

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

PNC BANK, NATIONAL ASSOCIATION,

Plaintiff,

v.

GERALD D. TANKERSLEY, SR.,

Defendant.

Case No.: 1:12-cv-04105-RDP

MEMORANDUM OPINION AND ORDER

This case is before the court on the Motion for Partial Summary Judgment filed by Plaintiff, PNC Bank, National Association. (Doc. #8). On July 17, 2013, Magistrate Judge John E. Ott entered a Report and Recommendation recommending that Plaintiff’s motion be granted. (Doc. #10). No objections to the Report and Recommendation were filed. On September 5, 2013, the case was reassigned to the undersigned. (Doc. #12).

The court has reviewed the entire file in this action together with the Magistrate Judge’s Report and Recommendation and has reached an independent conclusion that the Magistrate Judge’s Report and Recommendation is due to be adopted and approved. Accordingly, the court hereby **ADOPTS** and **APPROVES** the findings and recommendation of the Magistrate Judge as the findings and conclusions of the court. In accordance with the recommendation, Plaintiff’s Motion for Partial Summary Judgment (Doc. #8) on its claim (in Count One) for breach of contract as to the promissory note is hereby **GRANTED**.

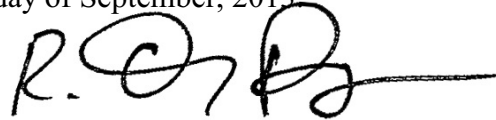
That being said, two claims remain pending before the court: Plaintiff’s claim for breach of contract as to the mortgage and Plaintiff’s claim for breach of contract as to the assignments of rents.

(Doc. #1). However, in its motion, Plaintiff stated that if “judgment [as to Count One] is so granted, PNC anticipates dismissing the remaining Second and Third Causes of Action in the Complaint.”

(Doc. #8-1 at 3-4). In light of the foregoing, **on or before September 13, 2013**, Plaintiff is **ORDERED** to either file a notice of dismissal as to the remaining claims or file a status report indicating its intention to proceed with the instant litigation.

The court will enter a final judgment with respect to Plaintiff’s first claim after resolving the remaining claims.

DONE and ORDERED this 5th day of September, 2013

A handwritten signature in black ink, appearing to read "R. David Proctor", written over a horizontal line.

R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE