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UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA

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In Re: ) Case No. SA09-13792-ES  
)  
KAREEM SALESSI, ) Santa Ana, California  
) Tuesday, June 9, 2009  
Debtor. ) 9:30 a.m.  
)

HEARING RE: MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY

WACHOVIA MORTGAGE, FSB, FKA  
WORLD SAVINGS BANK, A FEDERAL  
SAVINGS BANK VS. DEBTORS

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE ERITHE SMITH  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For Moving Party: MARTIN W. PHILLIPS, ESQ.  
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1 SANTA ANA, CALIFORNIA, TUESDAY, JUNE 9, 2009 9:30 AM

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3 (Call to order of the Court.)

4 THE COURT: All right. Number 42 in the matter of  
5 Wachovia Mortgage FSB versus Kareem Salessi.

6 MR. PHILLIPS: Good morning again, your Honor.  
7 Martin Phillips, for the moving party.

8 MR. SALESSI: Good morning, your Honor. Kareem  
9 Salessi.

10 THE COURT: Mr. Phillips.

11 MR. PHILLIPS: I've reviewed the tentative and would  
12 submit on the tentative.

13 THE COURT: All right. Mr. Salessi.

14 MR. SALESSI: Did your Honor receive a second  
15 judicial notice that I filed late yesterday afternoon?

16 THE COURT: I did. I glanced through it. It was  
17 untimely, so I'm not inclined to admit it, because that  
18 would not be fair to the other side. Let me explain, and  
19 then I'll let you address the Court, my tentative ruling  
20 on this, and that is: It seems to me that there's been a  
21 lot of litigation, based on what you did submit, that has  
22 gone on, with respect to this property, with respect to  
23 the foreclosure.

24 And from the bankruptcy standpoint, the  
25 foreclosure occurred before the bankruptcy was filed.

1 Actually, some time before the bankruptcy was filed. To  
2 the extent that there are any remedies that you believe  
3 that you have or claims that you may have against the  
4 moving party, that litigation has already started outside  
5 of this court, and as I understand, it had commenced  
6 before the bankruptcy was filed. There may be matters --  
7 I'm not sure, 'cause I've tried to figure out -- I didn't  
8 have a complete record, but I tried to figure out what  
9 litigation had taken place.

10 It seems there had been litigation in the State  
11 Court. There have been some things that have been  
12 removed in the Federal Court. There have been some  
13 things pending against -- I mean, with the Federal  
14 District Court, in terms of things that have been  
15 removed. I think there might've been some remands. I'm  
16 just trying to go by memory here.

17 But the bottom line is that: It seems  
18 appropriate to me that since I cannot -- first of all, I  
19 cannot overturn any rulings of the State Court or the  
20 Federal District Court, and so to the extent that there  
21 is -- there -- there's pending litigation. For example,  
22 let's start with the State Court. It seems to me that,  
23 that oughta run its course. Meaning, if you were  
24 planning to pursue any appeals, that needs to happen in  
25 the State Court.

1           To the extent that there are matters pending  
2 with the Federal District Court, obviously those matters  
3 need to continue as well. And so we don't want a  
4 situation where there are inconsistent rulings, 'cause  
5 that doesn't serve anybody and -- especially if there are  
6 matters pending in Federal Court and also in the State  
7 Court, those need to resolve.

8           I do agree that with respect to the -- I think  
9 there was a Writ of Possession, or something of that  
10 nature, that was filed after the bankruptcy filing,  
11 clearly, that writ is null and void. And so as to that  
12 matter, Wachovia would need to restart that process. In  
13 other words, they can't use that writ at this point,  
14 because it's null and void, and I think they recognize  
15 that they can't use it, and they have to start that  
16 process all over again.

17           So that part I do agree with you and that --  
18 that part can be adjudicated here and I can certainly  
19 make a determination that actions taken after the  
20 bankruptcy was filed are gonna be null and void.

21           MR. SALESSI: Okay. Thank you, your Honor. May I  
22 address the fact that the -- these are not the bank and  
23 they are not -- they can't prove any beneficial interest,  
24 whatsoever, and that's also within their own  
25 communication from their inside counsel, Mr. Goldberg, in

1 the exhibits of, I believe, judicial notice.

2 And as I extensively explained there with the  
3 communication from my former request from the Treasury  
4 Department, they are not allowed -- Wachovia is not  
5 allowed to use this fraudulent name, which is one whole  
6 sentence, which says -- as a legal name in any lawsuit,  
7 in any legal proceedings, which says, "Wachovia Mortgage  
8 FSB, FKA World Savings Bank, FSB, a Federal Savings  
9 Bank." This is a fabrication, as I explained in my  
10 documents, your Honor, for -- for a few executives and  
11 attorneys in these entities to steal thousands of houses  
12 from people.

13 The mortgage, though, which have already been  
14 taken, initially sold by -- from World Savings Bank to  
15 Wachovia National Bank, N.A., before it changed its name.  
16 And I also provided the proof of that from the Treasury  
17 Department's web site. And they cannot bring you a  
18 single piece of proof that they have any beneficial  
19 interest. They never came up with any proof of the  
20 mortgage, with any documents pertaining to the notes.  
21 I'm talking about any original documents, deeds of  
22 trust or the notes, because they were forged back in  
23 2002. And I don't -- I don't believe they can dare to  
24 bring any forged documents or the originals of the forged  
25 trust deeds, which were recorded here in Orange County,

1 across the street. I don't believe they can bring that  
2 into this court and claim that this is a legitimate claim  
3 of mortgage.

4 And plus, your Honor, I forgot in my moving  
5 papers to use the published ruling of Honorable Judge  
6 Bufford in Los Angeles, In Re Wang, which documents,  
7 exhaustively, that the party's standing is a threshold  
8 question in every federal case and the determining power  
9 of the Court to entertain the suit.

10 And with that -- with that extensive discussion  
11 of Judge Bufford in that published ruling, which applies  
12 to these parties, which are a fictitious party, they have  
13 not been registered anywhere and their own governing  
14 body, Office of Thrift Supervision says that they don't  
15 exist and they aren't allowed to use this name in any  
16 legal proceedings. They cannot come up with the  
17 registration now and claim stolen properties with the  
18 trust deeds upon sale, registered under these fictitious  
19 names and backdate 'em, which amounts to thousands of  
20 houses.

21 And that's the reason that they are so  
22 vindictive against me, because in the federal lawsuit, I  
23 am bringing the action, as -- not only on my own behalf,  
24 but also on behalf of -- as a -- as a private Attorney  
25 General. And I am claiming the stolen houses of

1 thousands of people by this fictitious name, which  
2 amounts to, I believe, over 100,000 houses that they have  
3 stolen under this fictitious name.

4 And this is the reason that they are so  
5 zealously fighting me in this -- in this matter and  
6 trying to force me out of the house to also cause me more  
7 trauma and prevent me from their prosecution, also, as a  
8 private Attorney General in the federal case.

9 THE COURT: Okay. Mr. Phillips.

10 MR. PHILLIPS: Your Honor, unless you have any  
11 specific questions, I would, again, submit on the  
12 tentative these are issues that he's raised in prior  
13 pending court action.

14 THE COURT: Let me just ask you: What is it -- what  
15 is your understanding of the action that is currently  
16 pending in -- in Federal District Court?

17 MR. PHILLIPS: As I understand it, he's alleging,  
18 among other things, the question of Wachovia's existence  
19 in its current name.

20 THE COURT: Okay.

21 MR. PHILLIPS: And --

22 THE COURT: All right. Here's -- here's the thing:  
23 Mr. Salessi, as far as this motion is concerned,  
24 obviously there was a lot of documents that were  
25 presented in connection with this motion.

1 MR. SALESSI: Right.

2 THE COURT: I'm granting the motion, and I'm  
3 granting the motion, because as far as -- and I'm looking  
4 at a very narrow view of this. Foreclosure did occur,  
5 whether you believe it was valid or invalid. I already  
6 believe it was invalid, which you believe is invalid.  
7 Wachovia believes is valid. It did occur before the  
8 bankruptcy was filed. Okay? So that's already happened.

9 With respect to any claims that you may have  
10 regarding the validity of that foreclosure sale, it  
11 sounds as if you are actively pursuing that and nothing  
12 that I am doing today would prevent you from continuing  
13 to pursue that. But for example, as you mentioned,  
14 you've brought an action in the District Court, which  
15 apparently is still pending, and that's where that oughta  
16 be pursued.

17 And to the extent that there were actions  
18 pending in the State Court, that's where these issues  
19 would really need to be resolved and those courts,  
20 whether it's State Court or the Federal District Court,  
21 certainly have broader -- much broader jurisdiction than  
22 this Court does.

23 And some of the things that you are asserting,  
24 there may be a question about whether this Court even has  
25 jurisdiction. In particular, if there are things that

1 you are raising that would normally, for example, require  
2 a jury trial. That raises all sorts of issues, and it  
3 seems to me if it's already pending in -- in Federal  
4 District Court and things have already been pursued in  
5 the State Court, which are both courts of more general  
6 jurisdiction --

7 MR. SALESSI: Right.

8 THE COURT: -- that's where they should take place.  
9 So as far as this motion is concerned, I'm granting the  
10 motion and, you know, to the extent that you have  
11 defenses to their unlawful detainer action that you're  
12 pursuing, either in State Court or Federal Court, you're  
13 still free to pursue those. It's just that at this  
14 point, it's being taken out of the Bankruptcy Court and  
15 whatever's gonna happen in District Court and State  
16 Court --

17 MR. SALESSI: Right.

18 THE COURT: -- will happen.

19 MR. SALESSI: But your Honor, may I quote --

20 THE COURT: And by the way, I'm familiar with Judge  
21 Bufford's decision, In Re Wang, --

22 MR. SALESSI: Okay. Okay.

23 THE COURT: -- but the difference here is that --  
24 and again, I'm stressing this: The foreclosure sale has  
25 already occurred --

1 MR. SALESSI: Right.

2 THE COURT: -- and it occurred outside the  
3 bankruptcy and that, actually, --

4 MR. SALESSI: Right.

5 THE COURT: -- is a little different than the Wang  
6 decision, --

7 MR. SALESSI: Right.

8 THE COURT: -- which I'm familiar with. So again, I  
9 am gonna grant the motion. I'm not granting retroactive  
10 relief, with respect to that writ or whatever was filed  
11 after the bankruptcy.

12 MR. SALESSI: Right.

13 THE COURT: That's gonna be null and void and, you  
14 know, you have to begin all over again on that point.

15 MR. SALESSI: Right.

16 THE COURT: And that will be the ruling.

17 MR. SALESSI: Is my -- I have something that only,  
18 as a matter of question. What I'm seeing here is that  
19 for them to obtain relief in this Federal Court, which is  
20 like Judge Bufford's court, they must both read the  
21 constitutional requirement, which is the standing and the  
22 prudential, including the real party-in-interest matter and  
23 they don't have either one.

24 THE COURT: Well, here's where we -- and you may --  
25 let me be very clear, 'cause you may not agree with me on

1 this one, and I understand that.

2 MR. SALESSI: Okay.

3 THE COURT: But I am satisfied that they have  
4 sufficient standing to bring this motion by virtue of --  
5 of the foreclosure. Now, if another Court later  
6 determines that, that foreclosure was invalid, that  
7 ruling, obviously, will stand.

8 But for purposes of this hearing only, as the  
9 party involved in the foreclosure, which did occur before  
10 the bankruptcy, for this motion, I am finding that they  
11 have standing to bring it as the parties who conducted  
12 the foreclosure. And we don't get into whether or not  
13 the foreclosure was actually valid. That's gonna be  
14 litigated at some point, obviously.

15 MR. SALESSI: Right. But --

16 THE COURT: Okay?

17 MR. SALESSI: But your Honor, the point is: There  
18 is no such a party.

19 THE COURT: I only have a little bit of time,  
20 'cause --

21 MR. SALESSI: Sure.

22 THE COURT: -- obviously there are other people that  
23 are waiting and I don't wanna be discourteous, 'cause I  
24 have let you guys go quite --

25 MR. SALESSI: I understand.

1 THE COURT: -- quite long on this --

2 MR. SALESSI: Only one sentence.

3 THE COURT: -- and I understand your position.

4 MR. SALESSI: Your Honor, may I request that your  
5 Honor take this under submission or a continuance by  
6 looking, also, at the Request for Judicial Notice that I  
7 deposited yesterday?

8 THE COURT: No. I'm not actually going to do that,  
9 because I spent -- I actually -- that was delivered, I  
10 think, yesterday. I reviewed a lot of it this morning.  
11 I don't know if I reviewed all of it, but I wanna be real  
12 clear on Request for Judicial Notice, also, because even  
13 amongst lawyers sometimes there's a misunderstanding  
14 about what that means, what that concept means.

15 Request for Judicial Notice means that I can  
16 take judicial notice, but the fact that certain documents  
17 were filed with the Court, it doesn't mean that the --  
18 that the truth of those documents is being admitted when  
19 you're taking judicial notice. Okay? Unless it's a  
20 court order or something that's completely  
21 self-authenticating like that.

22 But if it's a matter of declarations or  
23 statements or testimony, or whatever, that was filed in  
24 another court, I can recognize, yes, those documents were  
25 filed with the Court, but it doesn't mean that, you know,

1 the truth or the content of those documents become part  
2 of -- of this record, so I wanna be clear about that,  
3 because --

4 MR. SALESSI: Yes.

5 THE COURT: And I want you to understand how I  
6 applied --

7 MR. SALESSI: Right.

8 THE COURT: -- and how I looked at the Request for  
9 Judicial Notice.

10 MR. SALESSI: Right.

11 THE COURT: Obviously you spent a lot of time and I  
12 know this is probably consuming your life. I mean, I --

13 MR. SALESSI: Right.

14 THE COURT: -- I get that part of it, but today's  
15 hearing is actually pretty -- pretty narrow. And it  
16 seems --

17 MR. SALESSI: Right.

18 THE COURT: -- to me that whatever rights you are  
19 asserting can we resolved in -- in other courts. So --

20 MR. SALESSI: Right.

21 THE COURT: -- that will be my ruling and good luck  
22 to you.

23 MR. SALESSI: And may I just object to your ruling,  
24 with all due respect? And does your Honor here entertain  
25 a motion for reconsideration of this within 10 days?

1 THE COURT: I -- I entertain whatever motions are  
2 filed.

3 MR. SALESSI: Okay.

4 THE COURT: Okay?

5 MR. SALESSI: Okay. Thank you, your Honor.

6 THE COURT: All right.

7 MR. PHILLIPS: A couple questions regarding the  
8 request for 10-day waiver and binding, in spite of -- or  
9 in the event of conversion. I don't believe that was  
10 referenced in the tentatives. I wanna get that clear.

11 THE COURT: I understand the 10-day. What was the  
12 other question?

13 MR. PHILLIPS: Binding -- binding in the event of  
14 conversion.

15 THE COURT: That's pretty standard, so, yes, I'll  
16 grant that. With respect to the waiver of the 10-day  
17 period, I'm -- that -- that request will be denied.

18 MR. PHILLIPS: And to the extent to reference the  
19 language about the writ being null and void, you want  
20 that specifically in the order?

21 THE COURT: Yes. I think that would make things a  
22 lot clearer, so --

23 MR. PHILLIPS: Okay.

24 THE COURT: -- the order would say that the motion  
25 is granted. That I'm not granting the request for waiver

1 of the 10-day period. And also that the document -- or  
2 rather the --

3 MR. PHILLIPS: Writ of Possession.

4 THE COURT: -- Writ of Possession that was filed  
5 after the bankruptcy will be null and void, yes.

6 MR. PHILLIPS: Thank you, your Honor. Thank you for  
7 your patience.

8 THE COURT: Okay. All right. Thank you.

9 MR. SALESSI: Thank you, your Honor.

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