

ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
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The following constitutes the ruling of the court and has the force and effect therein described.

Wayne G. C. George

United States Bankruptcy Judge

Signed March 13, 2008

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

MICHAEL WHITE and BRENDA JOYCE
WHITE fka BRENDA J. MCCUIN,

DEBTORS.

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CASE NO. 06-32324
CHAPTER 13

FINAL JUDGMENT AND PERMANENT INJUNCTION AGAINST NORTH AMERICAN
FORECLOSURE, L.L.P., FORECLOSURE ALLIANCE, AND JEREMY MITCHELL A/K/A
JASON MITCHELL

On this date, came on for hearing the final evidentiary hearing on the Court's Order Directing North American Foreclosure, LLP, David Curtis and Jireh Capital Services, LLC to appear and show cause whether, *inter alia*, they have committed actions in violation of the automatic stay and should,

therefore, pay, *inter alia*, damages pursuant to 11 U.S.C. § 362(k) or other authority.

Background

1. On December 7, 2007, the Court entered its Memorandum Opinion and Show Cause Order which ordered, *inter alia*, that North American Foreclosure, LLP, David Curtis and Jireh Capital Services, LLC appear and show cause why their actions did not violate 11 U.S.C. § 362 and why they were not potentially liable for damages pursuant to Section 362(k) or other authority. The Court transmitted a copy of its Order to the Office of the Texas Attorney General (Texas Attorney General) so that its office could consider whether further investigations on its part were warranted. (Order at Docket No. 81, p.21).

2. The Court's Memorandum Opinion and Show Cause Order was also transmitted to North American Foreclosure, LLP, but was returned to the Court as undeliverable. (Docket No. 87, 122).

3. The Texas Attorney General commenced discovery regarding the actions of Curtis/Jireh as described in the Court's Order insofar as they appeared to violate, *inter alia*, the Texas Deceptive Trade Practices–Consumer Protection Act, TEX. BUS. & COM. CODE § 17.41 *et seq.*, (“DTPA”), as well as constitute the unauthorized practice of law.

4. The Texas Attorney General has reviewed thousands of pages of documents produced by Curtis/Jireh, albeit untimely produced, in response to its original and amended subpoenas dated January 9 and 17, 2008, respectively, and on February 26, 2008, the Texas Attorney General

conducted a Rule 2004 Examination of Curtis/Jireh at the Dallas offices of the Texas Attorney General.

5. Through this discovery, the Texas Attorney General learned that North American Foreclosure is now doing business as Foreclosure Alliance and was provided a current business address for Foreclosure Alliance. The Texas Attorney General informed the Court of this name change and new address (Docket No. 114) , and the Court ordered the Clerk to send notice to Foreclosure Alliance at the new business address. (Docket No. 115). The Clerk sent notice (Docket No. 116), and this notice was not returned to the Court as undeliverable, and, therefore, service of process on Foreclosure Alliance (f/k/a North American Foreclosure, LLP) was adequate and proper.

6. On March 11, 2008, the Court held the final Evidentiary hearing on its Show Cause Order issued in December 2007. The Court was presented with uncontroverted documentary and testimonial evidence that demonstrated the following:

- a. Between February 3, 2007 and March 31, 2007, North American Foreclosure, LLP started to do business under the name “Foreclosure Alliance.” This name change was evidenced by a receipt dated February 3, 2007 for a payment made by Debtor, Michael White, to North American Foreclosure for foreclosure prevention service, and a second receipt dated March 31, 2007 for a payment made by Debtor, Michael White, to Foreclosure Alliance for foreclosure prevention service. The testimony of David Curtis, the Agent/Representative for North American Foreclosure, LLP/Foreclosure Alliance, confirmed that North American Foreclosure, LLP was, in fact, now doing business as Foreclosure Alliance;
- b. At all times relevant hereto, David Curtis was acting as the Agent/Representative of North American Foreclosure, LLP/Foreclosure Alliance, and conducted business in the State of Texas for these Companies;
- c. North American Foreclosure, LLP/Foreclosure Alliance entered into at least

twenty-eight “client contracts” with Texas consumers;

d. North American Foreclosure, LLP/Foreclosure Alliance received, via Western Union from David Curtis, at least nineteen client payments;

e. Although North American Foreclosure, LLP/Foreclosure Alliance did business in the State of Texas, neither company has a registered agent on file with the Texas Secretary of State, as required by law;

f. At all times relevant hereto, Jeremy Mitchell, a/k/a Jason Mitchell, was the individual, acting on behalf of North American Foreclosure, LLP/Foreclosure Alliance, and directing David Curtis in these unlawful acts.

7. Although North American Foreclosure, LLP’s/Foreclosure Alliance’s Agent/Representative, David Curtis, had notice of this Show Cause Order, and, although notice was successfully sent to Foreclosure Alliance, North American Foreclosure, LLP/Foreclosure Alliance wilfully failed to appear in this matter.

INJUNCTION

8. IT IS ORDERED that NORTH AMERICAN FORECLOSURE, LLP, /FORECLOSURE ALLIANCE, and their agents, servants, relatives, employees, including but not limited to JEREMY MITCHELL a/k/a JASON MITCHELL, and any other persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

- a. Giving, providing, or offering advice and counsel to any person regarding the transfer of a fractional interest in property to a third party who is in bankruptcy or who intends to file bankruptcy, with the result of delaying the foreclosure process, the eviction process or the forcible entry and detainer

process;

- b. Soliciting, collecting or accepting fees or compensation of any type for providing any type of services to any person in connection with the transfer of a fractional interest in property to a third party who is in bankruptcy or who intends to file bankruptcy, with the result of delaying the foreclosure process, the eviction process or the forcible entry and detainer process;
 - c. Preparing or filing real property deeds on behalf of any other person or entity, unless licensed by the applicable jurisdiction to practice law;
 - d. Soliciting, collecting or accepting fees or compensation of any type for preparing or filing real property deeds for any person or entity;
 - e. Stating or implying that they are attorneys licensed to practice law in this State, unless they are so licensed;
 - f. Giving, providing, or offering advice and counsel to any person regarding their eligibility to file bankruptcy or the consequences to them of filing bankruptcy;
 - g. Causing confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services in violation of § 17.46(b)(2) of the Texas Deceptive Trade Practices-Consumer Protection Act, by representing that North American Foreclosure, LLP, or Foreclosure Alliance or their agents possess the qualifications necessary to counsel persons regarding their rights under the United States Bankruptcy Code;
 - h. Providing, by any means, any person(s) or entity (ies) with information to start a new business or, expand an existing business, that engages in the practices being specifically enjoined herein;
 - i. from conducting any business relating to quit claim deeds, mortgage/loan workouts, forbearance agreements, debt counseling, foreclosure relief or postponement of foreclosure, real estate purchases or sales, title/deed preparation, deed filings, unlawful appeals of forcible entry and detainer actions, or bankruptcy advice/counseling/assistance.
9. In the event that North American Foreclosure, LLP, Foreclosure Alliance , and/or

Jeremy Mitchell, a/k/a Jason Mitchell, file with the Texas Secretary of State to conduct any type of business in Texas (by way of example, but not limitation, filings made in their own names, as a sole proprietorship, as a corporation, limited liability company, or similar filings in the name of any affiliate entity or subsidiary) they shall disclose the existence of this judgment and permanent injunction to the Texas Secretary of State, and shall give notice to the Texas Attorney General in care of Assistant Attorney General, Hal Morris, Managing Attorney, Bankruptcy & Collections Division, P.O. Box 12548, Austin, Texas, 78711-2548.

CIVIL PENALTIES, ATTORNEYS FEES AND COSTS OF COURT

10. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that DEBTORS, MICHAEL WHITE and BRENDA JOYCE WHITE f/k/a BRENDA J. MCCUIN, have and recover of and from NORTH AMERICAN FORECLOSURE, LLP/FORECLOSURE ALLIANCE and JEREMY MITCHELL a/k/a JASON MITCHELL, jointly and severally, the sum of one thousand three hundred dollars (\$1,300) plus prejudgment and postjudgment interest calculated at the federal judgment interest rate. Prejudgment interest shall accrue from February 3, 2007, the date reflected upon the receipt of the Debtor's, Michael White's, cash payment to David Curtis on behalf of North American Foreclosure, LLP.

11. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the creditor, HOMEQ SERVICING CORPORATION have and recover of and from NORTH AMERICAN FORECLOSURE, LLP/FORECLOSURE ALLIANCE and JEREMY MITCHELL a/k/a JASON MITCHELL, jointly and severally, the sum of seven thousand four hundred dollars (\$7,400) for the

harm it suffered by incurring attorney's fees due to the unlawful acts of North American Foreclosure, LLP/Foreclosure Alliance and Jeremy Mitchell a/k/a Jason Mitchell.

12. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the CHAPTER THIRTEEN TRUSTEE, THOMAS POWERS, have and recover of and from NORTH AMERICAN FORECLOSURE, LLP/FORECLOSURE ALLIANCE and JEREMY MITCHELL a/k/a JASON MITCHELL, jointly and severally, the sum of one hundred thousand dollars (\$100,000) in punitive damages because of North American Foreclosure, LLP's/Foreclosure Alliance's and Jeremy Mitchell's a/k/a Jason Mitchell's egregious conduct in disregarding the Bankruptcy Code and Orders of the Bankruptcy Court. Said one hundred thousand dollars (\$100,000) shall be distributed by the Chapter 13 Trustee upon further motion and order of this Court.

13. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the STATE OF TEXAS have and recover of and from NORTH AMERICAN FORECLOSURE, LLP /FORECLOSURE ALLIANCE and JEREMY MITCHELL a/k/a JASON MITCHELL, jointly and severally, the sum of ten thousand dollars (\$10,000), the same being the STATE OF TEXAS's reasonable and necessary attorney's fees and investigative fees.

14. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the STATE OF TEXAS have and recover of and from NORTH AMERICAN FORECLOSURE, LLP /FORECLOSURE ALLIANCE and JEREMY MITCHELL a/k/a JASON MITCHELL, jointly and severally, the sum of forty-eight thousand dollars (\$48,000) in civil penalties as provided by the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE ANN. §17.47.

Said civil penalties are payable to or for the benefit of the STATE OF TEXAS, a governmental unit, and are not compensation for any actual or pecuniary loss.

END OF ORDER