

UNITED STATES BANKRUPTCY COURT

DISTRICT OF MONTANA

In re:

THORCO, INC.,

Debtor.

THORCO, INC., a Montana corporation,

Plaintiff,

vs.

WHITEFISH CREDIT UNION, a _____ credit union; MO SOMERS, LLC, a Montana limited liability company; RUIS GLACIER, LLC, a Montana limited liability company; and DOES 1-10,

Defendants.

Case No. 22-90119-JMM

Chapter 11
(Subchapter V)

Adversary No. 22-____-JMM

Affidavit from Katherine Wilson
Re: Rae Albert, Shauna Romrell, & TFSS

BEFORE ME, the undersigned authority, on this day personally, November 16, 2022, I, Katherine Wilson, Agent for Cogburn Enterprises, LLC, being of full age, swore or affirmed to tell the truth and on her oath deposes and says:

1. I am not a party to this case.
2. I am a citizen of the United States, a resident of the State of Montana, and over the age of 18.
3. I have been retained by Dennis and Donna Thornton and Thorco, Inc to investigate the filing of the Satisfaction of Mortgage dated May 12, 2022.
4. On September 27, 2022, at 4:30 p.m., I contacted Title Financial Specialty Services (TFSS), Blackfoot, Idaho at 208-785-2515 and requested to speak with Shauna Romrell, President and Attorney in Fact for Whitefish Credit Union (WCU). Ms. Romrell did not answer. A voicemail was left requesting a return call.
5. On September 27, 2022 at 4:50 p.m., I had not received a return call from Ms. Romrell. Another call was made to Ms. Romrell, who was still not available. Instead, I spoke with Rae Albert regarding the filing of the Satisfaction of Mortgage, Instrument No. 200900007830, WCU Loan # 9669428-0750/12, filed on May 12, 2022.

The following are questions and answers from myself (K) and Rae Albert (R) relayed to you to the best of my recollection:

(K) I am calling to confirm that you, Title Financial Specialty Services, had the authority to file the Satisfaction of Mortgage on May 12, 2022, regarding the Thorco Inc. property, loan #9669428-0750/12. Did your company have the authority to file that document?

(R) Yes, when WCU requested us to file the Satisfaction of Mortgage, that gave us the authority to file the document.

(K) Can you tell me who at WCU requested the Satisfaction of Mortgage be filed?

(R) I am not sure if I can tell that, uh yes, it was Donna Goodrich.

(K) Does it say what branch she is out of or do you have any contact information?

(R) It shows her phone number is 406-758-0464

(K) Doesn't this Satisfaction of Mortgage show Thorco, Inc. is the owner or could someone else own the property?

(R) Yes, the owners should be Thorco, Inc., WCU only had a lien on it.

(K) So, when it says, "Fully paid, satisfied, release and discharged", does that mean they no longer owe the \$3.36 million on it or that they are the owners of the property?

(R) Yes, they would be the owners. I can't speak to any debt.

(K) This release states that the lien of \$3.36 million was released and satisfied, does

that include any and all interest on the original amount of the loan?

(R) I don't know those details, that would be between Whitefish Credit Union and Thorco.

(K) Why if Thorco was the owner, would WCU say they were the owners and sell the property to a Mo Somers, LLC?

(R) I don't know, they only had a lien on the property. You would have to do a little research to see if there were any other liens.

(K) If Thorco owed any more money after this Satisfaction of Mortgage was released, WCU would need to let me know in writing, correct? Or they wouldn't release the lien, correct?

(R) I would believe so, but I don't know.

(K) So, according to this document, as of May 12, 2022, Thorco, Inc. was the owner of the property listed in the Satisfaction of Mortgage and that's why you sent them that letter?

(R) Yes.

(K) Can I get a copy of the lien release?

(R) You should be able to get a copy from Donna.

(K) Ok, thank you for your time.

(R) You're welcome.

End of phone call.

- 6.) At 12:20 p.m. on November 125, 2022, I phoned Shauna Romrell, President, at Title Financial Services, Blackfoot, Idaho at 208-785-2515 and left a message asking for a return call. At 1:17 p.m., I received a return call from Shauna Romrell at 208-643-4669 and spoke with Shauna Romrell and Shannon (last name unknown) on speaker phone for exactly 15 minutes regarding the Satisfaction of Mortgage filed by TFSS on May 12, 2022 and the Corrected Release of Mortgage filed by James Kenyon, WCU CEO, filed on June 7, 2022.
7. Due to the length of the conversation, I will summarize the important details of the call. During our phone conversation, when asked about whether they were aware there was a Corrected Release of Mortgage filed on the Thorco, Inc. Property, they both admitted they were not aware of the filing. In fact, both individuals expressed being extremely puzzled, and frankly stunned, by the filing.

When asked about the Corrected Release of Mortgage, and the statements that TFSS erroneously filed the Satisfaction of Mortgage without review and approval, both stated that they had approval to file the documents, which also meant WCU would have reviewed the file before sending the request.

Shauna and Shannon were asked how WCU makes their request for a Satisfaction of Mortgage to be filed. I was informed that there is an electronic reconveyance release platform that is used, which is a request that, they stated, has a lot of boxes that needs to be filled in with the loan information.

When asked if they could explain how WCU was able to sell the property before the release was

filed, they both stated they could not answer that. I believe it was Shauna who asked if there was ever a Deed in Lieu of Foreclosure and I informed her that I was unaware of one. She then questioned what would have transferred it to WCU and I informed her the only thing I knew of was a deed in their case that was dismissed with prejudice.

Shauna informed me that she could not understand the need for a Corrected Release of Mortgage, because either way, the property was to be release and the first one did that. Shauna also recommended that we order a title search to show the life of the property. End of conversation.

8. At 3:05 p.m., on November 16, 2022, I phoned Shauna Romrell, President of TFSS and left a message asking her to return my call. While I waited for her return call, it was decided that I would send her an email with the questions we were seeking answers to, to the following is a copy of the email that was sent to her:

Hi Shauna,

We do have a few more questions for you, if you don't mind taking the time to answer them, we would appreciate it. But first, I'd like to let you know a brief history of events; WCU got a judgement against Thorco, WCU then vacated that judgement and dismissed the lawsuit with prejudice. After all that, Feb. 10th 2022, at a hearing in Helena, the Banking Commissioner and the Chief Legal Counsel stated that the mortgage had been satisfied and nothing was owed, see attached (abbreviated) minutes. We believe that hearing is what spurred WCU, or James Kenyon, WCU CEO, to sell the property, even before the Satisfaction of Mortgage was filed.

- 1.) If a corrected Release of Mortgage is required, would you, or in this case, James Kenyon, not be required to contact Thorco, Inc. and inform them that there was an error that needed to be corrected?
- 2.) I want to confirm, you stated that you were not aware of the Corrected Mortgage Release being filed? Correct?
- 3.) Typically, if a Corrected Release of Mortgage was filed, wouldn't you be part of the process and need to correct the document that you filed? Can you explain that process?
- 4.) Would you not need an affidavit of approval from the owner to file a corrected mortgage release?
- 5.) Can you explain how WCU sold the property before the Satisfaction of Mortgage was filed?
- 6.) Attached is a copy of the settlement agreement, would this property not be considered a security, such as a trust indenture, because it has three parties?
- 7.) On the realty transfer certificate, these are not deeds in lieu, they were escrow/security deeds. How can escrow/security deeds be used for conveyance without first being in escrow?
First American Title has no record of this escrow, that per the settlement agreement, was to take place.
- 8.) In your power of attorney, it appears you are the successor of First American Title, did you ever receive these documents?
- 9.) After reviewing the corrected Release of Mortgage, I sent to you that was filed by James Kenyon, do you believe that, as stated, you did not have the review or approval of the WCU?

We greatly appreciate you taking the time to answer these questions.

Thank you,
Kathy Wilson
406-471-3341

9. Immediately following the sending of this email, I received a phone call from Shauna stating that she was not at liberty to discuss the questions asked in my email. She further went on to say that, what she could let me know was that when she recorded the documents, she had the authority to do so. And that what happened before or after the filing has nothing to do with her and she wished not to get in the middle of it. Shauna then followed up with an email response:

Good afternoon Kathy,

As per our telephone conversation just now, Title Financial Specialty Services/First American Title Company is not in a position to answer your questions. We played a very small role and followed the direction given by WCU to release the mortgage. Anything that happened prior to that or after that does not involve us.

I am very sorry that I can not be of more assistance to you and I wish you the best of luck.

Sincerely,

Shauna

End of communication with Shauna Romrell and TFSS.

I DECLARE UNDER PENALTY OF PERBURY AND UNDER THE LAWS OF THE STATE OF MONTANA THAT THE FOREGOING IS TRUE AND CORRECT.

Katherine Wilson
Katherine Wilson PSP-PI-LIC-16517

State of Montana
County of Flathead

This instrument was signed and sworn to before me

on Nov 17, 2022 by Katherine Wilson
(Name of Signer)

Debra Bain
(Notary)

