

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS**

**IN RE RICHARD P. LOTFY AND
SHARI D. LOTFY,**

Debtors.

BANKRUPTCY NO. 08-40106

**RICHARD P. LOTFY & SHARI D.
LOTFY**

Plaintiff,

ADV. PRO. NO. 08-04071

v.

**FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
INDYMAC BANK, FSB,
Defendants.**

**DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION'S
RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Now comes the Defendant Federal Deposit Insurance Corporation ("FDIC") and hereby states the following in response to the Plaintiffs' Motion for Summary Judgment:

1. The Defendant agrees that the foreclosure sale was invalid as a result of the assignment of mortgage being executed after the date of the first publication of the notice of foreclosure sale.
2. The Defendant's counsel has contacted the Plaintiff's counsel in order to enter into a stipulation regarding this action but has not received a response.

3. The Defendant intends on entering into a stipulation which states that the foreclosure sale was invalid.

4. The Defendant does not agree with the specifics of the Motion for Summary Judgment but believes that this argument is moot due to the fact that the foreclosure sale is invalid.

WHEREFORE, the Defendant Federal Deposit Insurance Corporation opposes the Plaintiffs' Motion for Summary Judgment on the grounds that the allegations made are not accurate but agrees that the foreclosure sale should be deemed invalid.

Respectfully submitted,
Federal Deposit Insurance
Corporation as Receiver for
IndyMac Bank, FSB
By its attorney,

/s/ John T. Precobb

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