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Case No. 72623-4-I

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION I

BIG BLUE CAPITAL PARTNERS OF WASHINGTON, LLC,

Appellants,

vs.

McCARTHY & HOLTHUS, LLP, et. al.

Respondents.

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2015 APR 10 AM 10:53

Appeal from an Order of the King County Superior Court

Case No. 13-2-35483-7 SEA

RESPONDENTS' BRIEF

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I. INTRODUCTION

Appellant, as they have done before in this state and others, purchased property in foreclosure for a nominal price (\$5,000.00) and then brought a lawsuit to delay the foreclosure and extract money from those involved. In this case, Appellant sued the foreclosing trustee and its attorneys.

The trial court properly dismissed the claims. There was nothing wrong with the foreclosure. Furthermore, under no circumstances can it be said that Appellant suffered damages proximately caused by the trustee, as Appellant voluntarily purchased the property subject to the foreclosure.

Appellant's claims for damages against the trustee and its attorneys are meritless. The trial court properly dismissed the case, just as other Courts have done with Appellant's lawsuits. The dismissal should be affirmed.

II. FACTS

A. Underlying Loan.

On October 16, 2006, David Riggle executed a promissory note (the "Note") for the principal sum of \$300,000.00. CP at 420-428. As security for the Note, Mr. Riggle gave a Deed of Trust encumbering the Property. CP at 430-453.

In 2011, Mr. Riggle stopped making his mortgage payments. Failure to timely make mortgage payments is an event of default triggering the trustee's power of sale.

B. Foreclosure.

On June 13, 2012, Quality Loan Service Corporation of Washington¹ ("Quality") was appointed successor trustee under the Deed of Trust. CP at 455-456.

The appointment of Quality was made by Aurora Bank FSB ("Aurora"), who later that year became Nationstar Mortgage, LLC ("Nationstar") through an asset purchase. CP at 418-19. Aurora / Nationstar held the Note and serviced the loan for an investor. CP at 419; 487-88.

From October of 2012 to June 18, 2013, Quality issued four Notices of Sales against Property. CP at 457. None resulted in actual sales; they were either discontinued or expired by operation of law.

Prior to issuing its Notices of Sale, Quality had a beneficiary declaration confirming Aurora / Nationstar held the Note. CP at 459.

C. Appellant's Purchase of Property.

On January 2, 2013, Mr. Riggle filed for Chapter 7 Bankruptcy with U.S. Bankruptcy Court for the District of Oregon, under cause no.

¹ Quality is a corporation organized under Washington law. CP at 248 footnote #1

13-30013. CP at 396. In his bankruptcy schedules, Mr. Riggle valued the Property at \$227,854.00, with secured debt against it, in favor of Aurora / Nationstar, in the amount of \$315,303.00. CP at 396.

The Property was part of the bankruptcy estate. Appellant purchased the Property from the bankruptcy trustee for \$5,000.00. CP at 490-92. The purchase of the Property was expressly made subject to its encumbrances. CP at 490-92. Also, the trustee's Notices of Sales were already recorded at the time of purchase.

Thus, Appellant voluntarily purchased the Property knowing it was over-encumbered, and in foreclosure.

D. Lawsuit and Dismissals.

In October of 2013, Appellants filed the underlying lawsuit against the trustee alleging wrongful foreclosure and other related claims. CP at 2-49. Appellants also sued Quality's sister company in California – Quality Loan Service Corporation (“Quality of California”) – and the national law firm of McCarthy & Holthus, LLP (“M&H”). CP at 2-49.

M&H, which had nothing to do with the foreclosure, moved for summary judgment first, in March of 2014. CP at 246-52. The motion was granted and M&H was dismissed. CP at 392-33.

Quality and Quality of California moved for summary judgment in August of 2014. CP at 394-405. The motions were granted and remaining claims and parties dismissed. CP at 866-867.

E. About the Appellant.

Appellant purchases distressed properties with the intent of delaying foreclosure through litigation with the lender and / or the trustee.

Appellant, and its affiliates, are believed to have started in Oregon, and there are (at least) two court decisions there dismissing its cases. *Big Blue Capital Partners, LLC v. ReconTrust*, 2012 U.S. Dist. LEXIS 63941 (D.OR, 2012); *Big Blue Capital Partners, LLC v. ReconTrust*, 2012 U.S. Dist. LEXIS 70448 (D.OR, 2012); CP at 407-12; 413-117. One opinion describes the Appellant as follows:

Further, the record makes clear that plaintiff's sole purpose in initiating this suit was to frustrate and delay non-judicial foreclosures under the OTDA in order to exact a settlement from the lender; plaintiff capitalizes on this ruse by purchasing properties, at a fraction of their value, from borrowers who have already materially defaulted on their loan obligations.

Big Blue Capital Partners, LLC v. ReconTrust, 2012 U.S. Dist. LEXIS 63941 (D.OR, 2012); CP at 410.

Appellant's efforts in Washington have met the same fate. In *Big Blue Capital Partners of Washington, LLC v. Northwest Trustee Services*, No. 44810-6-II (unpublished), Division II affirmed dismissal of Appellant's claims for wrongful foreclosure against a different trustee.

The underlying facts are almost identical to the present case – Appellant purchased a property in foreclosure from the bankruptcy trustee.

This case is no different – Appellant seeks to delay foreclosure and profit from it. To an extent, Appellant has already been successful – it has had the Property since 2013 without making any payments on the mortgage. Appellant undoubtedly wishes to continue that free enjoyment of the Property through this appeal and a remand.

As discussed in more detail below, there was nothing wrong with the foreclosure by the trustee. Appellant’s claims are baseless, just as they were in the other cases. Appellant is simply “capitalizing on a ruse” where it buys distressed properties and delays foreclosure through litigation.

This court should affirm the dismissal and end the litigation, just as the other courts have done with Appellant’s cases

III. ARGUMENT

A. Foreclosure Advanced Pursuant to Law.

The record before the Court demonstrates that the foreclosure was advanced by the trustee pursuant to law.

i. Trustee Lawfully Appointed.

Under Washington’s Deed of Trust Act, the beneficiary is the “holder of the instrument or document evidencing the obligations secured

by the deed of trust". RCW 61.24.005(2) (emphasis added). Washington's Supreme Court has further confirmed that the beneficiary is the holder of the note. *Bain v. Metropolitan Mortgage Group, Inc.*, 175 Wn.2d 83 (2012). The trustee, in confirming the identity of the beneficiary (i.e. the holder), is allowed to rely on a declaration as to the holder. RCW 61.24.030(7)(a). *Trujillo v. Northwest Trustee Services, Inc.*, 181 Wn. App. 484 (Div. 1, 2014) *Jackson v. Quality Loan Service Corp of WA*, 72016-3-I (Div. 1, April 6, 2015).

In this case, Aurora / Nationstar is the beneficiary because they held the Note. Quality was lawfully appointed trustee because they were appointed by the holder. Furthermore, Quality had in its possession the beneficiary declaration confirming Aurora / Nationstar held the Note.

While the loan has an investor, the trustee's appointment was appropriate from Aurora / Nationstar because they held the Note. That makes them the beneficiary under Washington law. The investor was not the beneficiary, and could not appoint a successor trustee, because they did not hold the Note. *Bain*, 175 Wn.2d 83 (2012); *Cashmere Valley Bank v. State, Dept't of Revenue*, 181 Wn.2d 622, 634, 334 P.3d 1100, 1106 (2014) (investor has no interest in underlying mortgages and deeds of trust and is not a beneficiary of those instruments).

ii. Notice of Sale.

The trustee's Notice of Sale is a statutory form. RCW 61.24.040(1)(f). The form requires identification of the public record assignment of the Deed of Trust:

which is subject to that certain Deed of Trust dated,, recorded,, under Auditor's File No., records of County, Washington, from, as Grantor, to, as Trustee, to secure an obligation in favor of, as Beneficiary, the beneficial interest in which was assigned by, under an Assignment recorded under Auditor's File No. [Include recording information for all counties if the Deed of Trust is recorded in more than one county.]

Id.

Quality's Notices of Sale² comply with the statute. The notices correctly identify the public record assignment of the Deed of Trust to Nationstar. The assignment to Nationstar is recorded under King County Recorder's No. 20120906001095.

iii. No Defect in Foreclosure / Cloud on Title.

In short, Appellant failed to identify, or produce evidence of, any defect in the foreclosure by Quality. Appellant's conclusory allegation that there is an unlawful "cloud" on title does not state a claim for relief.

The reason the trustee issued its foreclosure notices is because Mr. Riggle stopped making his mortgage payments. This triggered the

² Appellant did not make the trustee's Notices of Sale part of the record.

trustee's power of sale. It is the trustee's job to foreclose. There is no unlawful "cloud" on the Property as result of the trustee's actions.

Not to mention, Appellant purchased the Property after the foreclosure notices had been issued, so they only have themselves to blame for any defect in the Property's title. No one forced them to purchase the Property.

iv. Alleged Trustee "Bias".

Appellant devotes most of its briefing accusing the trustee of being "biased". Not a shred of evidence was ever produced as to how the trustee acted "biased" in advancing this foreclosure. Nor is there any evidence that "bias" proximately caused the Appellant legally recoverable damages.

B. Standing.

Constitutional standing has been cited by Washington's Supreme Court. *Haberman v. Wash. Pub. Power Supply Sys.*, 109 Wn.2d 107 (1987) (citing *Allen v. Wright*, 468 U.S. 737, 750-51 (1984)). Washington requires that a plaintiff have a personal stake in the outcome of the case in order to bring suit. *Gustafson v. Gustafson*, 47 Wn. App. 272, 276, 734 P.2d 949 (1987); *Sabey v. Howard Johnson & Co.*, 101 Wn. App. 575, 735 (Div. 1, 2000); *Northwest Educ. Loan Ass'n v. Wash. State Grange*, 2005 Wash. App. LEXIS 1868 (Div. II, 2005). "[T]he doctrine of

standing prohibits a litigant from asserting another's legal right.” *Miller v. U.S. Bank of Wash.*, 72 Wn. App. 416, 424, 865 P.2d 536 (1994).

In this case, Appellant does not have standing to assert its claims. The standing analysis from the Oregon cases involving Appellant is on point. Appellant’s purchase of the Property already in foreclosure prevents them from claiming injury “traceable” to the actions of the trustee. The Oregon court held:

...[It] is undisputed that plaintiff knowingly purchased the Property after the Reids materially defaulted on the Note and defendants initiated non-judicial foreclosure proceedings. (citations omitted). It is also undisputed that plaintiff had no involvement whatsoever in the lending process and is not named in, or a party to, any of the loan or foreclosure documents. (citations omitted). Moreover, the record reveals that the Reids took out the loan for the Property in their individual capacities and for their own residential use. Accordingly, the allegations in plaintiff’s complaint all stem from defendants’ response to the Reids’ inability to make the requisite payments under the Note.

Therefore, plaintiff did not suffer an injury that is fairly traceable to the challenged actions of defendants. (citations omitted). Rather, defendants are correct that, **to the extent that plaintiff suffered an injury, it was due to plaintiff’s own actions in purchasing the Property after non-judicial foreclosure proceedings had been commenced.**

Big Blue Capital Partners, LLC v. ReconTrust, 2012 U.S. Dist. LEXIS 63941 (D.OR, 2012); CP at 410 (emphasis added).

Furthermore, Appellants do not have “prudential” standing to assert the rights of Mr. Riggle:

Thus, the sole issue is whether plaintiff's claims are premised upon its own rights or those of a third-party. As discussed above, plaintiff was not the original borrower and had no involvement in the lending process. Although plaintiff purports to have acquired the Property, plaintiff does not allege that it is a party to the Note or Deed of Trust. Moreover, under the terms of the Deed of Trust, the Reids were required to have written permission from the lender, or its successors and assigns, in order to transfer or sell their interest in the Property, which plaintiff does not allege occurred in this case. (citation omitted) Accordingly, the Reids, rather than plaintiff, remain the parties required to repay the Note.

As such, plaintiff's complaint asserts the rights of a third-party, as defendants' allegedly wrongful non-judicial foreclosure proceedings infringed only upon the Reids' interests. (citation omitted). **The fact that plaintiff interjected itself into defendants' non-judicial foreclosure, via a real estate purchase contract, in order to profit from the Reids' unfortunate circumstances cannot remedy this defect.**

Big Blue Capital Partners, LLC v. ReconTrust, 2012 U.S. Dist. LEXIS 63941 (D.OR, 2012); CP at 411 (emphasis added)

Finally, Appellant is not within the protected zone-of-interest of the law, and lacks standing on that basis, as well.

In assessing the "zone of interests" protected by a statute, a court need not "inquire whether there has been a congressional intent to benefit the would-be plaintiff," but instead must determine only whether the plaintiff's interests are among those "arguably ... to be protected" by the statutory provision. (citations omitted)

Despite this low threshold, plaintiff nevertheless does not fall within the "zone of interests" created by the OTDA. The OTDA was enacted "to protect [borrowers] from the unauthorized foreclosure and wrongful sale of property,

while at the same time providing [lenders] with a quick and efficient remedy," To accomplish this goal, the OTDA requires that the lender strictly comply with its provisions in order to effectuate non-judicial foreclosure. (citations omitted).

As such, there is nothing in the OTDA that even arguably was intended to protect corporate entities, such as plaintiff, that purchase properties already in default and seek to profit by extracting a settlement from the lender. Therefore, this Court lacks subject-matter jurisdiction because plaintiff's interests do not fall within the purview of the OTDA.

Big Blue Capital Partners, LLC v. ReconTrust, 2012 U.S. Dist. LEXIS 63941 (D.OR, 2012); CP at 412 (emphasis added).

Appellant is similarly not within the zone-of-interest of Washington's Deed of Trust Act or Consumer Protection Act. Washington's Deed of Trust Act has three objectives:

Washington's deed of trust act should be construed to further three basic objectives." *Cox*, 103 Wn.2d at 387 (citing Joseph L. Hoffmann, Comment, Court Actions Contesting the Nonjudicial Foreclosure of Deeds of Trust in Washington, 59 WASH. L. REV. 323, 330 (1984)). "First, the nonjudicial foreclosure process should remain efficient and inexpensive. Second, the process should provide an adequate opportunity for interested parties to prevent wrongful foreclosure. Third, the process should promote the stability of land titles." *Id.* (citation omitted) (citing *Peoples Nat'l Bank of Wash. v. Ostrander*, 6 Wn. App. 28, 491 P.2d 1058 (1971)).

Bain v. Metro Mortgage Group Inc., 175 Wn.2d 83, 94 (2012).

Appellant purchasing distressed properties and stalling foreclosure through litigation does not fall within the goals of Washington's Deed of

Trust Act. In fact, it goes directly against the first goal in Washington, which is that foreclosures should remain “efficient and inexpensive.”

Nor is Appellant protected by Washington’s Consumer Protection Act. The Act is meant to “complement the body of federal law governing restraints of trade, unfair competition and unfair, deceptive, and fraudulent acts and practices in order to protect the public and foster fair and honest competition.” RCW 19.86.920. Nothing about what the Appellant is doing “protects the public and foster[s] fair and honest competition.” Appellant’s “ruse” involves tying up properties in baseless litigation, and delaying foreclosures. Under no circumstances can it be said Appellant’s attempts to profit from borrowers who have defaulted on their loans is protected by the Consumer Protection Act.

C. Claims Against Trustee.

i. Summary Judgment Standard.

A CR 56 motion is evidentiary in nature, and the party opposing summary judgment “must set forth specific facts showing that there is a genuine issue for trial.” CR 56. “[A] nonmoving party may not rely on speculation or on argumentative assertions that unresolved factual issues remain.” *White v. State*, 131 Wash.2d 1, 9, 929 P.2d 396 (1997).

As described below, there was no genuine issue of material fact, and dismissal of all claims was appropriate as a matter of law. Plus,

Appellant's request to continue the motions for more time do discovery was properly denied, as Appellant did not act with diligence, nor did they identify any discoverable facts or evidence that would save their claims.

ii. Claims for Damages by Mr. Riggle.

Although Appellant appears to have abandoned this claim on appeal, they originally asserted that Mr. Riggle had suffered damages caused by the trustee, and Mr. Riggle's damages could be claimed by Appellant. Zero evidence was ever produced as to Mr. Riggle's alleged damages. Nothing is known about Mr. Riggle other than that he stopped paying his mortgage, filed for bankruptcy and obtained a discharge of his debt. Thus, the claim was properly dismissed on the evidence.

Evidence aside, Appellant's attempt to prosecute Mr. Riggle's claims also fails on the law – specifically, the doctrine of prudential standing discussed above.

iii. Claim #1 – Deed of Trust Act.

Washington's Supreme Court in the case of *Frias v. Asset Foreclosure Services, Inc.*, 181 Wn.2d 412, 429 (2014) has held, as a matter of law, there is no cause for damages under the Deed of Trust Act in the absence of a completed sale.

In this case, there has been no sale of Property by the trustee. Thus, *Frias* bars Appellant's relief for damages under the Deed of Trust Act.

iv. Claim #2 – Consumer Protection Act.

A claim under Washington's Consumer Protection Act ("CPA") requires (1) an unfair or deceptive act or practice; (2) occurring in trade or commerce; (3) that impacts the public interest; (4) injury to business or property; and (5) causation. *Hangman Ridge Training Stables, Inc. v. Safeco Title Ins.*, 105 Wn.2d 778, 780, 719 P.2d 531 (1986). Failure to meet all of these elements is fatal and necessitates dismissal. *Sorrel v. Eagle Healthcare*, 110 Wn. App. 290, 298, 38 P.3d 1024 (2002).

a) *No Unfair or Deceptive Act.*

"Whether an action constitutes an unfair or deceptive practice is a question of law." *Columbia Physical Therapy, Inc., PS v. Benton Franklin Orthopedic Associates, PLLC*, 168 Wn.2d 421, 442, 228 P.3d 1260, 1270 (2010). An act or practice is unfair or deceptive if it has the capacity to deceive a substantial portion of the public. *State v. Pacific Health Center, Inc.*, 135 Wn. App. 149, 170, 143 P.3d 618, 628 (2006). "Implicit in the definition of 'deceptive' under the CPA is the understanding that the practice misleads or misrepresents something of material importance."

Holiday Resort Comm. Ass'n v. Echo Lake Assoc., LLC, 134 Wn. App. 210, 226, 135 P.3d 499 (2006).

As a threshold matter, the Appellant failed to demonstrate a defect in the foreclosure by the trustee, let alone an “unfair or deceptive” act. Quality was appointed trustee by the holder of the note, and lawful beneficiary under the law. The sale was advanced because Mr. Riggle stopped making his mortgage payments. This triggered the trustee’s power of sale.

Finally, the foreclosure notices (which Appellant did not even make part of the appellate record) were based on the statutory forms.

In sum, it is not “unfair or deceptive” for a trustee to advance a foreclosure pursuant to law.

b) Injury to “Business or Property.”

A CPA claimant must demonstrate injury to “business or property” proximately caused by the “unfair or deceptive” act. RCW 19.86.090; *see also Ambach v. French*, 167 Wn.2d 167, 216 P.3d 405 (2009). A claimant must demonstrate that the “injury complained of...would not have happened” if not for defendant’s acts. *Indoor Billboard / Washington, Inc. v. Integra Telecom of Washington, Inc.*, 162 Wn.2d 59, 82, 170 P.3d 10 (2007).

Appellant has not suffered any recoverable injury to “business or property” proximately caused by the trustee. Appellant voluntarily purchased the Property *after* the trustee had issued its foreclosure notices. Thus, “...to the extent that [Appellant] suffered an injury, it was due to [Appellant’s] own actions in purchasing the Property after non-judicial foreclosure proceedings had been commenced.” *Big Blue Capital Partners, LLC v. ReconTrust*, 2012 U.S. Dist. LEXIS 63941 (D.OR, 2012); CP at 411.

Furthermore, the record on summary judgment was completely devoid of any actual evidence of damages – either from Mr. Riggle or Appellant. And to the extent Appellant paid its attorney to bring the lawsuit, that expense does not count as “damages” under the CPA. *Sign-O-Lite Signs, Inc. v. DeLaurenti Florists, Inc.*, 64 Wn. App. 553, 564 (1992) (merely having to prosecute a claim under the CPA “is insufficient to show injury to [a plaintiff’s] business or property.”); *Demopolis v. Galvin*, 57 Wn. App. 47 (1990); *Thursman v. Wells Fargo Home Mortg.*, 2013 WL 3977662, *3-4 (W.D. Wash. Aug 2, 2013) (resources spent pursuing CPA claim are not recoverable injuries under the CPA; collecting cases); *Babrauskas v. Paramount Equity Mortg.*, 2013 WL 5743903 *4 (W.D. Wash. Oct 23, 2013) (citing *Sign-o-Lite* and stating “the fees and costs incurred in litigating the CPA claim cannot satisfy the injury to

business or property element; if plaintiff were not injured prior to bringing suit, he cannot engineer a viable claim through litigation”).

If anyone is being damaged, it is the lender who has not received a mortgage payment since 2011, and the trustee who is forced to defend itself in this baseless litigation. The Appellant, for a nominal price, has enjoyed free use of the Property since 2013. Under no circumstance can it be said the Appellant has or is being damaged.

v. Claim #3 – Declaratory Relief.

Before the jurisdiction of a court may be invoked under the Uniform Declaratory Judgments Act, a justiciable controversy must exist. *Diversified Indus. Dev. Corp. v. Ripley*, 82 Wn.2d 811, 814-15, 514 P.2d 137 (1973). A justiciable controversy is an actual, present, and existing dispute, or the mature seeds of one, which is distinguishable from a possible, dormant, hypothetical, speculative, or moot disagreement. *To-Go Trade Shows v. Collins*, 144 Wn.2d 403, 411, 27 P.3d 1149 (2001). To be justiciable, a dispute must be between parties that have genuine and opposing interests, which are direct and substantial and not merely potential, theoretical, abstract, or academic; and a judicial determination of the dispute must be final and conclusive. *Id.* "Inherent in these four requirements are the traditional limiting doctrines of standing, mootness, and ripeness, as well as the federal case-or-controversy requirement." *Id.*

The purpose of these requirements is to ensure the court will render a final decision on an actual dispute between opposing parties with a genuine stake in the court's decision. *Id.* Unless all these elements are present, the reviewing court steps into the prohibited area of advisory opinions. *Diversified Indus.*, 82 Wn.2d at 815.

The claims for declaratory relief concerning the trustee were properly dismissed because there was no pending sale of the Property. Thus, no justiciable controversy existed between the trustee and Appellant. In order for any declaratory relief to ripen as against the trustee, a sale has to exist. Until then, any Court ruling as to trustee would essentially be an advisory opinion as to an event (i.e. sale) that may or may not be scheduled in the future. In other words, the Court does not have an “actual” and “existing” dispute before it with the trustee, but instead a “possible” or “hypothetical” one in the form of a future sale.

Finally, to the extent Appellant sought declaratory relief concerning whether or not the Deed of Trust encumbers that Property, or secures the Note, that adjudication does not require trustee. The trustee is not the lienholder. The lienholder – and proper party to that adjudication – is the Deed of Trust “beneficiary.”

vi. Claim #4 – Injunctive Relief.

“A case is moot if a court can no longer provide effective relief.” *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984). The issue of mootness “is directed at the jurisdiction of the court.” *Citizens for Financially Responsible Gov't v. City of Spokane*, 99 Wn.2d 339, 350, 662 P.2d 845 (1983). As such, it “may be raised at any time.” *Citizens*, 99 Wn.2d at 350.

The Deed of Trust Act provides for injunctive relief against trustee “sales.” RCW 61.24.130. There is no stand-alone claim for injunctive relief. *Kwai Ling Chan v. Chase Home Loans, Inc.*, 2012 WL 1576164, 7 (W.D. Wash. 2012) (citing *Jensen v. Quality Loan Serv. Corp.* 702 F.Supp. 2d 1183, 1201 (E.D. Cal. 2010) (“A request for injunctive relief by itself does not state a cause of action”)).

Appellant’s claim for injunctive relief against a trustee was properly dismissed. There was no sale to enjoin, and that relief was moot. Were the Court to proceed, it would be making an impermissible advisory opinion about a sale that may or may not be scheduled in the future.

Furthermore, even if there had been a sale to enjoin, Appellant failed to identify any defect that would justify injunctive relief. As has already been discussed, there was nothing wrong with the prior sale.

D. Claims Against M&H.

M&H is a partnership organized under California law. CP at 253. M&H does not own or have any control over the operations of the incorporated trustee – Quality. CP at 253. M&H had nothing to do with the foreclosure, nor could it have, as it was not the trustee. CP at 253.

Furthermore, and as discussed in its moving papers (CP at 246-52, 385-88) there is no legal basis to hold M&H vicariously liable for the actions of the trustee. M&H was properly dismissed.

E. Attorney's Fees on Appeal.

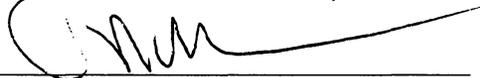
Appellant has no legal basis for attorney's fees on appeal. Respondents are not parties to the Deed of Trust or Note, and there is no right to fees by contract. Furthermore, Appellant has to actually prevail on its CPA claim to be awarded statutory attorney's fees. RCW 19.86.090.

IV. CONCLUSION

The Court should affirm the orders of dismissal.

Dated: April 8, 2015

MCCARTHY & HOLTHUS, LLP



Joseph Ward McIntosh, WSBA # 39470

Attorneys for Quality Loan Service Corporation of Washington; Quality Loan Service Corporation; McCarthy & Holthus, LLP

CERTIFICATE OF MAILING

The undersigned declares under penalty of perjury under the laws of the state of Washington that the following is true and correct. On April 8, 2015, I arranged for service of Respondent's Brief on the following parties via U.S. 1st

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SIGNED this 8 day of April, 2015, at Seattle, Washington.



Walter Babst
Legal Assistant