

NYSCEF DOC 3 09-20-20  
B-OC - 3



PRESENT: HON. LAWRENCE KNIPEL  
JUSTICE OF THE SUPREME COURT

9/10/20

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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GOLDEN BRIDGE LLC d/b/a GOLDEN BRIDGE : Index No.: 516919/19  
FUNDING, LLC, :

Plaintiff,

-against-

: **ORDER CONFIRMING**  
: **REFEREE REPORT AND**  
: **JUDGMENT OF**  
: **FORECLOSURE AND**  
: **SALE**

- X 114 MACON LLC, NEW YORK STATE
- / DEPARTMENT OF TAXATION AND FINANCE,
- / NEW YORK CITY DEPARTMENT OF
- / FINANCE, BROOKLYN UNION GAS d/b/a
- / NATIONAL GRID, NEW YORK CITY
- / ENVIRONMENTAL CONTROL BOARD,
- / MARTIN WHITFIELD,

Defendants.

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VAD

Upon the Summons and Complaint and Notice of Pendency of this action, all filed in the Kings County Clerk's Office on August 1, 2019, the Notice of Motion dated January 15, 2020, the Affirmation of Warren S. Dank, Esq. dated January 15, 2020 along with all other 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 have been duly served with the Summons and Verified Complaint in this action, have not served any answer to the Complaint or otherwise appeared, nor had their time to do so extended; and it appearing that more than the legally required number of days has elapsed since Defendants 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 Affirmation of Service of Second Mailing pursuant to CPLR 3215(g)(4)(i); and

Upon proof that non-appearing Defendants are not absent, in accordance with RPAPL § 1321(2); and

A Referee having been appointed to compute the amount due to Plaintiff pursuant to the note and mortgage set forth in the Verified Complaint and to examine whether the mortgaged property can be sold in one parcel; and

Upon the reading and filing the Report of Randolph Jackson, Esq. dated January 10, 2020 showing the sum of \$1,625,582.60 for said loan, plus a per diem for each day thereafter and that the mortgaged property should be sold in one parcel; and

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

Now, on Motion by Warren S. Dank, 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 respects ratified and confirmed, and it is further

**ORDERED, ADJUDGED AND DECREED** that the mortgaged properties described in the Complaint and as hereinafter described, or such part thereof as may be sufficient to discharge the mortgaged debts, the expenses 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



CPLR 2004, the time fixed by RPAPL § 1351(1) is extended for the Referee to conduct the sale of the property as soon as reasonably practicable; and it is further

**ORDERED, ADJUDGED AND DECREED** that at the time of the sale of the property the Referee shall accept a written bid for the property 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 bids offered by a bidder who shall be identified upon the court record, and shall require that the successful bidders immediately execute the Terms of Sale for the purchase of the properties and pay to the Referee, in cash or certified or bank check, ten percent (10%) of the sum bids, unless the successful bidders is Plaintiff in which case no deposit against the purchase price 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 on the property immediately following the bidding upon the property or fails to immediately pay the ten 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 payments for the property and proceeds of sale, as necessary, in *any NYC Bank* his 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 become the purchaser of the property 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) of subdivision 1 of section six-I 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 completion of the construction, renovation, or rehabilitation of the properties, provided that such construction, renovation or rehabilitation proceed 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 the sale of the property, shall forthwith pay therefrom, in accordance with their priority according to the law, all at the time of sale, with such interest or penalties which may have lawfully accrued thereon to the date of o the payment; and it further

**ORDERED, ADJUDGED AND DECREED** that the Referee then deposit to balance of said proceeds for the property in his own name as Referee in

*Amey NYC Bank*         and shall thereafter make the following payments in accordance with RPAPL § 1354 as follows:

FIRST: The Referee statutory fees for conducting the sale in accordance with CPLR 8003(b), not to exceed ~~\$500.00~~ <sup>*\$250*</sup> unless the properties sell for \$50,000.00 or more – **OR** – in the event a sale was cancelled or postponed, Plaintiff shall compensate the Referee in the sum of \$ *250* for each adjournment or cancellation, unless the Referee caused the delay;

SECOND: All taxes, assessments, and water rates that are liens upon the property and monies necessary to redeem the property from any sales for unpaid taxes, assessments, or water rates that have not become absolute, and any other amounts due in accordance with RPAPL § 1354(2). Purchaser shall be responsible for interest and penalties due on any real property taxes on the property accruing after the sale. The Referee shall not be responsible for the payment of penalties or fees pursuant to this appointment. The Purchaser shall hold the Referee harmless from any such penalties or fees assessed;

THIRD: The expenses of the sale and advertising expenses as shown on the bills presented and certified by said Referee to be correct, duplicate copies of which shall be annexed to the report of sale;

FOURTH: The Referee shall then pay to Plaintiff or its attorney the Following:

Amount Due per Referee Report: \$1,625,582.60, with the 24% default interest from January 14, 2020 until the date of entry of this Judgment, together with any advances as provided for in the note and mortgage which Plaintiff has made for taxes, insurance, principal, and interest, and any other

charges due to prior mortgages or to maintain the property pending consummation of this foreclosure sale, not previously included in the computation, upon presentation of receipts for said expenditures to the Referee, all together with interest thereon pursuant to the note and mortgage, and then with interest from the date of entry of this Judgment at the 24% interest default rate pursuant to the mortgage and note until the date the deed is transferred;

Costs and Disbursements: ~~\$3000.00~~<sup>\$3000.25</sup> adjudged to the Plaintiff for costs and disbursements in this action with the 24% default interest rate from the date of the entry of this Judgment;

Additional Allowance \$ 3000 is hereby awarded to Plaintiff in addition to costs, with the 24% default interest rate from the date of the entry of this Judgment pursuant to CPLR Article 83;

Attorneys' Fees: ~~\$4000.00~~<sup>\$4000</sup> is hereby awarded to Plaintiff as reasonable legal fees herein, with the 24% default interest rate from the date of the entry of this Judgment;

FIFTH: Surplus monies arising from the sale shall be paid into court by the officer conducting the sale within five days after receipt in accordance with RPAPL § 1354(4) and in accordance with local County rules regarding Surplus Monies, and it is further

**ORDERED, ADJUDGED AND DECREED** that if the Plaintiff is the purchaser of the property, or in the event the rights of the purchaser of such sale and the terms of the sale under this Judgment shall be assigned to and be acquired by Plaintiff, and a valid assignment thereof is filed with said Referee, said Referee shall not require Plaintiff to pay in cash the entire amount bid at said

sale, but shall execute and deliver to the Plaintiff or its assignee, a deed or deeds of the property sold upon the payment to Referee of the amounts specified in items marked "First", "Second", and "Third" above, that the Referee shall allow Plaintiff to pay the amounts specified in "Second" and "Third" above when it is recording the deeds; that the balance of the bid, after deducting the amounts paid by Plaintiff, shall be applied to the amount due Plaintiff as specified in paragraph "Fourth" above; that Plaintiff shall pay any surplus after applying the balance of the bid to the Referee, who shall deposit it in accordance with paragraph "Fifth" above; and it is further

**ORDERED, ADJUDGED AND DECREED** that all expenses of recording the Referee's deed, including real property transfer tax, which is not a lien upon the property at the time of sale, shall be paid by the purchaser, not by the Referee from sale proceeds, and that any transfer tax shall be paid in accordance with Tax Law § 1404; and it is further

**ORDERED, ADJUDGED AND DECREED** that the mortgaged property is to be sold in one parcel in "as is" physical order and condition, subject to any condition that an inspection of the property would disclose, any facts that an accurate survey of the property would show; any covenants, restrictions, declarations, reservations, easements, right of way, and public utility agreements of record, if any; any building and zoning ordinances of the municipality in which the mortgage property is located and possible violations of same; any rights of tenants or persons in possession of the subject properties; prior liens of record, if any, except those liens addressed in RPAPL § 1354; any equity of redemption of the United States of America to redeem the property within 120 days from the



date of sale; and any rights pursuant to CPLR 317, 2003 and 5015, or any appeal or notice of appeal of the underlying action or additional litigation brought by any defendant or its successor or assignee or any other person not a party herein contesting the validity of this foreclosure; and it is further

**ORDERED, ADJUDGED AND DECREED** that the purchase be let into possession of the property upon production in hand of the Referee's Deed or upon personal service of the Referee's Deed in accordance with CPLR 308, and it is further

**ORDERED, ADJUDGED AND DECREED** that the Defendants in this action and all persons claiming through them and any person obtaining an interest in the property after the filing of the Notice of Pendency are barred and foreclosed of all right, claim, lien, title, and interest in the property after the sale of the mortgaged property; and it is further

**ORDERED, ADJUDGED AND DECREED** that within 30 days after completing the sale and executing the property conveyance to the purchaser, unless the time is extended by the court, the officer making the sale shall file with the clerk's report under oath of the disposition of the proceeds of sale in accordance with RPAPL § 1355(1) and follow all local County rules regarding handling of Surplus Monies, and it is further

**ORDERED, ADJUDGED AND DECREED** that if the purchaser or purchasers at said sale default(s) upon the bid and/or terms of sale, the Referee may place the property for resale without Court approval and shall immediately remit payment of the successful bidder's 10% down payment to Plaintiff in accordance to the terms of sale; and it is further

**ORDERED, ADJUDGED AND DECREED** that Plaintiff shall serve a copy of this Judgment with Notice of Entry upon the owner of the equity of redemption, any tenants named in this action, and any other parties or persons entitled to service, including the Referee appointed herein; and it is further

**ORDERED, ADJUDGED AND DECREED** that nothing herein shall be deemed to relieve Plaintiff of any obligations imposed by RPAPL § 1307 and RPAPL § 1308 to secure and maintain the property until such time as ownership of the property has been transferred and the deed duly recorded; and it is further

**ORDERED, ADJUDGED AND DECREED** that, when the Referee files a report of sale, he shall concurrently file a Foreclosure Action Surplus Monies Form; and it is further

**ORDERED, ADJUDGED AND DECREED** that to ensure compliance herewith, Plaintiff shall file a written report with the Court within six months from the date of the entry of this Judgment stating whether the sale has occurred and the outcome thereof.

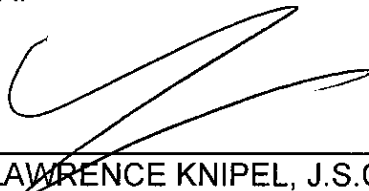
Said property is known as and located at 116 Macon Street, Brooklyn, New York 11216 a/k/a Block 1851, Lot 2 (See attached Schedule A).

Said property is known as and located at (See attached Schedule A)

Dated:

3/10/20

ENTER:



Hon. LAWRENCE KNIPEL, J.S.C.

Justice Lawrence Knipel

Nancy T. Sunshine

NANCY T. SUNSHINE  
Clerk

KINGS COUNTY CLERK  
FILED  
2020 SEP 25 PM 12:05

**NORTHEASTERN METRO ABSTRACT CORP.**

as Agent for

The Security Title Guarantee Corporation of Baltimore

**SCHEDULE A (Description)**

Title Number: **NMK-19-17035**

AND

By deed from Kim Whitfield-Holt to Leslie M. Whitfield, dated 2-9-2011 and recorded 3-22-2011 in the Kings City Register's Office, in CRFN: 2011000101614.

For Information Only, Not Insured Hereunder:

Address: **116 Macon Street, Brooklyn, NY**

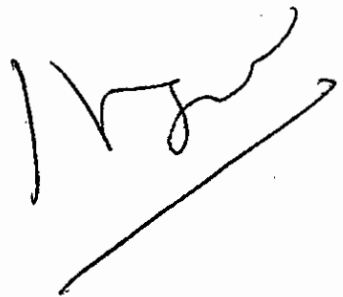
County: **Kings**

District:

Block: **1851**

Section:

Lot: **2**



ALL that certain plot, piece or parcel of land, situate lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of Macon Street, distant 16 feet 8 inches easterly from the southeasterly corner of Macon Street and Marcy Avenue;

RUNNING THENCE southerly and parallel with Marcy Avenue and part of the distance through a party wall, 100 feet;

THENCE easterly and parallel with Macon Street, 16 feet 8 inches;

THENCE northerly and again parallel with Marcy Avenue and part of the distance through a party wall, 100 feet to the southerly side of Macon Street;

THENCE westerly and parallel with Macon Street, 16 feet 8 inches to the point or place of BEGINNING.

*JWS/vhr*

#### FOR CONVEYANCING ONLY

The policy to be issued under this report will insure the title to such buildings and improvements erected on the premises which by law constitute real property. TOGETHER with all the right, title and interest of the party in the first part, or, in and to the land lying in the street in front of and adjoining said premises.

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF KINGS

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 GOLDEN BRIDGE LLC d/b/a GOLDEN  
 BRIDGE FUNDING, LLC,

: Index No.: 516919/19

: **BILL OF COSTS**

Plaintiff,

-against-

114 MACON LLC, NEW YORK STATE  
 DEPARTMENT OF TAXATION AND  
 FINANCE, NEW YORK CITY  
 DEPARTMENT OF FINANCE,  
 BROOKLYN UNION GAS d/b/a  
 NATIONAL GRID, NEW YORK CITY  
 ENVIRONMENTAL CONTROL BOARD,  
 MARTIN WHITFIELD,

Defendants.  
 -----X

Costs at \$ 3,066.25  
 This 25 day of September, 20  
Nancy T. Sunshine  
 Clerk of Court Kings County

NANCY T. SUNSHINE  
 Clerk

1.	Costs before Note of Issue – CPLR 8201(1)	\$ 200.00
2.	Allowance by Statute – CPLR 8302(a)(b)	\$ 150.00
	First \$200.00 at 10% (\$20.00)	
	Next \$800.00 at 5% (\$40.00)	
	Next \$2,000.00 at 2% (\$40.00)	
	Next \$5,000.00 at 1% (\$50.00)	
3.	Disbursements: Index Number Purchase pursuant to CPLR 8018(a) - (\$400.00); Referee Fee to Compute per Order of the Court and pursuant to CPLR 8003(a) - (\$350.00); Judgment and Lien Search Fee pursuant to CPLR 8301(a)(10) - (\$844.38); Notice of Pendency Filing Fee pursuant to CPLR 8021(a)(10) - (\$35.00); Service of Process Fees pursuant to CPLR 8301(d) - (\$901.87) and Motion Fees and RJI Fees pursuant to CPLR 8020(a) - (\$185.00)	\$ 2,716.25
<b>Total Costs, Fees, and Disbursements Due:</b>		<b>\$3,066.25</b>

STATE OF NEW YORK     )  
   ss:  
 COUNTY OF NASSAU     )

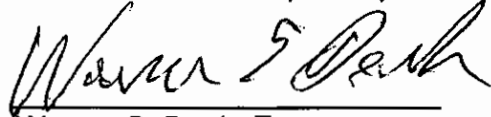
WARREN S. DANK, an attorney admitted to practice law before the  
 Courts of the State of New York, who is not a party to this action, affirmed to  
 true under penalties of perjury says:

2020 SEP 25 PM 2:06  
 KINGS COUNTY CLERK  
 FILED

The disbursements above specified have been or will necessarily be made  
or incurred therein and are reasonable in amount.

Dated: Syosset, New York  
January 15, 2020

**WARREN S. DANK, ESQ., P.C.**



By: Warren S. Dank, Esq.  
Attorneys for Plaintiff  
62 Belmont Circle  
Syosset, New York 11791  
(516) 364-2469