

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D34943
C/kmb

_____AD3d_____

Submitted - April 17, 2012

RUTH C. BALKIN, J.P.
JOHN M. LEVENTHAL
L. PRISCILLA HALL
JEFFREY A. COHEN, JJ.

2011-01546

DECISION & ORDER

Beneficial Homeowner Service Corporation, respondent,
v Hiram Charles, appellant, et al., defendants.

(Index No. 16435/08)

Walter T. Ramsey, Brooklyn, N.Y., for appellant.

Fein, Such & Crane, LLP, Chestnut Ridge, N.Y. (Michael S. Hanusek of counsel),
for respondent.

In an action to foreclose a mortgage, the defendant Hiram Charles appeals, as limited by his brief, from so much of an order of the Supreme Court, Nassau County (Adams, J.), entered September 10, 2010, as denied his motion, inter alia, in effect, to vacate his default in appearing or answering, and pursuant to CPLR 3012(d) to compel the plaintiff to accept his late answer.

ORDERED that the order is affirmed insofar as appealed from, with costs.

The Supreme Court providently exercised its discretion in denying the motion of the defendant Hiram Charles, in effect, to vacate his default in appearing or answering, and pursuant to CPLR 3012(d) to compel the plaintiff to accept his late answer, since he failed to demonstrate the existence of a potentially meritorious defense to the action (*see Intervest Natl. Bank v Ashburton 70, LLC*, 87 AD3d 617; *Moriano v Provident N.Y. Bancorp*, 71 AD3d 747).

BALKIN, J.P., LEVENTHAL, HALL and COHEN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court

May 15, 2012

BENEFICIAL HOMEOWNER SERVICE CORPORATION v CHARLES