistant Vice President of Specialized Loan Servicing LLC, duly sworn to Jennifer Cox on September 22, 2016, together with exhibits annexed hereto, all in support of Plaintiff's motion for a Judgment of Foreclosure and Sale; and

Upon proof that each of the defendants herein was served with the Summons and Complaint, and voluntarily appeared personally or by an attorney and did not serve an answer to the Complaint or; failed to appear and the time to do so was not extended; and it appearing that more than the legally required number of days elapsed since defendants MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR SAXON EQUITY MORTGAGE BANKERS, LTD., NEW YORK CITY ENVIRONMENTAL CONTROL BOARD and NEW YORK CITY PARKING VIOLATIONS BUREAU who did not answer or appear were so served and/or appeared; and Plaintiff having established to the court's satisfaction that a judgment against defendants is warranted; and

Upon the affidavit of mailing reflecting compliance with CPLR §3215(g)(3)(iii); and

Upon proof that the non-appearing defendant MICHAEL DOUMAZIOS, EFSTATHIA DOUMAZIOS, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR SAXON EQUITY MORTGAGE BANKERS, LTD., NEW YORK CITY ENVIRONMENTAL CONTROL BOARD and NEW YORK CITY PARKING VIOLATIONS BUREAU are not absent, in accordance with RPAPL § 1321(2); and

A Referee having been appointed to compute the amount due to Plaintiff upon the bond/note and mortgage set forth in the Complaint and to examine whether the mortgaged property can be sold in parcels; and

UPON reading and filing the Report of Martha Taylor Esq. dated May 09, 2018, showing the sum of \$808,174.75, due as of the date of said Report, and that the mortgaged property may not be sold in parcels; and

Upon proof of due notice of this motion upon all parties entitled to receive same, and upon all the prior proceedings and papers filed herein; and

Upon the Order Dismissing Chapter 13 Bankruptcy Case, dated October 15, 2018, filed in Case No. 18-44944-nhl filed by Michael Doumazios in the Eastern District of New York, allowing the foreclosure action to proceed;

NOW, on motion by Ashley M Pascuzzi, Esq., attorney for the Plaintiff, it is hereby ORDERED, ADJUDGED AND DECREED that the motion is granted; and it is further ORDERED, ADJUDGED AND DECREED that the Referee's Report be, and the same is, hereby in all aspects ratified and confirmed; and it is further

ORDERED, ADJUDGED AND DECREED, that the mortgaged property described in the complaint and as hereafter described, or such part thereof as may be sufficient to discharge the mortgage debt, the expense of the sale, and the costs of this action as provided by the RPAPL be sold, within 90 days of the date of this Judgment, in one parcel, at a public auction at the Queens County Courthouse in Courtroom # 25 on a Friday at 10:00 A.M.** 88-11 Sutphin Boulevard, Jamaica, New York and to the extent possible, at an unspecified time; by and under the direction of Martha Taylor Esq., 175-14 Mayfield Road, Jamaica, NY 11432, 718-300-7308 who is appointed Referee for that purpose; that said Referee give public notice of the time and place of sale in accordance with RPAPL § 231 in _____ and it is further

ORDERED, ADJUDGED AND DECREED that by accepting this appointment, the referee certifies that she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to § 36.2 (c) (“Disqualifications from Appointment”) and § 36.2 (d) (“Limitations on appointments based upon compensation”); and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee is prohibited from accepting

or retaining any funds for herself or paying funds to herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall conduct the foreclosure sale only if Plaintiff, its successors and/or assignees, or its representatives is present at the sale or the Referee has received a written bid and Terms of Sale from Plaintiff, its successors and/or assigns, or its representatives; and it is further

ORDERED, ADJUDGED AND DECREED that if the Referee cannot conduct the sale within 90 days of the date of the judgment, in accordance with CPLR § 2004, the time fixed by RPAPL § 1351(1) is extended for the Referee to conduct the sale as soon as reasonably practicable; and it is further

ORDERED, ADJUDGED AND DECREED that at the time of sale the Referee shall accept a written bid from the Plaintiff or the Plaintiff's attorney, just as though Plaintiff were physically present to submit said bid; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall accept the highest bid offered by a bidder who shall be identified upon the court record, and shall require that the successful bidder immediately execute Terms of Sale for the purchase of the property, and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bid, unless the successful bidder is Plaintiff in which case no deposit against the purchase process shall be required; and it is further

ORDERED, ADJUDGED AND DECREED that, in the event the first successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject property or fails to immediately pay then percent (10%) deposit as required, the property shall immediately

and on the same day be reoffered at auction; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall then deposit the down payment and proceeds of sale, as necessary, in _____ in her own name as Referee, in accordance with CPLR § 2609; and it is further

ORDERED, ADJUDGED AND DECREED that after the property is sold, the Referee shall execute a deed to the purchaser, in accordance with RPAPL § 1353 and the terms of sale, which shall be deemed a binding contract; and it is further

ORDERED, ADJUDGED AND DECREED that, in the event a party other than the Plaintiff becomes the purchaser at the sale, the closing of title shall be held no later than 30 days after the date of such sale unless otherwise stipulated by all parties to the sale; and it is further

ORDERED, ADJUDGED AND DECREED that, if Plaintiff (or its affiliate, as defined in paragraph (a) subdivision 1 of section six-1 of the Banking Law) is the purchaser, such party shall place the property back on the market for sale or other occupancy: (a) within 180 days of the execution of the deed of sale, or (b) within 90 days of the completion of construction, renovation, or rehabilitation of the property, provided that such construction, renovation, or rehabilitation proceeded diligently to completion, whichever comes first, provided however, that a court of competent jurisdiction may grant an extension for good cause; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee, on receiving the proceeds of such sale, shall forthwith pay therefrom, in accordance with their priority according to law, all taxes, assessments, sewer rents, or water rates, which are, or may become, liens on the property at the time of sale, with such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee then deposit the balance of

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