

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

J. PHILIP HELTON, et al,)

Plaintiffs/Counter Defendants,)

v.)

CASE NO.: 1:10-cv-00563-KD-N

RADIANCE CAPITAL RECEIVABLES)

TWELVE, LLC,)

Defendant/Counter Plaintiff.

ORDER

This matter having come before the Court on the Application for Issuance of Writ of Execution by Radiance Capital Receivables Twelve LLC, and the Court having reviewed the Motion, and having determined that it is due to be granted, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. The Motion for Issuance of Writ of Execution, pursuant to F.R.C.P. 69(a) is hereby GRANTED.

2. These proceedings are governed by F.R.C.P. 69(a)(1), which incorporates state law, embodied in Rule 69 of the Alabama Rules of Civil Procedure, and *Ala. Code* §6-9-1, *et seq.*

3. Pursuant to these procedures, the Clerk shall issue the Writ of Execution to the U.S. Marshal for the Southern District of Alabama, which Writ shall be in the form of the proposed Writ attached to the Motion.

4. The U.S. Marshal shall serve notice of the sale pursuant to the Writ of Execution by sending said notice, in the form of proposed notice attached to the Motion, by personal service to J. Philip Helton, 648 St. Andrews Drive, Gulf Shores, AL 36542, and by posting said notice at

the courthouse door in Baldwin County. The US Marshal shall also serve J. Philip Helton by mailing said notice to his last known mailing address of P.O. Box 3479, Gulf Shores, AL 36547.

5. The Writ of Execution shall include the real property described in the Motion.

6. The U.S. Marshal shall include in the sale its costs, fees, and expenses incurred in the process of levy and execution, which may be included in any credit bid by Radiance Capital Receivables Twelve LLC.

7. The U.S. Marshal shall schedule the sale under the Writ of Execution on any Monday, at the Courthouse of Baldwin County, Alabama, in Bay Minette, Alabama, pursuant to *Ala. Code* §6-9-86, during the legal hours of sale.

8. The U.S. Marshal shall publish notice of the sale pursuant to the Writ of Execution in the Lagniappe, once a week for three (3) successive weeks, pursuant to *Ala. Code* §6-9-87. Pursuant to *Ala. Code* §6-9-82, the U.S. Marshal shall also post written notice of the sale pursuant to the Writ of Execution at the Courthouse door of Baldwin County, Alabama at least thirty (30) days prior to the sale.

9. The U.S. Marshal shall conduct the sale upon the designated date, and upon compliance by the purchaser with the terms of the sale, and payment of the fees, costs and expense of the sale, shall execute a deed for the real estate sold and deliver the same to the purchaser within five (5) days of the date of the sale.

10. Radiance Capital Receivables Twelve LLC shall be entitled to a credit bid at any sale up to the amount of its judgment, together with all interest, costs, fees, and expenses of sale.

11. The U.S. Marshal shall execute the Writ of Execution with diligence, and shall perform the mandate herein and make return of his acts to the Clerk as soon as practicable, and not later than ninety (90) days from the date of execution.

12. The Writ of Execution, attached hereto, shall be issued by the Clerk of the United States District Court for the Southern District of Alabama.

Dated this 5th day of February, 2024.

/s/KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE