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

D36675
T/kmb

_____AD3d_____ Submitted - October 5, 2012

DANIEL D. ANGIOLILLO, J.P.
LEONARD B. AUSTIN
SANDRA L. SGROI
ROBERT J. MILLER, JJ.

2011-02720 DECISION & ORDER

HSBC Bank USA, National Association, etc., respondent, v Aaron Wider, appellant, et al., defendant.

(Index No. 5391/08)

Jeffrey L. Solomon, PLLC, Woodbury, N.Y., for appellant.

Hogan Lovells US LLP, New York, N.Y. (David Dunn and Chava Brandriss of counsel), for respondent.

In an action to foreclose a mortgage, the defendant Aaron Wider appeals from an order of the Supreme Court, Nassau County (Adams, J.), dated January 19, 2011, which denied his motion, inter alia, in effect, to vacate a judgment of foreclosure and sale of the same court (McCabe, J.) entered February 25, 2009, upon his default in answering the complaint.

ORDERED that the order is affirmed, with costs.

In order to vacate his default in answering the complaint, the appellant (hereinafter the homeowner) was required to demonstrate a reasonable excuse for his failure to serve an answer and a potentially meritorious defense (*see* CPLR 5015[a]; *Ateres Hasofrim, Inc. v Kralik*, 78 AD3d 1091, 1091; *Bank of N.Y. v Lagakos*, 27 AD3d 678, 678). While the Supreme Court has the discretion to accept law office failure as a reasonable excuse, the excuse must be supported by detailed allegations of fact explaining the law office failure (*see Cantor v Flores*, 94 AD3d 936, 936-937).

Here, the homeowner's allegation of law office failure was vague, conclusory, and unsubstantiated. Since the homeowner failed to offer a reasonable excuse for his failure to answer the complaint, the Supreme Court providently exercised its discretion in denying his motion, inter

alia, in effect, to vacate the judgment of foreclosure and sale entered February 25, 2009, upon his default in answering the complaint (*see Cantor v Flores*, 94 AD3d at 936-937; *Wells Fargo Bank, N.A. v Cervini*, 84 AD3d 789, 790; *Star Indus., Inc. v Innovative Beverages, Inc.*, 55 AD3d 903, 904; *see also Bank of N.Y. v Lagakos*, 27 AD3d at 678; *Fischman v Gilmore*, 246 AD2d 508, 508; *Morel v Clacherty*, 186 AD2d 638, 639). In view of the lack of a reasonable excuse, it is unnecessary to consider whether the homeowner sufficiently demonstrated the existence of a potentially meritorious defense (*see Segovia v Delcon Constr. Corp.*, 43 AD3d 1143, 1144).

ANGIOLILLO, J.P., AUSTIN, SGROI and MILLER, JJ., concur.

ENTER:

Aprilanne Agostino
Clerk of the Court