

At an IAS Term, Part 27 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, at Civic Center, Brooklyn, New York, on the 13<sup>th</sup> day of December 2007

PRESENT:

HON. ARTHUR M. SCHACK

HON. ARTHUR M. SCHACK J.S.C.

Justice

WM SPECIALTY MORTGAGE LLC, WITHOUT RECOURSE,

Plaintiff,

- against -

ALI-YAH GRANT A/K/A GRANT ALI YAH, *et. al.*,

Defendants.

**DECISION & ORDER**

Index No. 9000//07

The following papers numbered I read on this motion:

Papers Numbered:

Proposed Order of Reference with Affidavits/Exhibits \_\_\_\_\_

\_\_\_\_\_ 1 \_\_\_\_\_

Plaintiff's application, upon the default of all defendants, for an order of reference for the premises located at 494 Warwick Street, Brooklyn, New York (Block 4030, Lot 25, County of Kings) is denied without prejudice, with leave to renew upon providing the

Court with a satisfactory explanation to questions with respect to the assignment of this mortgage from the original lender, Ameriquest Mortgage Company, and the relationship between Ameriquest Mortgage Company and plaintiff.

### **Background**

Defendant Ali-Yah Grant borrowed \$340,000.00 from Ameriquest Mortgage Company (AMERIQUEST) on March 24, 2005. The note and mortgage were recorded in the Office of the City Register, New York City Department of Finance on April 22, 2005 at City Register File Number (CRFN) 2005000235759. AMERIQUEST, by its Attorney in Fact, AMC Mortgage Services, Inc. (AMC), assigned the note and mortgage to plaintiff, WM SPECIALTY MORTGAGE LLC, WITHOUT RECOURSE (WM SPECIALITY), on March 19, 2007, with the assignment recorded on April 6, 2007 at CRFN 2007000177863.

According to plaintiff's application, defendant Grant's default began with the nonpayment of principal and interest due on November 1, 2006. Yet, more than four months later, plaintiff WM SPECIALTY, was willing to take an assignment of a non-performing loan from AMERIQUEST. Further, both assignor AMC, as Attorney in Fact for AMERIQUEST, and assignee, WM SPECIALTY, have the same address, 505 City Parkway West, Orange, CA 92868. Plaintiff's "affidavit of amount," submitted in support of the instant application for a default judgment was executed by Rose Lara, on August 6, 2007. Ms. Lara states that she is "VICE PRESIDENT for WM SPECIALTY

MORTGAGE LLC, WITHOUT RECOURSE.” However, the March 19, 2007 assignment from AMERIQUEST, by AMC, its Attorney in Fact, is executed by Rose C. Lara, Vice President of AMC. The Rose Lara August 6, 2007 affidavit is signed by “Rose C. Lara.” The Rose C. Lara signatures on both the August 6, 2007 affidavit and the March 19, 2007 assignment are identical. Did Ms. Lara change employers from March 19, 2007 to August 6, 2007? The Court is concerned that there may be fraud on the part of AMERIQUEST, or at least malfeasance. Before granting an application for an order of reference, the Court requires an affidavit from Ms. Lara, describing her employment history for the past three years. Further, irrespective of her employment history, Ms. Lara must explain why WM SPECIALTY would purchase a non-performing loan from AMERIQUEST, and why WM SPECIALTY shares office space, in Orange, California, with AMERIQUEST.

#### Conclusion

Accordingly, it is

ORDERED, that the application of plaintiff, WM SPECIALTY MORTGAGE LLC, WITHOUT RECOURSE, for an order of reference for the premises located at 494 Warwick Street, Brooklyn, New York (Block 4030, Lot 25, County of Kings), is denied without prejudice; and it is further

ORDERED, that leave is granted to plaintiff, WM SPECIALTY MORTGAGE LLC, WITHOUT RECOURSE, to renew its application for an order of reference for the

premises located at 494 Warwick Street, Brooklyn, New York (Block 4030, Lot 25, County of Kings), upon presentation to the Court of an affidavit from Rose C. Lara, within thirty (30) days from the date of this decision and order, describing her employment history for the past three years, an explanation of why plaintiff WM SPECIALTY MORTGAGE LLC, WITHOUT RECOURSE would purchase a non-performing loan from AMERIQUEST MORTGAGE COMPANY, and why does WM SPECIALTY MORTGAGE LLC, WITHOUT RECOURSE share an address in Orange, California with AMERIQUEST MORTGAGE COMPANY.

This constitutes the Decision and Order of the Court.

E N T E R



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HON. ARTHUR M. SCHACK  
J. S. C.

**HON. ARTHUR M. SCHACK J.S.C.**