

NO. D-1-GN-16-0360

THE STATE OF TEXAS,
Plaintiff,
v.

MILLENNIUM CLOSING SERVICES,
L.L.C., dba Millennium Title
Defendant.

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IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS
53rd JUDICIAL DISTRICT

MEMORANDUM RECOMMENDATION
(JAW Homes, Inc. Motion to Permit Foreclosure)


The Special Master is recommending that Movant's Motion be denied.

Under Section 443.008 of the Texas Insurance Code, Movant must establish by clear and convincing evidence that the receivership estate does not have equity in the two properties in question. This estate is in its infancy. The need for receivership stems from what appears to be the improper conversion and commingling of substantial monies of Millennium Title by its prior owner Nancy Carroll---who apparently has fled. In this particular matter, Carroll appears to have personally kept \$558,000 in secured loan proceeds that were intended to go to pay Movant on two promissory notes which are secured by deeds of trust. As a result, there now are two liens on each of the two properties with competing lienholders.

It is too early to know whether there eventually will or will not be equity in the two properties for the benefit of the estate. Carroll's actions raise many legal questions to be addressed in the days ahead as the Special Deputy Receiver seeks to marshal assets, including: is there errors and omissions coverage for Carroll's apparent misconduct and, if so, who will get paid what? Is there title insurance and, if so, how will any proceeds of title insurance be distributed? How will the Texas Title Insurance Guaranty Association assess the claims of creditors, including Movant, relating to the two properties?

Until all these and more questions are answered, we will not know whether or not there is equity in the property. Therefore, any evidence of equity is not clear and convincing at this time. Accordingly, the Special Master recommends that the Motion be denied.

SIGNED this 4th day of April, 2016


Tom Collins, Special Master