FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC.,	)	
Plaintiff,	)	
v.	)	**Civil No. 2006-190**
FRANK J. PATOCK, JR., DOUGLAS LYNCH, CLEARVIEW FINANCIAL, LLC and PLAATSDALE ASSOCIATES, LLC,	)	
Defendants.	)	

ATTORNEYS:

Justin K. Holcombe, Esq.
St. Thomas, U.S.V.I.
For the plaintiff.

Frank J. Patock, Jr.
Pro se defendant.

Douglas Lynch
Pro se defendant.

Arthur Pomerantz, Esq.
St. Thomas, U.S.V.I.
For defendants Clearview Financial, LLC and Plaatsdale Associates, LLC

JUDGMENT

GÓMEZ, C.J.

Plaintiff Mortgage Electronic Registration System, Inc. ("MERS"), as the mortgagee under the mortgage that is the subject of this action, and nominee for the lender Flagstar Bank, FSB

("Flagstar"), initiated this action for debt and foreclosure against the defendants, Frank J. Patock, Jr. ("Patock"), Douglas Lynch ("Lynch"), Clearview Financial Services, LLC ("Clearview") and Plaatsdale Associates, LLC ("Plaatsdale"). MERS now moves for default judgment against Patock and Lynch and for summary judgment against Clearview and Plaatsdale.[1] The Court has reviewed the motion and supporting materials, and finds:

1. Patock and Lynch executed a promissory note, dated January 16, 2004, in which they promised to pay Flagstar the principal amount of $640,000, plus interest at a rate of 4.6250% per annum, in monthly installments commencing on March 1, 2004 (the "Note").
2. As security for the repayment of the Note, Patock and Lynch executed a mortgage (the "Mortgage") in favor of Flagstar covering real property described as Parcel No. 157 Chocolate Hole, No. 11 Cruz Bay Quarter, St. John, U.S. Virgin

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[1] After this action was commenced, neither Patock nor Lynch filed an answer, or otherwise entered an appearance. Consequently, on MERS's application, the Clerk of the Court entered defaults against both Patock and Lynch. In its motion for default judgment, MERS has provided an affidavit certifying that neither Patock nor Lynch is in military service, as contemplated by the Servicemembers Civil Relief Act.

Clearview and Plaatsdale have filed an answer in this matter, admitting almost all of MERS's material allegations. Clearview and Plaatsdale have also filed a pleading styled as a "Concurrence in Motion of Summary and Default Judgment," stating that they concur with MERS's motion.

Islands, as shown on P.W.D. Drawing No. F-612-T60 comprising of 1 U.S. acres, more or less (the "Property").

3. The mortgage was recorded on January 21, 2004, in the Office of the Recorder of Deeds for the District of St. Thomas and St. John as Document No. 2004000326.

4. Clearview and Plaatsdale hold a collateral mortgage on the Property, dated July 5, 2006, in the principal amount of $1,400,000, that was recorded with the Office of the Recorder of Deeds for the District of St. Thomas and St. John on July 10, 2006, as Document No. 2006006744.

5. Subsequent to the filing of the Complaint, Patock and Lynch executed a second collateral mortgage on the Property in favor of Clearview and Plaatsdale, dated January 3, 2007, in the principal amount of $200,000, that was recorded with the Office of the Recorder of Deeds for the District of St. Thomas and St. John on January 9, 2007 as Document No. 2007000265.

6. Patock and Lynch are in default under the terms and conditions of the Note and Mortgage, for among other things, failing to make timely payments.

7. Demand was made pursuant to the terms of the Note and Mortgage on April 6, 2007, for payment of overdue principal, interest, and late charges, and absent payment, for the

entire outstanding amount of principal and interest owed.

8. Patock and Lynch failed to cure their default within the time provided and have not paid the outstanding principal, interest and late charges, as demanded. As a result, MERS has accelerated the sums due.

9. As of May 22, 2007, Patock and Lynch are indebted to MERS pursuant to the Note and Mortgage, as follows: principal in the amount of $606,139.45, plus accrued interest in the amount of $10,957.56, plus late charges in the amount of $822.60, for a total indebtedness in the amount of $617,919.61.

NOW, THEREFORE, IT IS HEREBY ORDERED that MERS's motion for summary judgment against Clearview and Plaatsdale is **GRANTED**; it is further

ORDERED that MERS's motion for default judgment against Patock and Lynch is **GRANTED**; it is further

ORDERED that MERS is awarded judgment against Patock and Lynch for the principal amount of $606,139.45, plus accrued interest in the amount of $10,957.56, plus late charges in the amount of $822.60. Interest continues to accrue at the rate of $76.81 per diem until the date of judgment, and thereafter at the statutory rate until satisfied.; it is further

ORDERED that MERS's Mortgage covering the Property is a

first priority lien, the 2006 mortgage held by Clearview and Plaatsdale is a second priority lien, and the 2007 mortgage held by Clearview and Plaatsdale is a third priority lien; it is further

ORDERED that any liens subsequent to the Mortgage are foreclosed; it is further

ORDERED that MERS's Mortgage against the Property shall be foreclosed and the Property shall be sold by the United States Marshal according to law and the proceeds of such sale shall be applied first to the expenses associated with any sale, including but not limited to the costs of publication and the commission assessed by the United States Marshal's Service pursuant to title 28, section 1921 of the United States Code, and then toward satisfaction of this Judgment in favor of MERS, including any costs and attorneys' fees that may be awarded upon application and any sums that may be paid by MERS for insurance premiums, taxes and expenditures necessary to maintain the Property pending sale, with interest from the date of any such payment. The surplus, if any, remaining after application of the proceeds as provided above, shall be returned to Patock and Lynch; it is further

ORDERED that:

1. Pursuant to title 5, section 484 of the Virgin Islands Code,

notice of the Marshal's sale shall be posted for four (4) weeks prior to the sale in a public place in or near the Office of the Clerk of the Court; and published once a week for at least four consecutive weeks prior to the sale in a newspaper regularly issued and of general circulation in the U.S. Virgin Islands. The notice shall describe the Properties as set out above and shall contain the terms and conditions of sale as set out herein.

2. The terms and conditions of the sale shall be as follows:

   a. The Property shall be sold as a whole at a public sale at the Office of the U.S. Marshal, Federal Building, St. Thomas, U.S. Virgin Islands.

   b. MERS may bid a credit against its Judgment and interest thereon, plus any costs and expenses, without tender of cash.

   c. The terms of sale as to all other persons or parties bidding shall be cash.

   d. The successful bidder on the Property shall be required to deposit with the United States Marshal cash equal to ten percent of his total bid at or before 5:00 p.m. on the date of the sale of the Property; and the remaining ninety percent of said purchase prices to be paid on or before 5:00 p.m. within thirty days inclusive, of the

date of sale of the Property.

e. The United States Marshal shall make his report of the sale of the Property within ten days from the date of the sale.

3. MERS shall have any and all writs necessary to execute the terms of this Judgment; it is further

4. Patock and Lynch shall be jointly and severally liable to MERS for any deficiency remaining after the sale of the Property; it is further

ORDERED that the Court will retain jurisdiction to enforce the terms of this Judgment; and it is further

ORDERED that the Clerk of the Court shall **CLOSE** this case.

DATED: March 20, 2008 **S_____**
Curtis V. Gómez
Chief Judge

copy: Justin K. Holcombe, Esq.
Frank J. Patock, Jr., *pro se*
Douglas Lynch, *pro se*
Arthur Pomerantz, Esq.