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FORSYTH CO, NC FEE \$27.00

PRESENTED & RECORDED:

05-18-2010 02:40:00 PM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS

BY: B. CAMPBELL

DPTY

**BK: RE 2946**

**PG: 1304-1309**

Prepared by and Return to:  
Susan Ryan, Attorney  
Box #36

STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

JUDGMENT ENTERED IN FAVOR OF:

CLEESTER C. HICKERSON

AGAINST

CARMELENE LYNNE WOODS; MICHELLE SHIMABUKURO; SANYETTE MCKEE;  
FINESSE ENTERPRISE, INC.; and L&S INTERPRISE INCORPORATED,

Affecting the following tracts of real property in Forsyth County:

- 118 S. Cameron Avenue, described in the deed recorded in Book 2861, Page 1827, Forsyth County Register of Deeds, Tax Parcel No. 6835-85-3785.00;
- 114 S. Graham Avenue, described in the deed recorded in Book 2861, Page 1821, Forsyth County Register of Deeds, Tax Parcel No. 6835-85-0970.00;
- 1821 Locust Street, described in the deed recorded in Book 2861, Page 1818, Forsyth County Register of Deeds, Tax Parcel No. 6836-73-3695.00;
- 804 Moravia Street, described in the deed recorded in Book 2861 Page 1830, Forsyth County Register of Deeds, Tax Parcel No. 6834-83-5547.00;
- 3219 Rosie Street, described in the deed recorded in Book 2861, Page 1824, Forsyth County Register of Deeds, Tax Parcel No. 6834-91-4585.00; and
- 4710 Old Rural Hall Road, described in the deed recorded in Book 2861, Page 1815, Forsyth County Register of Deeds, Tax Parcel No. 6837-77-7452.00

Box 91

FILED

NORTH CAROLINA ) IN THE GENERAL COURT OF JUSTICE
) SUPERIOR COURT DIVISION
FORSYTH COUNTY ) 2009-5 01 3: 43 08 CVS 8742

FOR FILING U.S.C.

CLEESTER C. HICKERSON, et al

[Handwritten signature]

Plaintiff,

vs.

CARMELENE LYNNE WOODS,
MICHELLE SHIMABUKURO,
SANYETTE MCKEE,
FINESSE ENTERPRISE, INC., and
L & S INTERPRISE INCORPORATED,

Defendants.

JUDGMENT

Plaintiff Cleester C. Hickerson ("plaintiff") commenced this action on 12 November 2008. Defendants Carmelene Lynne Woods ("Woods") and Finesse Enterprise, Inc. ("Finesse") filed answers and counterclaims on 21 January 2009. Defendants Sanyette McKee ("McKee") and L&S Interprise, Incorporated ("L&S") filed answers on 26 January 2009. Defendant McKee filed a counterclaim on 19 February 2009.

Defendant Michelle Shimabukuro did not respond to plaintiff's complaint, and this Court entered a default judgment against defendant Shimabukuro on 16 April 2010 for compensatory damages of \$3,338.00, punitive damages of \$10,014.00, and interest and the costs.

Defendant Woods filed a petition in the United States Bankruptcy Court for the Middle District of North Carolina, case number 09-52081, on 12 October 2009. In an Order entered on 8 January 2010, the Bankruptcy Court lifted its automatic stay of this action as to defendant Woods, and allowed the action to proceed to trial.

In an order entered on 8 October 2009, this Court struck defendant Woods' counterclaims as a sanction for failure to appear at her deposition and for failure to obey other orders of this Court. In an order entered on 20 April 2010, this Court struck defendant Woods' answer as a sanction for having filed multiple motions in violation of Rule 11, N.C.R. Civ. P.

This action was tried to the undersigned and a jury from 26 April to 30 April 2010. Susan J. Ryan, Esq., represented plaintiff. Defendants Woods and McKee appeared *pro se*. Plaintiff dismissed her claims against defendants Finesse and L & S.

The jury answered the issues as follows:

ISSUE 1: Was the plaintiff Cleester Hickerson damaged by the fraud of defendant Carmelene Lynne Woods?

ANSWER: Yes.

ISSUE 2: What amount is the plaintiff Cleester Hickerson entitled to recover from the defendant Carmelene Lynne Woods for fraud?

ANSWER: \$1.00.

ISSUE 3: Did the defendant Carmelene Lynne Woods take advantage of a position of trust and confidence to cause the plaintiff Cleester Hickerson to allow the defendant Carmelene Lynne Woods to make improper use of the plaintiff's credit cards, checking account, and other lines of credit?

ANSWER: Yes.

ISSUE 4: What amount is the plaintiff Cleester Hickerson entitled to recover from the defendant Carmelene Lynne Woods as damages for constructive fraud?

ANSWER: \$302,253.87

ISSUE 5: Is the property located at 4710 Old Rural Hall Road, Winston-Salem, subject to a constructive trust in favor of the plaintiff Cleester Hickerson?

ANSWER: Yes.

ISSUE 6: Did the defendant Carmelene Lynne Woods convert the funds and property of the plaintiff Cleester Hickerson located at 4710 Old Rural Hall Road, Winston-Salem?

ANSWER: Yes.

ISSUE 7: What amount is the plaintiff Cleester Hickerson entitled to recover in damages for the conversion of her property located at 4710 Old Rural Hall Road, Winston-Salem and funds by the defendant Carmelene Lynne Woods?

ANSWER: Return the property.

ISSUE 8: Is the defendant Carmelene Lynne Woods liable to the plaintiff Cleester Hickerson for punitive damages?

ANSWER: Yes.

ISSUE 9: What amount of punitive damages, if any, does the jury in its discretion award to plaintiff Cleester Hickerson from the defendant Carmelene Lynne Woods?

ANSWER: \$1,200,000.00.

ISSUE 10: Did the defendant Sanyette McKee conspire with the defendant Carmelene Lynne Woods to commit fraud on the plaintiff Cleester Hickerson?

ANSWER: Yes.

ISSUE 11: Was the plaintiff Cleester Hickerson damaged by the fraud in which the defendant Sanyette McKee conspired?

ANSWER: Yes.

ISSUE 12: What amount is the plaintiff Cleester Hickerson entitled to recover from the defendant Sanyette McKee as damages for fraud?

ANSWER: \$1,511.56.

ISSUE 13: Did the defendant Sanyette McKee conspire with the defendant Carmelene Lynne Woods to convert the plaintiff Cleester Hickerson's funds?

ANSWER: No.

ISSUE 14: Did the defendant Sanyette McKee convert the plaintiff Cleester Hickerson's funds through her conspiracy with the defendant Carmelene Lynne Woods?

ANSWER: No.

ISSUE 15: What amount is the plaintiff Cleester Hickerson entitled to recover for damages for the conversion of her property by the defendant Sanyette McKee?

ANSWER: [not answered]

ISSUE 16: Is the property located at 118 S. Cameron Avenue, 114 S. Graham Avenue, 1821 Locust Street, 804 Moravia Street, and 3219 Rosie Street, all of Winston-Salem, subject to a constructive trust in favor of the plaintiff Cleester Hickerson?

ANSWER: Yes.

ISSUE 17: Is the defendant Sanyette McKee liable to the plaintiff Cleester Hickerson for punitive damages?

ANSWER: Yes.

ISSUE 18: What amount of punitive damages, if any, does the jury in its discretion award to plaintiff Cleester Hickerson from the defendant Sanyette McKee?

ANSWER: \$1,511.56.

The Court did not submit any issues as to the counterclaims of defendants Finesse and McKee because those defendants did not present any evidence on, and effectively abandoned, their counterclaims.

Pursuant to N.C. Gen. Stat. § 1D-25, this Court will reduce the amount of punitive damages awarded to plaintiff from defendant Woods to \$906,761.61.

To effectuate the constructive trusts awarded to plaintiff on the specified tracts of real property, the Court will use the provisions of Rule 70, N.C.R. Civ. P., that allow the entry of an order divesting the title of a party and vesting title in another party. The Court believes it would be a vain exercise to order defendants Woods and McKee to execute deeds to plaintiff.

Plaintiff's counsel has filed an affidavit setting out the costs incurred by plaintiff in her prosecution of this action.

Now, therefore, **IT IS HEREBY ORDERED** that:

1. Cleester Hickerson have judgment against Carmelene Lynne Woods for actual damages of \$302,253.87, punitive damages of \$906,761.61, interest at the judicial rate from 12 November 2008, and costs of \$2,915.77;
2. Cleester Hickerson have judgment against Sanyette McKee for actual damages of \$1,511.56, punitive damages of \$1,511.56, interest at the judicial rate from 12 November 2008, and costs of \$2,915.77;
3. Cleester Hickerson have judgment against Michelle Shimabukuro for actual damages of \$3,338.00, punitive damages of \$10,014.00, interest at the judicial rate from 12 November 2008, and costs of \$2,915.77;

4. The counterclaims of Sanyette McKee and Finesse Enterprise, Inc., are dismissed with prejudice;

5. Pursuant to Rule 70, N.C.R. Civ. P., this Court adjudges and decrees that Carmelene Lynne Woods and Sanyette McKee are hereby divested of all right, title, and interest in the following tracts of real property, all of which are located in Winston-Salem, North Carolina:

a. 118S. Cameron Avenue, described in the deed recorded in Book 2861, Page 1827, Forsyth County Register of Deeds;

b. 114S. Graham Avenue, described in the deed recorded in Book 2861, Page 1821, Forsyth County Register of Deeds;

c. 1821 Locust Street, described in the deed recorded in Book 2861, Page 1818, Forsyth County Register of Deeds;

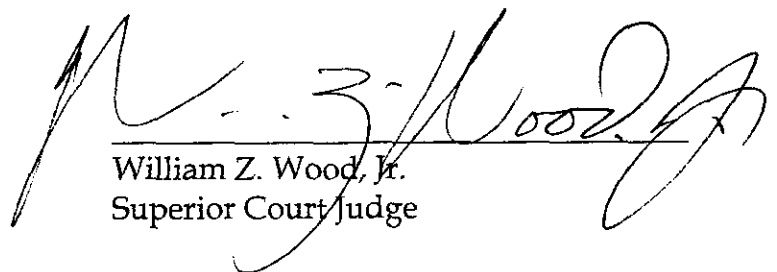
d. 804 Moravia Street, described in the deed recorded in Book 2861 Page 1830, Forsyth County Register of Deeds;

e. 3219 Rosie Street, described in the deed recorded in Book 2861, Page 1824, Forsyth County Register of Deeds; and

f. 4710 Old Rural Hall Road, described in the deed recorded in Book 2861, Page 1815, Forsyth County Register of Deeds.

This Court adjudges and decrees that title to each of the tracts of real property listed above, in this paragraph 5, is hereby vested in Cleester Hickerson, and she is declared to be the sole owner of said real property in fee simple. This judgment has the effect of a conveyance executed in due form of law.

This, the 5<sup>th</sup> day of May, 2010.

  
William Z. Wood, Jr.  
Superior Court Judge