

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

IN THE MATTER OF:

RICHARD P. LOTFY
SHARI D. LOTFY,
Debtors

CHAPTER 13
CASE NO. 08-40106

RICHARD P. LOTFY
SHARI D. LOTFY,
Plaintiffs

v.

FDIC, as Receiver for
INDYMAC BANK, FSB
Defendant

ADVERSARY PROCEEDING
CASE NO. 08-04071

PLAINTIFFS', RICHARD P. LOTFY AND SHARI D. LOTFY,
STATEMENT OF UNDISPUTED FACTS

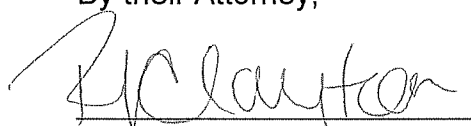
1. Plaintiffs filed a bankruptcy petition under Chapter 13 January 14, 2008.
2. On May 13, 2008, Plaintiffs commenced this adversary proceeding against IndyMac Bank, FSB.
3. On May 5, 2009, the FDIC was added to the matter as Receiver for IndyMac Bank, FSB.
4. Plaintiffs purchased the Property. See Complaint ¶¶6, Answer ¶¶6
5. Plaintiffs granted two security interests in the Property to MERS/IndyMac. See Complaint ¶¶8, Answer ¶¶8.
6. The Plaintiffs subsequently defaulted on their loan obligations. See Complaint ¶¶11, Answer ¶¶11.
7. On June 15, 2007 a Complaint for authority to foreclose on the first mortgage was executed and filed with the Massachusetts Land Court on July 7, 2007 by IndyMac Bank, FSB as Trustee under the Servicing and Pooling Agreement Series BSALTA 2006-4. See Attached Exhibit A
8. On August 8, 2007, a foreclosure sale occurred on the property and a Certificate of Entry was recorded with the Worcester County Registry of

Deeds on December 10, 2007 in Book 42172, Page 26. See Complaint ¶¶14, Answer ¶¶14.

9. On November 5, 2007, a Foreclosure Deed was executed by Erika Johnson-Seck, Vice President of IndyMac Bank, FSB as Trustee under the Servicing and Pooling Agreement Series BSALTA 2006-4 transferring the property to IndyMac Bank, FSB as Trustee under the Servicing and Pooling Agreement Series BSALTA 2006-4. Said Foreclosure Deed was recorded with the Worcester County Registry of Deeds on December 10, 2007 in Book 42172, Page 27. See Attached Exhibit D.
10. At all relevant times above, **Citibank, N.A.**, not **IndyMac Bank, FSB** was the Trustee of BSALTA 2006-4. See Attached Exhibit B.
11. The Assignment of Mortgage executed on July 20, 2007 from MERS, as nominee for IndyMac assigning the Mortgage securing the Property to IndyMac Bank, FSB as Trustee was executed *after* the institution of the foreclosure proceedings. See Attached Exhibit C.

Dated: November 6, 2009

Richard P. Lotfy
Shari D. Lotfy
Plaintiffs
By their Attorney,



Rosaleen J. Clayton
319A Southbridge Street
Auburn, MA. 01501
(508) 832-9006
(508) 832-9112 (facsimile)
BBO #652132